

## CHAPTER CX.

*A SUPPLEMENT to, and making perpetual an 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."*

SECTION I. *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;*

Extent of the jurisdiction of justices of the peace and Aldermen to be one hundred dollars.

That the justices of the peace of the several counties of this state and aldermen, shall have jurisdiction of all causes of action arising from contract, either express or implied, in all causes where the sum demanded is not above one hundred dollars, except in cases of real contract where the title to lands or tenements may come in question, or action upon promise of marriage.

Appeal allowed where the judgment exceeds twenty dollars. Consequences to which the appellant subjects himself if he fail in the appeal.

SECT. II. *And be it further enacted by the authority aforesaid,* That the right to appeal from the judgment of a justice or alderman rendered on award of referees, shall be allowed in all cases where the judgment shall exceed twenty dollars, subject to all the consequences resulting from and by the fourth section of the act to which this is a supplement to the party appellant, if he shall fail, and subject moreover to the payment of four dollars to be paid by such party in lieu of counsel-fee, which the opposite party may have paid in sustaining his cause before the court, and on the reversal or an abatement of the amount of a judgment brought from before a justice of the peace or alderman by appeal, the defendant, if the appellant, shall be allowed his daily pay and costs only, in case he produces no evidence before the court, other than that which he exhibited before the justices or referees, or in case of his having offered legal security if he is not a freeholder, for his appearance on an after day, or being a freeholder was refused time to prepare or produce his proofs, or in case of judgment against him by default, the plaintiff refused his consent to a rehearing.

In what cases the defendant if the appellant, shall have an allowance.

SECT. III. *And be it further enacted by the authority aforesaid,*

Defendant refusing or neglecting to set off his book account, afterwards barred from recovering it by suit, from plaintiff. But in case of judgment by default, defendant, if he have an account to set off, shall be entitled to a rehearing on certain conditions.

That a defendant who shall in any case refuse or neglect to set off his book-account against a plaintiff, which shall not exceed the sum of one hundred dollars before a justice of the peace or alderman, shall be and is hereby for ever barred from recovering against the party plaintiff by any after suit: But in case of judgment by default the defendant if he has any account to set off against the plaintiff's demand, shall be entitled to a rehearing before the justice or alderman, within twenty days, on proof being made either on the oath or affirmation of the defendant or other satisfactory proof, that the defendant was absent when the process was served, and did not return home before the return-day of such process, or that he was prevented

by sickness of himself, or other unavoidable accident, and the justice or alderman shall have power to render judgment for the balance in favour of the plaintiff or defendant, as justice may require

SECT. IV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the person in whose favour such judgment may be given, in all cases of payment of the amount thereof, together with the costs, within three months thereafter, either by himself or his agent, to enter satisfaction on the docket of the justice or alderman, under a penalty of one-fourth of the amount of the debt paid, for the use of the party aggrieved, except where one of the defendants (if there be more than one), shall by a writing to be filed by him in the said office within twenty days after payment, forbid the plaintiff so to do, and the usual fee for entering satisfaction, shall be charged to, and be paid by the defendant.

Person in whose favor judgment is given; on payment of the amount, to enter satisfaction on the justice's docket.

Except &c.

SECT. V. *And be it further enacted by the authority aforesaid,* That process to be awarded against a constable for default, may be directed to and be executed by any other person who shall consent thereto, and having so consented, by accepting of such process, shall be bound to execute the same under a penalty of twenty dollars, to be recovered as other fines are recoverable by the act to which this is a supplement.

Of process awarded against a constable for neglect of duty.

In case of the resignation, removal from office or death of any alderman or justice of the peace, his docket with all official papers to be delivered to some other alderman, or to the nearest justice of the county.

