27th CONGRESS,
3d SESSION.

H. R. 735.

(No Report.)

JANUARY 28, 1843.

Read twice, and committed to a Committee of the Whole House to-morrow.

Mr. A. RANDALL, from the Committee for the District of Columbia, reported the following bill:

A BILL

Respecting suits at law in the District of Columbia, to diminish the costs thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for the same plaintiff or plaintiffs, at any one term of any court of the District of Columbia, on any several or joint and several bond, other specialty, or simple contract, in writing, against the original debtors therein, who are alive and residents in the same county, to institute more than one suit; or to institute more than one suit against the same defendant or defendants, on two or more bonds or other specialties then due, or on two or more simple contracts, in writing, then due; and if, in any of the above cases, more than one suit be instituted, the court shall, on motion, order such suits to be consolidated into one suit, and the costs thereof to be taxed, and other proceedings to be had thereon, as if only one suit had been originally instituted: *Provided, however*, That the court may, on good cause shown, allow the plaintiff or plaintiffs his or

18 their costs of suits, up to the period of consolidation: *And*
19 *provided, also,* That this section shall not be construed to
20 apply to suits against endorsers or assignees.

1 SEC. 2. *And be it further enacted,* That if any one or
2 more of such defendants, against whom a joint suit may have
3 been instituted, as aforesaid, shall die, pending the same, then
4 such death shall be suggested on the docket, and thereupon
5 the clerk shall docket another suit in the name of the plain-
6 tiff or plaintiffs, against such defendant so dying, wherein
7 such proceedings shall be had, to make his representatives
8 parties thereto, and obtain judgment therein, as if the origi-
9 nal suit had been instituted separately against said defend-
10 ant; nevertheless, the original suit shall be proceeded in
11 against the surviving defendant or defendants, as if it had
12 been instituted against him or them only.

1 SEC. 3. *And be it further enacted,* That if any one or
2 more of such defendants, against whom a joint judgment
3 may have been obtained as aforesaid, shall thereafter die,
4 and the judgment remain unsatisfied, the plaintiff or plain-
5 tiffs, or his or their representatives, as the case may be, may
6 cause a *scire facias* to be issued on said judgment, and such
7 other proceedings to be had thereon, against the representa-
8 tives of the defendant or defendants so dying, as if the said
9 judgment had been rendered against him or them only.

1 SEC. 4. *And be it further enacted,* That when all the
2 joint defendants to suits instituted, as aforesaid, be not taken

3 to the same term, upon suits of *capias ad respondendum*, the
4 said suits shall be renewed against such of them as have not
5 been taken to the succeeding term or terms; and the plaintiff
6 or plaintiffs may proceed to judgment and execution in
7 such cause, at his election, either against the defendant or
8 defendants then taken, as they severally are taken, as if he
9 or they alone had been sued therein, or wait until all the de-
10 fendants be so taken, and then proceed against them jointly.

1 SEC. 5. *And be it further enacted*, That if any defendant
2 in such joint judgment, who may not be the original and prin-
3 cipal debtor therein, shall pay the whole of said judgment, or
4 more than his proportional contribution thereof, as among the
5 sureties, he shall be entitled, when the whole judgment is paid,
6 to have so much thereof as he hath paid assigned to his use,
7 as against the original and principal debtor therein, and also
8 to have so much thereof as is the excess of his payment
9 above his proportional contribution, as among the sureties,
10 assigned to his use, as against the defendant or defendants,
11 who are co-sureties, respectively; and, in each of these cases,
12 to proceed on such judgment against said defendant or defend-
13 ants, to enforce payment, as if he had originally therein recov-
14 ered judgment against him or them, respectively, for such sum
15 or sums of money: *Provided, however*, That nothing in this
16 act shall be construed to prevent the plaintiff or plaintiffs in
17 such joint judgment from enforcing payment thereof from
18 any of the defendants thereto.

