

settlement of their accounts afterwards with the comptroller-general, were never passed to their credit, or they in any wise compensated therefor: Therefore,

Section I. (Section I, P. L.) 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 register and comptroller general of this commonwealth, be directed, and they are hereby required to settle with, and account to the said Edmund Milne, for the aforesaid one hundred and eighty-five barrels of flour, according to the rate per hundred weight and cask, as had been allowed to the said John Vanderin, and the said Edmund Milne, for flour and cask under their contract aforesaid, by them before that time delivered; and the governor is hereby authorized to draw his warrant on the treasurer of this commonwealth for the amount thereof, who is hereby directed to pay the same out of any monies not heretofore by law appropriated.

Approved February 17, 1806. Recorded in L. B. No. 10, p. 222.

CHAPTER MMDCXLVI.

AN ACT TO ALTER THE JUDICIARY SYSTEM OF THIS COMMONWEALTH.

Section I. (Section I, P. L.) 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 first day of May next, no issues in fact in the Supreme Court shall be tried in bank; but all issues of fact in causes then pending in the said Supreme Court, shall be tried at courts of Nisi Prius, to be held in the city of Philadelphia, in manner heretofore used, at such time or times as the judges of the Supreme Court, at any term thereof shall direct: Provided always, that it shall be lawful for one of the said judges of said court, to

hold sittings for the trials of issues of fact, in term time, without regard to the sittings of the judges then in bank, with like powers and authority as a judge at Nisi Prius.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That for the more convenient establishment of the Supreme Court, the state shall be, and is hereby divided into two districts as follow: that is to say, one to consist of the counties of Bedford, Somerset, Westmoreland, Fayette, Greene, Washington, Allegheny, Beaver, Butler, Mercer, Crawford, Erie, Warren, Venango, Armstrong, Cambria, Indiana, Jefferson, Clearfield and M'Kean, and to be called the Western district; and the other to consist of the remaining part of the state, and to be called the Eastern district.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That there shall be a prothonotary appointed and commissioned for each of the said courts, and each of whom shall take the same oath or affirmation, and give the like bonds as are by law required to be taken and given by the prothonotary of the Supreme Court; and shall perform the same duties in their respective districts, and be entitled to demand and receive the same fees as have heretofore been allowed by law for the like services to the prothonotary of the Supreme Court.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the justices of the Supreme Court, to attend and hold one term annually, in and for the Western district at Pittsburgh, on the first Monday of September; and the said term shall continue two weeks if necessary to do the business thereof; and they shall hold adjourned courts whenever the business therein depending may render it necessary; and it shall be the duty of the justices of the Supreme Court to attend and hold two terms annually, in and for the Eastern district at Philadelphia, on the second Monday in December, and on the third Monday in March; and the said December term, shall continue three weeks, and the said March term, shall con-