SECT. VI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of each and every alderman and justice of the peace, in case of his resignation or removal from office, and of his legal representatives, in case of the death of such alderman or justice of the peace, to deliver his docket, together with all the notes, bonds, accounts and papers in his possession, touching any judgment or suit entered thereon, to some other alderman of the city or to the nearest justice of the county: *Provided,* That if the alderman or justice so having resigned, or been removed, or the legal representatives of a deceased alderman or justice, shall choose to retain the said docket, he or they shall on demand deliver a certified transcript of any judgment or proceedings in any suit therein, to the party or parties interested, under the penalty of one hundred dollars, to be recovered by the party grieved, in the same manner as debts of that amount are by law recoverable: And the said alderman or justice of the peace to whom the said docket or transcript shall be delivered, shall issue process and proceed thereon in the same manner and with the like effect as the said justice so having died, resigned or having been removed, might have done, if he had remained in office.

But if the docket be retained, certified transcripts therefrom are to be delivered to the parties applying therefor

Under what penalty. The alderman or justice to whom such docket and transcript is delivered, authorized to proceed thereon, &c.

SECT. VII. *And be it further enacted by the authority aforesaid,* That if the party defendant shall not reside in the county where a judgment is had against him before a justice of the peace, the

How plaintiff is to pro-

ceed to recover the amount of his judgment, in case the defendant reside out of of the county.

person in possession of the docket in which such judgment may be entered, on application to him made by the plaintiff or his agent, shall make out, certify and deliver to such applicant, a transcript thereof, and also deliver all evidence in his possession connected therewith for the fee of twenty-five cents, for the recovery of the amount thereof with costs; any justice of the peace in any county where the defendant may reside or can be found, may proceed as in other cases.

SECT. VIII. *And be it further enacted by the authority aforesaid,*

Justices, &c. may take cognizance in cases exceeding \$100, by consent of parties.

And may enter judgment for the amount.

But no execution to issue under one year if the party defendant be a freeholder, &c.

Plaintiff to have a right at any time before execution issued, to file in the Prothonotary's office, a transcript of such judgment which shall be a lien on defendants real estate, &c.

Proceedings and penalty where judgments are confessed with a view to defraud creditors.

That any justice of the peace or alderman, shall take cognizance of any matter or thing made so by this act, and the act to which this is a supplement, for any sum exceeding one hundred dollars if the parties voluntarily appear before him for that purpose, and shall proceed for the recovery thereof by entering judgment if confessed or if submitted to him by reference, but no execution shall issue before the expiration of one year from the date of such judgment, if the party defendant is a freeholder or shall have entered special bail; and the party plaintiff shall have the right at any time before the execution is issued, to file in the office of the prothonotary of the proper county, a transcript of such judgment, which shall remain a lien on the real estate of the defendant until paid; but no execution shall be granted by the said prothonotary, the justice or alderman for the recovery thereof with interest, before the expiration of one year, counting from the date of the judgment, except the defendant is not a freeholder or shall not have entered the requisite bail before the justice: But if it shall afterwards appear by due proof on oath or affirmation that there is just cause to believe that any such judgment was confessed for the purpose and with a view to defraud just creditors, it shall be the duty of the justice or alderman to transmit a certified transcript of his proceedings to the prothonotary of the proper county, who shall file the same for adjudication of the court of common pleas, whose judgment thereon shall be final; and if on trial of the merits of the cause it shall be found that the sum for which judgment was confessed was not actually due at the time, both the parties, if both shall have been privy to the fraud, shall each pay a fine equal to the amount of such fraudulent judgment, and shall also pay the reasonable costs and expences of the party prosecuting, or in case of inability to pay such fine and costs, shall be imprisoned for six months; but if it shall appear on such trial, that the judgment was just, the party prosecuting shall pay all the costs of suit and the reasonable costs of the parties to such judgment.

SECT. IX. *And be it further enacted by the authority aforesaid,*

Judgments of the court of common-

That where any writ of certiorari shall be issued to remove the proceedings before or judgment of any justice of the peace, or

alderman, the judgment of the court of common pleas thereon shall be final, and no writ of error shall issue thereon, and awards made out by referees though not under seal, shall be good and available.

pleas, on certiorari's, to be final; and awards good, though not under seal.

