

July, one thousand eight hundred and five, and payable half yearly to him or his legal representative, for the use of the said Adam Koch, out of any unappropriated monies in the treasury of this commonwealth, on warrants drawn by the governor thereof.

Approved March 21, 1806. Recorded in L. B. No. 10, p. 333.

---

## CHAPTER MMDCXCI.

---

### AN ACT TO REGULATE THE PROCEEDINGS OF CERTIORARI, AND FOR OTHER PURPOSES.

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 no judge of any of the courts within this commonwealth, shall allow any writ of certiorari to remove the proceedings had in any trial before a justice of the peace, until the party applying for such writ shall declare an oath or affirmation, that it is not for the purpose of delay; but that in the opinion of the party applying for the same, the cause of action was not cognizable before a justice; or that the proceedings proposed to be removed are unjust and illegal, and if not removed will oblige the said applicant to pay more money to or receive less from his opponent than is justly due; a copy of which affidavit shall be filed in the prothonotary's office: Provided, that no judgment shall be set aside in pursuance of a writ of certiorari unless the same is issued within twenty days after judgment was rendered, and served within five days thereafter; and on execution shall be set aside in pursuance of the writ aforesaid, unless the said writ is issued and served within fifteen days after the execution issued.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That if any person shall hereafter remove the proceedings had before any justice of the peace by writ of certiorari, into any of the courts of this commonwealth, such court shall in no case set aside such proceedings for want of formality in the same, if it shall appear on the

face thereof that the defendant confessed judgment for any sum within the jurisdiction of a justice of the peace; or that a precept issued in the name of the commonwealth of Pennsylvania, requiring the defendant to appear before the justice on some day certain; or directing the constable to bring the defendant forthwith before him, agreeably to the provisions and directions contained in the act, entitled "An act for the recovery of debts and demands not exceeding one hundred dollars before a justice of the peace, and for the election of constables and for other purposes;"<sup>(1)</sup> and that the said constable having served the said precept, judgment was rendered on the day fixed in the precept, or on some other day to which the cause was postponed by the justice, with the knowledge of the parties; and that no execution issued by any justice shall be set aside for informality, if it shall appear on the face of the same, that it was issued in the name of the commonwealth of Pennsylvania, after the expiration of the proper period of time, and for the sum for which judgment had been rendered, together with interest thereon and costs, and a day mentioned on which return is to be made by the constable, and that the cause of action shall have been cognizable before a justice of the peace.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That in all cases where the proceedings of any justice of the peace shall be removed by certiorari at the instance of the plaintiff, and the same be set aside by the court, and on a second trial being had before said justice, or any other justice of the peace, judgment shall not be obtained for a sum equal to or greater than the original judgment, which was set aside by the court, he shall pay all costs accrued on the second trial before the justice of the peace, as well as those which accrued at the court before whom the proceedings have been set aside, including any fees which the defendant may have given any attorney, not exceeding four dollars in such trial, together with fifty cents per day to the said defendant, while attending on the said court in defense of the proceedings of the said justice of the peace; and

in cases where the proceedings of any justice of the peace shall be removed at the instance of the defendant and be set aside by the court, and it appeared that he attended the trial before the justice, or had legal notice to attend the same, and on a final trial being had as aforesaid, the plaintiff shall obtain judgment for a sum equal to or greater than the original judgment which was set aside by the court, he shall pay all costs accrued on the second trial before the justice of the peace, as well as those which accrued at the court before whom the proceedings have been set aside, including any fees which the plaintiff may have given to any attorney, not exceeding four dollars, to defend the proceedings of the justice, together with fifty cents per day, while attending at court on the same; which costs shall be recovered before any justice of the peace in the same manner as sums of a similar amount are recoverable; and in such cases the legal stay of execution shall be counted from the date of the original judgment rendered by the justice of the peace, and the court shall, at the term to which the proceedings of justices of the peace are returnable in pursuance of writs of certiorari, determine and decide thereon.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the justices of the peace, respectively, on the request of any person who wishes to become plaintiff in any civil case within their jurisdiction, to issue a summons for a person who is not a freeholder, and the same proceedings shall be had thereon as if the defendant in the cause was a freeholder; only that on judgment rendered, there shall be no stay of execution, unless the defendant enter special bail, any law, custom or usage to the contrary notwithstanding: Provided, that nothing herein contained, shall be construed to prohibit the plaintiff from demanding a warrant of arrest in such cases.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That this act shall take effect and be in complete operation from and after the first day of September next; and all acts of assembly now in force, so far as they

are inconsistent with this act and no further, shall then be repealed; and this act shall continue in force for three years, and from thence to the end of the next session of the general assembly.

Approved March 21, 1806. Recorded in L. B. No. 10, p. 334.  
Note (\*) Chapter 2482; 17 Statutes at Large, p. 782.

---

## CHAPTER MMDCXCII.

AN ACT MAKING AN ADDITIONAL ALLOWANCE TO THE PROTHONOTARY OF THE SUPREME COURT OF THE EASTERN DISTRICT, AND THE PROTHONOTARY OF THE COURT OF COMMON PLEAS OF THE CITY AND COUNTY OF PHILADELPHIA.

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 sum of five hundred dollars, each, shall be allowed to the prothonotary of the supreme court of the Eastern District, and to the prothonotary of the court of common pleas of the city and county of Philadelphia, clear of tax, in addition to the sum allowed to the said prothonotaries, by the twenty-seventh section of the act, entitled "An act to alter the judiciary system of this commonwealth," passed the twenty-fourth day of February, one thousand eight hundred and six.<sup>(1)</sup>

Approved March 21, 1806. Recorded in L. B. No. 10, p. 336.  
Note (\*). Chapter 2646; Supra, this volume p. 61.

---

## CHAPTER MMDCXCIII.

AN ACT REGULATING THE PROCEEDINGS OF COUNTY COMMISSIONERS AND TREASURERS, IN CERTAIN CASES.

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 passing