tinue two weeks, if necessary to do the business thereof; and they shall hold adjourned courts whenever the business therein depending may render it necessary.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the Supreme Courts hereby directed to be holden, shall severally and respectively, have, and exercise within their respective districts, the same powers, authority and jurisdiction, in all cases and respects whatsoever, which are vested by the constitution and laws in the Supreme Court of this state.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the prothonotary of the Supreme Court, after the next March term, shall, and is hereby empowered and directed to purchase a blank book, for the Western district; and to employ a clerk under his direction to make out a docket in the same, for the said Western district, containing a statement of all actions then pending, and undetermined in the said Supreme Court, appertaining to the Western district; and shall have the said docket together with the records, declarations and other papers, respecting all such actions then pending and undetermined, as aforesaid, ready to be delivered to the prothonotary of the Supreme Court, for the Western district, by the first Monday of July next, and shall deliver the same to him accordingly; the price paid for the said docket, and the wages of the clerk employed as aforesaid, to be repaid to the prothonotary of the Supreme Court, out of the state treasury, on a warrant drawn by the governor.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That from and after the expiration of March term next, of the Supreme Court, all actions pending and undetermined in the same court, appertaining to the said Western District, shall be considered as pending in the Supreme Court, for said Western district; and the judges of the said Supreme Court in all respects, and in like manner, shall proceed to determine the same as though the said actions had originated in the Supreme Court, for said Western district.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the prothonotaries of the Western and Eastern districts of the Supreme Court, to be appointed as by this act provided, shall be accountable to the present prothonotary of the Supreme Court, and to all others who may have an interest therein, for all fees which shall have accrued upon the several actions in their respective courts, pending prior to this act taking effect; and the same pay over respectively as shall come to their hands.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That from and after the expiration of March term next of the Supreme Court, no Circuit Court of the said Supreme Court shall be held otherwise than by a single judge; and it shall be the duty of the judges of the said Supreme Court, to hold a Circuit Court in each county, in this commonwealth, (the county of Philadelphia excepted), at least, once in every year, at such times as the judges shall appoint; providing, that in such county there shall be causes at issue, and undetermined in the Circuit Court; and that it shall be the duty of the clerks of the Circuit Courts, to transmit to the judges of the Supreme Court, in the months of February and August, in every year, a list of the causes pending and at issue, in their respective Circuit Courts.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the judges in holding the Circuit Court, shall so alternate, that the same judge shall not sit oftener than once in the same county, in every fourth successive term of the said court, to be holden in the said county, unless it shall be rendered impracticable by accident.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the judges of the High Court of Errors and Appeals, shall sustain no new cause, but shall have power to hold two terms, at which all the causes now before them shall be determined, whereupon the said court shall be abolished, and all the powers and duties thereof, shall be vested in, and be exercised by the Supreme Court of this commonwealth; and the records thereof shall be deposited in the office of the prothonotary of the Supreme Court, for the

Eastern district, who is hereby authorized and directed to receive the same, and to give copies thereof, under the seal of his office, when required, on payment of the usual fees; which copies shall be authentic evidence, and as effectual in law, as if the said court had not been abolished, and such copies had been certified by the proper officers thereof.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That for the better and more effective organization of the Courts of Common Pleas, and Quarter Sessions, the state shall so far as respects said courts, be, and hereby is divided into the following districts or circuits, viz. the city and county of Philadelphia, shall be the first district; the counties of Lancaster, York and Dauphin, shall be the second district; the counties of Berks, Northampton and Wayne, shall be the third district; the counties of Mifflin, Centre, Huntingdon and Bedford, shall be the fourth district; the counties of Beaver, Allegheny, Washington, Fayette and Greene, shall be the fifth district; the counties of Mercer, Butler, Venango, Crawford and Erie, shall be the sixth district; the counties of Delaware, Chester, Bucks, and Montgomery, shall be the seventh district; the counties of Northumberland, Luzerne and Lycoming, shall be the eighth district; the counties of Adams, Cumberland and Franklin, shall be the ninth district; and the counties of Somerset, Cambria, Indiana, Armstrong and Westmoreland, shall be the tenth district.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the governor shall appoint in each of the new districts, created by this act, viz. in the seventh, eighth, ninth and tenth districts, respectively, a president who shall receive the annual salary of one thousand six hundred dollars, in quarter yearly payments.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That in the city and county of Philadelphia, and in each of the other counties, the president, and associate judges, or any two of them, the president being one, shall hold the court of Oyer and Terminer; and that the said judges, or any two of them, shall hold

the court of Quarter Sessions, and that the said judges, or any two of them, or the president alone, shall, and may hold the court of Common Pleas.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if a vacancy should hereafter happen, in any county at present organized, by the death, resignation, or removal of any associate judge or otherwise; the governor shall not supply the same, unless the number of associates shall be thereby reduced to less than two; in which case, or in case of any county hereafter organized, he shall commission so many as will complete that number in each county, and no more.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the courts of Quarter Sessions, and Common Pleas in each county, shall be holden four times a year; and that the courts of Quarter Sessions, and Common Pleas in any one county, shall commence on the same day; and that the court of Quarter Sessions shall continue four days only, except in the first district; and that the court of Common Pleas in the counties of Cumberland, Dauphin, Franklin, Mifflin, Centre, Wayne, Huntingdon, Bedford, Somerset, Cambria, Indiana, Armstrong, Westmoreland, Fayette, Beaver, Butler, Allegheny, Washington, Greene, Mercer, Venango, Crawford and Erie, shall continue one week; and in the counties of Delaware, Chester, Bucks, Montgomery, Northampton, Northumberland, Luzerne, Lycoming, Berks, Lancaster, York and Adams, shall continue for two weeks; and that all issues joined, and for trial by jury, in the said courts of Common Pleas, in these counties respectively, shall be tried on the second week.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That a panel of jurors, shall be selected, summoned, and returned, according to the act passed the twenty-ninth day of March, one thousand eight hundred and five,⁽¹⁾ and the direction of this act, in each county, wherein the term of court of Common Pleas is to continue for two weeks, to the first day of every court of Quarter Sessions, which by this act, is directed to be holden; and one other panel of jurors shall be selected, summoned, and re-

