

tively, of the appraised value, or in case said owner or owners refuse or neglect for thirty days after the appraisement of the cash value of the said real estate or improvements by any of said courts to demand the same from the Secretary of War, upon depositing the said appraised value in the said court, making such appraisement to the credit of said owner or owners, respectively, be vested in the United States, and its jurisdiction over said real estate shall be exclusive and the same as its jurisdiction over real estate purchased, ceded, or appropriated for the purposes of navy yards, forts, and arsenals. And the Secretary of War is hereby authorized and required to pay to the several owner or owners, respectively, the appraised value of the several pieces or parcels of real estate, as specified in the appraisement of any of said courts, or to pay into any of said courts by deposit, as hereinbefore provided, the said appraised value; and the sum necessary for such purpose may be taken from any moneys appropriated for the purposes of this act.

value, to be vested in the United States.

Jurisdiction exclusive, &c.

Owner to be paid the appraised value.

SEC. 7. *And be it further enacted*, That the sum of seven hundred and fifty thousand dollars is hereby appropriated to carry out the purposes of this act out of any moneys in the treasury not otherwise appropriated.

Appropriation.

APPROVED, February 22, 1867.

CHAP. LXII. — *An Act to amend an Act entitled "An Act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July twenty-fifth, eighteen hundred and sixty-six.*

Feb. 22, 1867.  
1866, ch. 249.  
Ante, p. 247.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the board of trustees of the National Soldiers' and Sailors' Orphan Home shall hereafter consist of seven persons, a majority of whom shall constitute a quorum to do business; and D. K. Carter, Henry D. Cooke, Amos B. Eaton, J. W. Alvord, Horatio Bridge, Byron Sunderland, and Franklin A. Dick are hereby declared to be the trustees of said corporation, and they and their successors shall have the entire control and management of all property, moneys, and other securities now held or used for the benefit of said corporation, or which shall hereafter belong to it; and the said board of trustees shall have power to fill any vacancies occurring by death, resignation, or otherwise.

Board of trustees of National Soldiers' and Sailors' Orphan Home.  
Number.  
Quorum.  
Names.  
Powers.

Vacancies.

SEC. 2. *And be it further enacted*, That immediately upon their organization the trustees shall elect a board of lady managers, consisting of thirteen persons, who shall have power to superintend and manage the internal affairs of the asylum, and to fill vacancies in their own board, to make their own by-laws, rules, and regulations, to hold their offices till the second Wednesday in January, eighteen hundred and sixty-eight; their successors to be elected annually by the board of managers in the manner which their by-laws shall prescribe.

Board of lady managers.  
Election.  
Powers, by-laws, &c.  
Vacancies.  
Term of office.

SEC. 3. *And be it further enacted*, That the surviving parent or legal guardian of any child placed under charge of said corporation may withdraw such child therefrom, and any minor over sixteen years of age, upon his or her request in writing, shall be discharged therefrom, at the discretion of the managers.

Parents, &c. may withdraw children.  
Minors over sixteen to be discharged on their written request.  
Repealing clause.

SEC. 4. *And be it further enacted*, That so much of the act to which this is amendatory as is inconsistent with this act be, and the same is hereby, repealed.

APPROVED, February 22, 1867.

CHAP. LXIII. — *An Act to regulate Proceedings before Justices of the Peace in the District of Columbia, and for other Purposes.*

Feb. 22, 1867.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That justices of the peace in the District of Columbia shall have jurisdiction in all cases where the

Civil jurisdiction of Justices

of the peace in the District of Columbia.

Rules of practice, forms of pleadings and trials.

Bill of fees and costs for such justices and for constables.

Execution not to be stayed in certain cases;

when to issue in such cases;

to be stayed in other cases, and for how long, upon security given for debt, costs, &c.

Justices may issue writs returnable before themselves.

Cause may be removed to nearest justice on affidavit, &c.

Persons not to be fined, &c. for disorderly conduct, unless, &c.

Officers punishable for wanton severity in making arrests.

Defendants to have time to make defence.

Bail.

Non-residents not to commence suits without first giving security for costs.

Persons arrested on a warrant for assault, &c. to be taken before the justice, and may plead guilty, and pay fine and costs.

Execution may issue for fine and costs.

amount claimed to be due for debt or damages arising out of contracts, express or implied, or damages for wrongs or injuries to persons or property, does not exceed one hundred dollars, except in cases involving the title to real estate, actions to recover damages for assault, or assault and battery, or for malicious prosecution, or actions against justices of the peace or other officers for misconduct in office, or in actions for slander, verbal or written.

SEC. 2. *And be it further enacted*, That the supreme court of said District shall make and establish rules of practice, and prepare and publish forms of pleadings for bringing all forms of actions, and the trial thereof before said justices of the peace, and shall fix and determine a bill of fees and costs to be taxed and charged by the said justices, and by the constables of said District of Columbia, in all civil suits in said District.

SEC. 3. *And be it further enacted*, That there shall be no stay of execution on any judgment obtained before any justice of the peace for the wages of any servant or common laborer, or upon any judgment for less than five dollars; but execution may issue for the collection thereof immediately, and judgments shall be entered within two days after the trial of the action. But on all judgments or fines, except as aforesaid, stay of execution shall be entered as follows: for the sum of five dollars and not exceeding twenty dollars, one month; for all sums over twenty dollars and not exceeding forty dollars, two months; for all sums over forty dollars and not exceeding seventy-five dollars, four months; for all sums exceeding seventy-five dollars, six months; *Provided*, good and sufficient security be entered by a person or persons who may be at the time the owner of sufficient property located in said district, above all liabilities and exemptions, to secure said debt, costs, and interest.

