

Coroner not entitled to fees for viewing body without written order from county physician.

Proviso.

Repealer.

[That when the board of chosen freeholders of any county in this state shall have appointed a county physician, under the provisions of the act to which this is a supplement, no coroner in such county shall be entitled to receive any fees for viewing the body of any deceased person, unless such view shall have been made upon the written order of the county physician of such county, pursuant to the provision of said act; and said written order shall be attached to the bill of such coroner for such service, before such bill shall be audited or paid; *provided*, that if the county physician's presence cannot be obtained within six hours after written notice given to the county physician by the coroner of the discovery of the death of any such deceased person, the coroner may proceed as if this act had not been passed; but in such case affidavit must be made by the coroner of the giving of notice as above provided, such notice aforesaid to be served personally upon the county physician or left at his dwelling-house or usual place of abode.]

**13. SEC. 2.** That section two of the act to which this is amendatory be and the same is hereby repealed.

## Courts.

### I. COURT OF ERRORS AND APPEALS.

1. Terms, when and where held.
2. May adjourn from day to day.
3. Who to preside.
4. Oaths.
5. Vacancies filled.
6. Officers and compensation.
7. Compensation of clerk and court.
8. How paid.
9. Reasons of court below to be submitted in writing.
10. Court to deliver opinion in writing.
11. Process, how signed and tested.
12. Error to circuit court.
13. Costs on appeal.
14. Papers, &c., to be sent up on appeal from chancery.
15. Papers to be returned after decision.
16. Causes continued. Court to make rules.
17. Judges of court of errors and appeals appointed for that purpose, may, in vacation, continue injunctions, &c.

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24. Mode of obtaining such foreign juries.
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34. When justice prevented from attending, clerks to open and adjourn court.
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36. In what cases clerks may adjourn court for term.
37. Courts may adjourn over from one day to another.
38. One justice may take place of another in holding court.
39. To be adjourned for term if justice cannot attend.
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44. Justices may adopt rules of practice.
45. Constitution of supreme court.
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48. Proceedings to conform to terms and times established.
49. Justices to assign one of their number to each district.
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51. Constables may be discharged when deemed expedient.
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53. Justice to cause a rule to that effect to be entered.
54. Circuit court judges. Appointment and term of office.
55. Powers of said judges.
56. Manner of disposing of supreme court issues.
57. Supreme court may assign circuit court judges to hold court.
58. Proceedings on failure of attendance of judges.
59. Circuit court judge to take oath.
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61. Compensation, by whom fixed.
62. Repealer.
63. How lists of causes shall be published.
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67. Proceedings and practice in such cases.
68. Payment of expenses incurred by order of the supreme court.

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71. Court, when to be held.
72. Register's duty.
73. When justices called to advise.
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75. How payment of costs compelled.
76. Power to issue compulsory process. Liability of sheriff.
77. Transcript of will, evidence.
78. Appeal from prerogative court to court of appeals.
79. Register to receive the same fees for recording wills, &c., as surrogates.
80. Repealer.
81. Register to receive same commissions on deposits as clerk in chancery.
82. Repealer.
83. Vice ordinary or surrogate-general. Appointment of.
84. Ordinary may refer to him any cause or matter pending.
85. Vice ordinary to take and hear evidence in said cause.
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88. Repealer.

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- 80. Power of court of common pleas, &c., to adjourn over to subsequent day in term.
- 90. Pleas may appoint special term, try appeals, &c.
- 91. Number of judges of the court of common pleas, &c.
- 92. Amended by section 95.
- 93. Clerk of county to be clerk of special quarter sessions. Sheriff to be officer of court.
- 94. Judge of special sessions to determine legal rules, &c.
- 95. Proceedings for trial where indictment and trial by jury are waived.
- 96. Law judge may accept plea without lay judge.
- 97. Licenses, &c., may be granted by two judges of common pleas.
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- 103. Law judge may preside in courts of other counties.
- 104. May preside during absence, &c., of justice of supreme court.
- 105. Requests to preside to be in writing.
- 106. Proceedings of courts so presided over to be valid.
- 107. No justice of the peace to be appointed judge of common pleas.
- 108. Two judges of common pleas may hold pleas, orphans' court and sessions, &c.
- 109. Repealer.
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- 111. Presiding judges may appoint interpreter.
- 112. Interpreter to be in constant attendance upon courts.
- 113. Compensation of interpreter.
- 114. Successor to president judge of common pleas and another judge to sign judgments unsigned.
- 115. Courts of common pleas, &c., in counties of second class, how constituted.