turned, according to the aforesaid act, and the direction of this act, to the first day of the second week, of the term directed by this act, for the holding of the courts of Common Pleas, in the said counties; and that in the other counties, and for the Circuit Courts throughout the state, the jurors shall be selected, summoned and returned, in all respects, for each and every court, as is directed by the act aforesaid.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the sheriff, and county commissioners in each county, wherein the term of the court of Common Pleas is to continue for two weeks, or any two of them, with the sheriff, agreeably to the act of the twenty-ninth of March, one thousand eight hundred and five,⁽¹⁾ to select from the list of taxable citizens, the names of an additional and sufficient number of sober judicious persons, to serve as jurors, at the several courts mentioned in this act, to be holden in the said counties in each year; and that the forty-eight jurors first drawn according to the provisions of the said act, shall be summoned for the petit jurors, for the next court of Quarter Sessions; and that the thirty-six jurors next drawn according to the provisions of the same act, shall be summoned for the jurors at the next court of Common Pleas; and whenever the court in any of the said counties, at any term, shall order in the manner hereafter directed, that the next court of Common Pleas, shall continue but for one week, in that case the jurors shall be selected, summoned, and returned, as at present under the aforesaid act.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act, the Supreme Court shall have no original jurisdiction in civil cases; and that no civil action before judgment, shall be removed from any court of Common Pleas to the Supreme, or Circuit Courts, unless the plaintiff's demand, or the value of the controversy between the parties, shall exceed the sum of one thousand dollars, if the action is removed from the court of Common Pleas in the first district; or the sum of five hundred dollars, if the action is removed from any of the courts of Common Pleas, in the other districts.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That no action shall be removed from any of the courts of Common Pleas, to the Supreme or Circuit Courts, by consent or otherwise, unless the same is removed, on or before the first day of the next term after the said action shall have been commenced; and unless the party or his attorney, in the precipe for the removal of the same, will certify that he verily believes, that the action so to be removed, is within the true spirit and meaning of the preceding section of this act; and further, that the court wherein the said action shall be tried, shall have power to make the party that removed the same, pay the costs of suit, if in the opinion of the court, the action shall have been removed without a reasonable foundation of its having been within the true spirit and meaning of the aforesaid section of this act.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the judges of the courts of Common Pleas in each county, or a majority of them, wherein the term of the court of Common Pleas is to continue for two weeks, shall have power at every term, to make an order to be entered on record, directing that the court of Common Pleas at the next term, shall continue only during the first week thereof; and in that case, all business in the courts of Quarter Sessions and Common Pleas, shall be acted upon in the first week as has hitherto been usual; but in case no such order shall be made, the next term shall continue as directed by this act.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the judges of the court of Common Pleas, in the several counties, shall have power to adjourn the said courts respectively, from time to time, as they shall think proper; and at such adjourned courts may act and decide upon all business within their jurisdiction, respectively; and it shall be the particular duty of the judges of the Supreme Court, and judges of the Courts of Common Pleas, to see that all actions in their respective courts, shall be reached and have a fair opportunity of a trial, at least