SEC. 4. *And be it further enacted*, That all justices of the peace may issue original writs, civil and criminal, returnable before themselves; but any party, or agent, or attorney thereof may have the cause removed to the nearest justice upon filing an affidavit with said justice on the return day or day of trial of said action, that he or she does not believe said justice will give him or her a fair and impartial trial on account of prejudice or other reasonable cause.

SEC. 5. *And be it further enacted*, That no person in said District shall be fined or imprisoned for disorderly conduct, unless such person was personally and individually guilty of acts disorderly in themselves; and any officer in said District who uses unnecessary and wanton severity in arresting or imprisoning any person shall be deemed guilty of assault and battery, and upon conviction thereof punished therefor.

SEC. 6. *And be it further enacted*, That in all criminal cases or offences charged, the justice having jurisdiction thereof shall allow the defendant reasonable time to prepare for defence or obtain bail, and no exorbitant bail shall in any case be required.

SEC. 7. *And be it further enacted*, That non-residents of said District shall not commence suit before any justice of the peace therein, without first giving sufficient security for costs.

SEC. 8. *And be it further enacted*, That when any person or persons shall be arrested on a warrant for committing an assault, or an assault and battery, or an affray, issued on the complaint of the party injured by any justice of the peace of said District, or in case of an affray, on the complaint of any person who shall have seen the same, every such person or persons shall be taken before the justice who issued the warrant, or if he be absent or otherwise incapable of acting, then before the nearest other justice in said district, and he or they shall be admitted to plead guilty of the charge preferred, and the said justice before whom such plea may be pleaded shall have power, and he is hereby authorized, to assess such fine or penalty as is authorized by law, and enter judgment therefor against the person so pleading guilty and for cost, and issue execution thereon as in civil cases.

SEC. 9. *And be it further enacted,* That all acts or parts of acts of the legislature of Maryland or of Congress, now in force, inconsistent with the provisions of this act, are hereby repealed, and this act shall take effect and be in force from and after its passage.

Repeal of inconsistent laws.  
When act to take effect.

APPROVED, February 22, 1867.

CHAP. LXIV. — *An Act to amend the Law of the District of Columbia in Relation to Judicial Proceedings therein.*

Feb. 22, 1867.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no appeal shall be allowed from a judgment of a justice of the peace, unless the appellant, with sufficient surety or sureties, approved by the justice, enter into an undertaking to satisfy and pay all intervening damages and costs arising on the appeal.

Appeals from a judgment of a justice of the peace not to be allowed unless, &c.;

SEC. 2. *And be it further enacted,* That when such undertaking has been entered into, the justice shall immediately file the original papers, including a copy of his docket entries, in the office of the clerk of the supreme court of the District of Columbia; and thereupon, as soon as the appellant shall have made the deposit for costs required by law, or obtained leave from one of the justices, or from the court, to prosecute his appeal without a deposit, the clerk shall docket the cause, and shall issue a summons for the appellee to appear at the next trial term of the court, and thereafter the cause shall be proceeded with in the manner prescribed by the act of March one, eighteen hundred and twenty-three, entitled "An act to extend the jurisdiction of justices of the peace in the recovery of debts in the District of Columbia," except that the appellant need not file a petition as directed by said act.

when allowed, original papers to be filed in the office of clerk of the supreme court of the District.

SEC. 3. *And be it further enacted,* That if the appellant fails to prosecute his appeal, the appellee may, upon making the aforesaid deposit for costs, have the cause docketed, and move for affirmance of the justice's judgment, or he may have a trial of the cause upon its merits.

Clerk to docket the cause when, &c. and to issue a summons to the appellee.

SEC. 4. *And be it further enacted,* That there shall be no supersedeas or stay of execution of the judgments of the supreme court of the District of Columbia, otherwise than by injunction, or upon proceedings in error to the Supreme Court of the United States.

Subsequent proceedings. 1823, ch. 24. Vol. iii. p. 743. Proceedings if appellant fails to prosecute his appeal.

SEC. 5. *And be it further enacted,* That mutual debts between the parties to an action, or between the testator or intestate of both parties, or either party, may be set off against each other by plea in bar, whether the said debts be of the same or a different nature; and if either debt arose by reason of a penalty, the exact sum to be set off shall be stated in the plea.

Execution of the judgments of the supreme court of the District not to be stayed, &c. except, &c. Set-off of mutual debts.

SEC. 6. *And be it further enacted,* That the plea of set-off may be: "That the plaintiff, at the commencement of the suit, was, and still is, indebted to the defendant in the sum of ——— dollars, for ———, as appears by the particulars of the said debt, hereunto annexed; and he is willing that the same may be set off against the plaintiff's demand." And upon the trial of an issue upon said plea, judgment shall be for the balance found due, whether to the plaintiff or defendant, with costs. Mutual judgments recovered in said *in said* court may be set off against each other, on motion of either party; and the court shall award execution for the balance found due against the party chargeable therewith.

Form of plea of set-off.

SEC. 7. *And be it further enacted,* That publication may be substituted for personal service of process upon any defendant who cannot be found, in suits for partition, divorce, by attachment, for the foreclosure of mortgages and deeds of trust, and for the enforcement of mechanics' liens and all other liens against real or personal property, and in all actions at law or in equity which have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

Judgment to be for balance found due. Mutual judgments may be set off, and execution issue for the balance. Publication may be substituted for personal service of process, when, &c.