

No. 45.

AN ACT

Relating to the administration of justice in the county of Mercer.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That in all actions hereafter to be brought in the court of common pleas, in Mercer county, on bills, notes, bonds and other instruments of writing for the payment of money, and on actions brought on contracts for the loan or advance of money, whether the same be reduced to writing or not, and for the recovery of book debts, and in all actions of scire facias on judgments, mortgages, and on liens of mechanics and material men, and on scire facias on recognizances of bail for stay of execution, and to prosecute writs of error of certiorari, it shall be lawful for the plaintiff in, or at any time after the third Saturday succeeding the return day of the writ, to enter a judgment by default, of course notwithstanding an appearance by attorney, unless the defendant shall have previously filed an affidavit of defence, setting forth the nature and character of the same; but no judgment shall be entered by virtue of this act, unless the plaintiff shall, previous to the return day of the original process, file in the office of the prothonotary of said court, a copy of the instrument of writing, book entries, record or claim on which his action has been brought; and on contracts for the loan of money not in writing, the plaintiff shall file, previous to the return day aforesaid, an affidavit, setting forth the terms of said loan or advance, with the date and amount thereof, and on book debts an affidavit of his belief of the correctness of the account filed, and the balance justly due him thereon; but if the copy of the bill or other claims as aforesaid, or the affidavit aforesaid, be not filed previous to the return day aforesaid, the plaintiff shall still be entitled to judgment at any term next succeeding his filing the same, on his giving three weeks' notice to the defendant, or his attorney, if the affidavit of defence be not filed during such subsequent term: *Provided*, That whenever the action or writ aforesaid, is founded on a record on file, or contained amongst the records of the said county, a declaration or statement filed, or a scire facias issued thereon, together with a reference in the precept to the original or record, shall be deemed a sufficient filing of a copy of the record or claim on which the action has been brought.

SECTION 2. The respective affidavits required by the first section of this act, may be made by the agent or attorney of either of the parties, if such agent or attorney is personally acquainted with the facts necessary to make out the claim or defence. *Affidavits may be made by the agent or attorney.*

SECTION 3. If in the opinion of the plaintiff's attorney, the affidavit by the defendant is insufficient, he may move the court for judgment for want of a sufficient affidavit of defence. *Plaintiff may move for judgment.*

JAMES COOPER,

Speaker of the House of Representatives.

CH. GIBBONS,

Speaker of the Senate.

APPROVED—The eleventh day of February, one thousand eight hundred and forty-seven.

FRS. R. SHUNK.