1 SEC. 6. *And be it further enacted*, That if two or more
2 persons be indebted jointly, or bound in any bond or other
3 specialty, or in any simple contract, in writing, signed by
4 such persons, for the payment of any sum of money, or for
5 the performance of any act or duty, and one or more of such
6 persons shall die, his or their representatives may be sued
7 upon such bond or other specialty or simple contract, as the
8 case may be, in the same manner as he or they might have
9 been sued, if the person or persons so dying had been in-
10 debted or bound severally as well as jointly.

1 SEC. 7. *And be it further enacted*, That the second or
2 imparlance term in all the courts of the District of Columbia
3 be, and the same is hereby, abolished; and all suits wherein
4 the defendants have been returned, taken on *capias ad respon-*
5 *dendum* at a former term, unless otherwise directed by the
6 court, shall be for judgment or trial at the next succeeding
7 term, in the same manner as heretofore they would have been
8 at the term thereafter: *Provided, however*, That the right to
9 appeal from such judgments, or to supersede the same, shall
10 not be hereby in any manner impaired.

1 SEC. 8. *And be it further enacted*, That it shall and may
2 be lawful for any plaintiff or plaintiffs, after having filed in
3 the clerk's office of any court of the District of Columbia his
4 or their declaration on any written cause of action, signed by
5 the defendant or defendants, whether under seal or not, and
6 executed for the payment of an ascertained sum of money,

7 together with such cause of action, having affidavit thereunto
8 annexed, proving the execution thereof by a competent wit-
9 ness, and the sum of money *bona fide* due thereon, by the
10 oath of the plaintiff; and, after having served upon the de-
11 fendant or defendants authenticated copies of such declara-
12 tion, cause of action, and affidavit, at least ten days before the
13 next session of the said court, on motion thereto when next
14 in session, to have the said suit tried, whether the defendant
15 or defendants have appeared thereto or not, unless good
16 cause to the contrary appear to the court: *Provided, never-*
17 *theless*, That judgment so obtained may be superseded, as
18 others are now authorized to be by law.

1 SEC. 9. *And be it further enacted*, That hereafter it shall
2 not be lawful for any clerk of any court of the District of
3 Columbia to make up the record of any judgment, decree, or
4 judicial proceeding, civil or criminal, which shall not affect
5 the title, right, or interest to lands, tenements, or other real
6 estate, or to make any charge therefor, unless so required, in
7 writing, by some person interested in such proceeding; and
8 if any person shall so require an exemplification or official
9 copy of a record of such judgment, decree, or judicial pro-
10 ceeding, and pay therefor, it shall be the duty of such clerk
11 to make up and certify the same from the minutes of the
12 court, the entries of the dockets, and the original pleadings
13 and papers in the cause.

1 SEC. 10. *And be it further enacted*, That it shall and may

be lawful for the plaintiff or plaintiffs, who may sue out of any court in the District of Columbia a writ of *fieri facias*, or of attachment, against the property of the defendant or defendants, to have the same laid or levied upon any equitable estate or interest of such defendant or defendants, in any lands, tenements, or hereditaments, or chattels, real or personal, lying in the said District, and to have the same advertised, sold, return made thereof to the court, and conveyed, and the proceeds of the sale thereof applied to the satisfaction of the debt or damages, costs and interests, by the marshal or other proper officer for the purpose, as if the same were a legal estate in said lands, tenements, hereditaments, or chattels, real or personal; and, upon the transfer of the title thereto, the purchaser or purchasers thereof shall be entitled to such remedy against all persons, as the defendant or defendants might have had.

SEC. 11. *And be it further enacted*, That it shall and may be lawful for the plaintiff or plaintiffs, who may sue out of any court in the District of Columbia a writ of *fieri facias*, or of attachment, against the property of the defendant or defendants, to have the same laid or levied upon the interest, or any part thereof, of said defendant or defendants, in the capital and joint stock or funded debt of any incorporated city or bank, or other company in the District of Columbia, and to have the same advertised, sold, return made thereof to the court, and the proceeds of the sale thereof applied, by the

11 marshal or proper officer for the purpose, to the satisfaction
12 of the debt or damages, interests and costs, as if the same
13 were personal chattels; and thereupon such officer shall trans-
14 fer the same upon the books of the said corporation, or other-
15 wise, as prescribed by law in such case, to the purchaser or
16 purchasers thereof, as the said defendant or defendants might
17 have done.