within one year after they shall have been commenced; and if the judges of the Supreme Court, or the presidents or associate judges of the court of Common Pleas, or any of them shall refuse or neglect to perform the duties enjoined on them by this act, it shall be deemed misbehavior in office, and lay a sufficient ground for the removal of the judge, or judges, so offending.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the register of wills together with the judges of the court of Common Pleas, in each county, or any two of them, shall compose and hold the register's court; and the judges of the court of Common Pleas in the first district, or any two of them, the president being one, shall compose and hold the Orphans' Court in this district, at such time as they may think proper; and that the judges of the courts of Common Pleas in each county, wherein the term of the court of Common Pleas is to continue for two weeks, or any two of them, the president being one, shall compose and hold the Orphans' Court in said counties in the first week of each term of the court of Common Pleas, and at such other times as they may think proper; and that the judges of the courts of Common Pleas, in each of the other counties, or any two of them, the president being one, shall compose and hold the Orphans' Court at such times as they may think proper: Provided nevertheless, that any two of the judges in each county, may hold the Orphans' Court in said county, for the appointment of guardians, and for the transacting, hearing and deciding upon any business in the Orphans' Court; but in case any person or persons interested in the business then before the court, shall request the same to be continued until the president can attend, in that case the business shall be continued accordingly.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That the several courts established by this act, shall have all the jurisdiction and privileges in the respective counties that the like courts in this commonwealth now possess, exercise and enjoy; and that all proceedings of every kind, that shall remain in the several

courts in the state, at the time of the passing of this act, shall be considered as transferred, and existing in the like courts established by this act respectively, in the same state and condition that they were at the time of the passing of the same; and that the Supreme and Circuit Courts shall have all the powers and jurisdictions which they now possess over such business, and proceedings of every kind that may be removed from any of the inferior courts, by any of the modes now in force, that is not inconsistent with the provisions of this act.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That in all cases, in which the judge or judges holding the Supreme Court, court of Nisi Prius, Circuit Court, or presidents of the courts of Common Pleas, shall deliver the opinion of the court, if either party by himself or counsel require it, it shall be the duty of the said judges respectively, to reduce the opinion so given with their reasons therefor to writing, and file the same of record in the cause.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That the courts of Quarter Sessions for the first district, shall commence and be holden at, and for the time directed by the laws now in force; and that the judges of the said court, shall have the like power to adjourn from time to time that they now have; and that the courts of Common Pleas for the said district, shall also commence and be holden at, and for the times directed by the laws now in force; and that the several courts of Quarter Sessions and Common Pleas in the other districts, shall commence on the following days, in each, and every year: viz. In the county of Delaware, on the third Mondays in January, April, July and October; in the county of Chester, on the second Mondays, after the commencement of the courts in Delaware; in the county of Montgomery on the second Mondays, after the commencement of the courts in Chester; in the county of Bucks, on the second Mondays, after the commencement of the courts in Montgomery; in the county of Berks, on the first Mondays in January, April, August and November; in the county of Northampton, on the second Mondays, after the commence-

ment of the courts in Berks; in the county of Wayne, on the second Monday after the commencement of the courts in Northampton; in the county of Luzerne, on the first Mondays in January, April, August and November; in the county of Northumberland, on the second Mondays, after the commencement of the courts in Luzerne; in the county of Lycoming, on the second Mondays, after the commencement of the courts in Northumberland; in the county of York, on the first Mondays in January, April, August, and November; in the county of Lancaster, on the second Mondays, after the commencement of the courts in York; in the county of Dauphin, on the second Mondays, after the commencement of the courts in Lancaster; in the county of Cumberland, on the first Mondays of January, April, August and November; in the county of Franklin, on the second Mondays of the same months; in the county of Adams, on the third Mondays of the same months; in the county of Bedford, on the first Mondays in January, April, August and November; in the county of Huntingdon, on the second Mondays of the same months; in the county of Mifflin, on the third Mondays of the same months; in the county of Centre, on the fourth Mondays of the same months; in the county of Somerset, on the last Mondays in February, May, August and November; in the county of Cambria, as soon as said county shall be by law organized for holding courts therein, on the first Mondays in March, June, September and December; in the county of Indiana, on the second Mondays of the same months; in the county of Armstrong, on the third Mondays in the same months; in the county of Westmoreland, on the fourth Mondays in the same months; in the county of Beaver, on the first Mondays in January, last Monday in March and first Monday in August and November; in Allegheny, on the Mondays succeeding the commencement of the courts in Beaver; in Fayette, on the Mondays succeeding the commencement of the courts in Allegheny; in Greene, on the Mondays succeeding the commencement of the courts in Fayette; in Washington, on the Mondays succeeding the courts in Greene; in the county of Butler, on the first Mondays in March, June, September and December; in the county of Mercer, on the sec-

ond Mondays in the same months; in the county of Venango, on the third Mondays in the same months; in the county of Crawford, on the fourth Mondays in the same months; in the county of Erie, on the Monday succeeding the commencement of the courts in Crawford.