SECT. X. *And be it further enacted by the authority aforesaid,* That in all cases where a warrant, or capias on original process, may be issued against the person of a debtor, it shall and may be lawful for the proper constable of any township, town, ward or district, to take bail for the appearance of the defendant before the justice from whom said warrant or capias may have been issued, in the following words: "We A B and C D, are held and firmly bound unto E F, constable of \_\_\_\_\_ in the sum of \_\_\_\_\_ on condition that the said A B shall be, and appear before G H esquire, justice of peace in the \_\_\_\_\_ of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ to answer unto \_\_\_\_\_ in a plea of \_\_\_\_\_

Where a warrant or capias issue, the constable authorized to take a bail-bond for the appearance of the defendant. Form thereof.

Witness our hands and seals, the \_\_\_\_\_ day of \_\_\_\_\_ and if on return of the said warrant or capias, the defendant shall not appear and enter bail before the justice in the nature of special bail, the constable may assign the obligation aforesaid to the plaintiff, if he will accept the same, which obligation may be sued in the name of the plaintiff as assignee of the said constable; but if the bail for the appearance so taken by the constable shall be insufficient, the constable shall be liable therefor, as sheriffs now are, to the plaintiff or plaintiffs named in the warrant or capias, notwithstanding such assignment; but if the defendant shall appear and enter special bail, the justice may proceed to the final determination of the suit according to law, and after judgment such bail shall be proceeded against by scire facias, and shall be liable in the same manner as special bail is now liable in cases in the courts of common pleas, and may surrender the principal to the jail of the proper county within ten days after service of the scire facias, in discharge of the bail: *And provided also,* That the bail to the constable may enter sufficient special bail to the suit, or cause it to be entered at the return of the warrant or capias, in discharge of the obligation where the defendant may neglect or refuse to appear, in which case the justice may proceed in the same manner as if the defendant had appeared.

If defendant do not appear on return of the capias and enter special bail, constable may assign bail-bond, &c.

Where constable is to be liable. Proceedings if defendant appear and enter special bail.

The bail to the constable may enter special bail, where defendant neglects to appear, &c.

SECT. XI. *And be it further enacted by the authority aforesaid,* That 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," except the twenty-first section thereof, be, and the same is hereby made perpetual.

The original act except, &c. made perpetual.

SECT. XII. *And be it further enacted by the authority aforesaid,*

Parts of the original act repealed.

That the first and fifteenth sections of the act to which this is a supplement, be, and they are hereby repealed.

SIMON SNYDER, *Speaker*  
of the House of Representatives.

P. C. LANE, *Speaker of the Senate.*

**We do hereby certify,** That the bill entitled "A supplement to and making perpetual an 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 therein mentioned, was presented to the Governor on Thursday, the twenty-sixth ultimo, but was not returned by him within ten days, (Sundays excepted) thereafter, and agreeably to the constitution it has become a law.

Lancaster, }  
April, 9th, 1807. }

GEO. BRYAN, *Clerk of the Senate.*

MATTHEW HUSTON, *Clerk*  
of the House of Representatives.

CHAPTER CXI.

An ACT to raise by way of lottery a sum of money, to defray the expences incurred by the Trustees of the Lutheran Congregation, in and near the village of Strasburgh, in the county of Lancaster.

SECTION I. **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 Michael Withers, George Withers, William Duffield, esq. John Kerr, esq. James Whitehill, Jacob Baer, Nathaniel Sample, junr. John Baer, Isaac Burrows, Abraham Huber, and Moses Hemor, be, and they are hereby appointed commissioners, to raise by way of lottery a sum of money not exceeding six thousand dollars, to be by them applied to the payment of the debts, and completing of a church for the use and accommodation of the Lutheran congregation, in and near the village of Strasburgh, in the county of Lancaster.

Commissioners of the lottery.

Sum to be raised.

How to be appropriated.

Commissioners to lay the scheme of the lottery before the Governor, and other duties of the commissioners.

SECT. II. **And** be it further enacted by the authority aforesaid, That the said commissioners, before they proceed to sell any tickets in the lottery aforesaid, shall lay such scheme thereof before the Governor as shall meet his approbation, and enter into bonds to him for the due performance of their duty in selling the tickets, drawing the lottery, and paying the prizes; and each of them, before entering on the duties of his appointment, shall take and subscribe an oath or affirmation, diligently and faithfully to perform the duties hereby intrusted to him, and two or more of said commissioners shall attend at the drawing