1 SEC. 12. *And be it further enacted*, That no attachment,
2 to be issued hereafter out of any court of the District of Co-
3 lumbia, against the property of any defendant or defendants,
4 shall be dissolved, unless the defendant or defendants therein,
5 or some person for him or them, shall execute a bond, with
6 good securities, to be approved of by the court, to the plain-
7 tiff or plaintiffs, in the penalty of at least twice the value of
8 such property, or, at the election of such defendant or defend-
9 ants, twice the amount of the debt, interest, and costs,
10 claimed by the plaintiff or plaintiffs, with condition to satisfy
11 any judgment that shall be recovered in such case against
12 said defendant or defendants, not exceeding the amount of
13 the value of said property, and interest thereon from the
14 laying of such attachment, together with the costs of suit.

1 SEC. 13. *And be it further enacted*, That, at any term
2 of the circuit court of the District of Columbia, it may be
3 lawful for the judges thereof, whenever in their opinion the
4 administration of justice requires it, to assign to any one of
5 themselves a part or the whole of the equity business of the

6 said court, and to another the hearing of all or some of the ap-
7 peals from judgments of justices of the peace. And it shall
8 be the duty of the said judge or judges, to whom such duties
9 shall be assigned, to sit for the execution thereof, respectively,
10 during the regular sessions of said court; and during that
11 time it shall be lawful for the remaining judge or judges to
12 sit for the transaction of the common law and other business
13 of the said court, except such as may be specially assigned
14 as aforesaid, as heretofore, when the other judges were in at-
15 tendance: *Provided, however*, That it may be lawful for any
16 suitor against whom a single judge, sitting as aforesaid, may
17 decide any point of law, to reserve the same for the decision
18 of the court at the same term.

1 SEC. 14. *And be it further enacted*, That no deed, devise,
2 or other instrument of writing, hereafter to be executed, shall
3 be construed to create an estate in joint tenancy in any lands,
4 tenements, or hereditaments, in the District of Columbia, un-
5 less expressly therein declared that the property so trans-
6 ferred shall be held in joint tenancy, but in all such cases the
7 same shall be construed as creating a tenancy in common.

1 SEC. 15. *And be it further enacted*, That all *femes covert*,
2 whose husbands shall hereafter die, shall be entitled to dower
3 in the equitable estates, in lands, tenements, and heredita-
4 ments, lying in the District of Columbia, and held by their
5 deceased husbands at the times of their deaths, respectively:
6 *Provided, however*, That such right of dower shall not ope-

7 rate to the prejudice of any claim for the purchase money of
8 such lands, or other lien thereon.

1 SEC. 16. *And be it further enacted*, That it shall not be
2 lawful for any jury or juror, who may render a verdict in any
3 cause pending in a court in the District of Columbia, to re-
4 ceive any allowance or fee whatsoever, from either party to such
5 cause, any law or usage to the contrary thereof notwith-
6 standing.

1 SEC. 17. *And be it further enacted*, That the per diem al-
2 lowance of five dollars, heretofore made to the attorney of the
3 United States for the District of Columbia, to the clerks of
4 the courts of the said District, and to the marshal of the said
5 District, for every day any of the said courts are in session,
6 shall henceforth cease and determine; and so much of said
7 laws as authorize such allowances to the officers aforesaid be,
8 and the same is hereby, repealed.

1 SEC. 18. *And be it further enacted*, That this act shall
2 go into operation from and after the passage thereof: *Provid-*
3 *ed, nevertheless*, That the seventh and eighth sections there-
4 of shall not be applied to any causes of action executed or
5 contracted prior to the passage of this act.