Section XXVII. (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the prothonotaries or clerks of the Supreme Court, and the prothonotaries or clerks of the several courts of Quarter Sessions and Common Pleas, within this commonwealth, shall annually furnish to the comptroller and register general, an accurate account of the fees received, in each of their offices respectively, in the manner prescribed by the act entitled, "An act to tax the office of the prothonotary, or clerk of the Supreme Court," passed the fifth day of December, 1801;⁽²⁾ and of the amount of fees received during the space of each year, by each of the prothonotaries respectively, as aforesaid; fifteen hundred dollars shall be and remain clear of tax, and the residue thereof shall be taxed and accounted for, agreeably to the provisions of the act aforesaid.

Section XXVIII. (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the prothonotary of any court of record within this commonwealth, on the application of any person being the original holder (or assignee of such holder) of a note, bond, or other instrument of writing, in which judgment is confessed, or containing a warrant for an attorney at law, or other person to confess judgment, to enter judgment against the person or persons, who executed the same, for the amount, which, from the face of the instrument, may appear to be due, without the agency of an attorney, or declaration filed, with such stay of execution as may be therein mentioned, for the fee of one dollar, to be paid by the defendant; particularly entering on his docket the date and tenor of the instrument of writing, on which the judgment may be founded, which shall have the same force and effect, as if a declaration had been filed, and judgment confessed by an attorney, or judgment obtained in open court, and in term time; and the defendant shall not be

compelled to pay any costs, or fee to the plaintiff's attorney, when judgment is entered on any instrument of writing as aforesaid.

Section XXIX. (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That all acts of assembly now in force, so far as they are inconsistent with this act, and no further, are hereby repealed.⁽³⁾

Approved February 24, 1806. Recorded in L. B. No. 10, p. 223.

Note (1) Chapter 2589; 17 Statutes at Large, p. 1011.

Note (2) Chapter 2214; 17 Statutes at Large, p. 29.

Note (3) See Supplements. Chapter 2656; *infra* this volume; p. 100 Chapter 2692; *infra* this volume; p. 222 Chapter 3043; *infra* this volume; p. 962; Chapter 3258; 18 Statutes at Large.

CHAPTER MMDCXLVII.

AN ACT AUTHORIZING THE GOVERNOR TO INCORPORATE A COMPANY, FOR MAKING AN ARTIFICIAL ROAD, FROM THE BANK OF THE RIVER SUSQUEHANNA, OPPOSITE THE BOROUGH OF HARRISBURG, TO PITTSBURGH.

Section I. (Section I, P. L.) 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 for the purpose of making an artificial or turnpike road from Harrisburg through Bedford to Pittsburgh, the following persons, *viz.* Samuel Meeker, Godfrey Haga, George Clymer, William Guyer, George Bickam, and Thomas Allibone, of Philadelphia; Adam Reigart, junior, Abraham Witmer, Samuel Humes, and William Montgomery, of Lancaster; Robert Coleman, and Robert Jenkins, Lancaster county; Moses Gilmore, Christian Kunckle, Robert Harris, Henry Bader, Adam Boyd, and George Weinman, of Harrisburg; John Bauman, John Carothers, Christopher Quigley, James Duncan, Joseph Pierce, Alexander Sharp, John M'Kee, Jacob Raum, and John Simpson, of Cumberland county; Andrew Dunlap, Jacob Heiser, John Gilmore, and Christian Keever, of Franklin county; George Baird, John Grier, and Jacob Hay, of York county; John Davis, Jacob Bonnett, John Anderson, and Henry Wertz, junior, of Bedford county; George