- 116. Persons charged with offense triable in quarter sessions may waive indictment and trial by jury.
- 117. Clerk of county to be clerk of court, issue process, &c.
- 118. Compensation of judges.
- 119. Repealer.
- 120. Amended by section 122.
- 121. Repealer.
- 122. In counties having population exceeding 150,000, judges of common pleas authorized to appoint sergeants-at-arms.
- 123. Repealer.
- 124. Amended by section 126.
- 125. Repealer.
- 126. Supreme court justice in districts comprising counties of first class authorized to appoint sergeant-at-arms, &c.
- 127. Supreme court justice in districts comprising counties with population between 70,000 and 150,000 may appoint sergeant-at-arms.
- 128. Repealer.
- 129. Employment of stenographer in the court of common pleas and quarter sessions, when authorized.
- 130. Compensation of stenographer.
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- 132. Court of errors may change times of stated terms.
- 133. Chancellor may change times of stated terms of court of chancery.
- 134. Supreme court may change times of stated terms of supreme, circuit and county courts.
- 135. When change shall become operative.
- 136. Schedule may be printed in volumes of public laws.
- 137. Stated terms of county courts.
- 138. When writs returnable.
- 139. For what time courts may be held.

VI. ATTORNEYS.

- 140. Examination of applicants for admission as attorneys.
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I. Court of errors and appeals.

An act relative to the court of errors and appeals.

Revision—Approved March 27, 1874.

1. That the court of errors and appeals shall hold annually, at Trenton, three stated terms; commencing on the second Tuesday of March and third Tuesday of June and November respectively, and such special terms, not exceeding two in any one year, as the court may from time to time appoint.

2. That if a sufficient number of members to constitute the court shall not attend on the first day of the term, it shall be lawful for the members attending to adjourn from day to day until a sufficient number shall attend, or to adjourn till the next term, in which case the writs and processes then returnable, and all suits, pleadings and proceedings depending before the court, shall be continued of course till such subsequent term.

3. That the chancellor, when present, shall be the president of the court; in case of his absence, the chief justice of the supreme court; and in case of his absence, the senior in office of the justices of the supreme court who may be present.

4. That the oath of office and of allegiance may be administered to the president by any member, and by the president to each of the other members of the court.

5. That when a vacancy happens in the office of any of the six appointed judges of the court, before his term of office as such judge has expired, his successor shall be appointed and hold for the unexpired term only.

6. That the court shall have power to appoint, from time to time, such subordinate officers, as may be necessary for the convenient transaction of business, and to fix their compensation.

R. S. 193.  
P. L. 1852, p. 746.  
" 1853, p. 261.  
Terms, when and where held.  
R. S. 193, § 1.

May adjourn.  
Ib., § 2.

Who to preside.  
Ib., § 3.

Oaths.  
Ib., § 4.

Vacancies filled.  
Ib., § 5.

Officers and their compensation.  
Ib., § 6.

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Compensation of the court and clerk.  
Ib., § 7.  
P. L. 1852, p. 346.  
" 1853, p. 261.  
" 1865, p. 918.

How paid.  
R. S. 193, § 8.

Reasons of court below to be submitted in writing.  
Ib., § 9.

Court to deliver opinion in writing.  
Ib., § 10.

Process, how signed and tested.  
Ib., § 11.  
Amended.

Error to circuit court.  
Ib., § 12.

Costs on appeal.  
Ib., § 13.

Papers, &c., to be sent up on appeal from chancery.  
Ib., § 14.

Papers to be returned after decision.  
Ib., § 15.

Causes continued.  
Ib., § 16.

Court to make rules.

Proviso.

7. That the compensation of the clerk of said court shall be the sum of three dollars; that of the chancellor and of the justices of the supreme court, severally, five dollars; and that of the lay judges, severally, eight dollars by the day for every day they shall respectively attend the court; and the sum of one dollar for every ten miles they shall travel in going to and returning from the place of holding the court, on the most usual route. (1)

8. That the compensation aforesaid shall be paid by the treasurer of the state, upon a certificate signed by the president of the court.

9. That the reasons to be assigned by the chancellor for his decree, and by the justices of the supreme court, or by the judges of the circuit court, for their judgment, shall be submitted in writing before the argument of the appeal or writ of error, as the case may be.

10. That on pronouncing any judgment, order or decree, either of affirmance or reversal, the opinion of this court, containing the reasons for such affirmance or reversal, shall be delivered in writing.

11. That writs and processes issued out of this court, shall be signed by the clerk and tested in the name of the president, and may be made returnable at any of the stated terms of the court, or at such time in vacation as the court may, by rule, from time to time prescribe. (a)

12. That writs of error to remove final judgments in any circuit court, directly into this court, may be brought in the same manner and subject to the same rules as are now provided in case of a writ of error to the supreme court. (b)

13. That it shall be in the discretion of this court, in cases of appeal from a decree or order of the chancellor, to award costs or not. (c)

14. That in cases of appeal from a decree or order of the court of chancery, it shall be the duty of the clerk of the court of chancery to deliver to the clerk of this court all the pleadings, depositions, exhibits and papers which may have been filed in his office, relating to the cause in which the appeal hath been taken, and also the several orders and decree made in said cause, instead of a transcript of the proceedings, giving the said clerk of the court of chancery a receipt for the same; which papers shall be filed by the clerk of this court for the purpose of being used at the hearing of such appeal.

15. That when a cause hath been decided by final decree or order of this court, it shall be the duty of the clerk to return to the clerk of the court of chancery all the papers which have been received by him from the clerk of the court of chancery in such cause, for which he shall take a receipt, together with a copy of the order or decree of the court, which order or decree it shall be the duty of the court of chancery to carry into effect; and it shall be the duty of the said clerks to file the said receipts in their respective offices, for the benefit of the parties interested in said papers. (d)

16. That all causes depending in the court of appeals in the last resort, at and immediately before the time when the present constitution went into operation, shall be continued, and further proceedings therein may be had in the court of errors and appeals, established by said constitution; and the said court of errors and appeals may, from time to time, make rules and regulations of practice, and alter, amend or revoke any rule of practice, so as to obviate doubts, advance justice, and expedite suits; *provided*, the same be not contrary to this act, the constitution of this state or of the United States. (e)

(a) See *Carter v. Somers*, 1 Zab. 561, note. *Anonymous*, *Spen.* 495.

(b) If the party remove his cause from the circuit by writ of error to the supreme court, he cannot, upon that writ being dismissed, remove it to the court of errors. *Garr v. Paulmier*, 1 Zab. 681. See ERRORS, Sec. 5.

(c) This discretion of the court to award costs or not, is not extended to writs of error. *Lehigh Valley R. R. Co. v. McFarland*, 15 Fr. 378.

(d) Chancery will give to a decision of the court of appeals, made in the same cause, its fair and just legal effect. *Snowhill v. Snowhill*, 1 Gr. Ch. 30. See *Hale v. Lawrence* 2 Zab. 73. *Davis v. Headley*, 7 C. E. Gr. 115. After the judgment has been entered and the papers remitted, the court of appeals has no further jurisdiction with respect to the case. *King v. Fuckman*, 7 C. E. Gr. 551. A writ of error to remove a cause to the supreme court of the United States may be directed to the court

of appeals where the judgment was rendered, if the record still remains there, or to the court below, if it has been remitted. *Brumagim v. Chew*, 6 C. E. Gr. 180. After such remittance, no motion for leave to issue execution is necessary. *Reading v. Reading*, 1 Hal. 186. See *Brumagim v. Chew*, 6 C. E. Gr. 180. *Allen v. Hopper*, 4 Zab. 514. The court of chancery must carry such order or decree into effect according to its plain intent; and in doing so it must confine itself strictly within its allotted sphere, and it must not, in any way, attempt to evade, impede or defeat such command. *Jewett v. Dringer*, 4 Stew. 689. *Dringer v. Receiver*, 15 Stew. 577. *McGrail v. McGrail*, 6 Dick. 537.

(e) For cases when appeal may be brought, see CHANCERY, Sec. 114, and notes. If a constitutional quorum of the judges attend and vote it is sufficient, although one or more of the members be excused from voting. *Gibbons v. Ogden*, 2 South. 860. *Broadwell v. Denman*, 2 Hal. 278. *Clapp v. Ely*, 3 Dutch. 622. *Howell v. Tuttle*, 2 C. E. Gr. 547.

(1) By P. L. 1888, p. 329, the chancellor and justices of the supreme court receive an annual salary and are not entitled to any per diem, fees or allowances. See *post*, title SALARIES.

Supplement.

Approved April 5, 1878.

P. L. 1878, p. 321.

17. SEC. 1. That in case of an appeal from any order or decree of the chancellor, such judges of the court of errors and appeals, being justices of the supreme court, as may be appointed for that purpose by the said court of errors and appeals (not exceeding three), may, in vacation, by order signed by them upon good cause shown, continue in its original force and effect any injunction or order of the chancellor which may have been dissolved or vacated or modified by him, and may also stay all the proceedings in the original suit until the next succeeding term of the court of errors and appeals, and may also make all necessary orders in the premises.

Judges of court of appeals, appointed for that purpose, may, in vacation, by order, continue injunctions, &c.

R. S. 196, 200.

P. L. 1850, p. 50.

" 1853, p. 285.

" 1855, p. 17.

" 1865, p. 409.

" 1871, p. 111.

II. Supreme and circuit courts.

An act relative to the supreme and circuit courts.

Revision—Approved March 27, 1874.

18. SEC. 1. That the supreme court shall consist of a chief justice and six associate justices, and shall hold annually three stated terms, commencing on the fourth Tuesday in February, and the first Tuesday in June and November, respectively; and such special terms not exceeding two in any one year, as the court may from time to time appoint. (a) [See Sec. 45, *post.*]

Supreme court constituted.

R. S. 196, § 1.

P. L. 1855, p. 17.

Terms.

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19. SEC. 2. That the said supreme court may be held by the chief justice or any one of the said justices; and that every day of each stated term, except Sunday, shall be a return day.

May be held by one justice.

R. S. 196, § 2.

20. SEC. 3. That it shall be lawful for the justices of the supreme court, at every term thereof, to designate in such way as to them may seem proper, one or more of their number to sit during term time in a separate apartment from that in which the regular term is held, for the purpose of hearing and deciding all such matters as by the rules of the said court, are or may be denominated common business, whose decisions and judgments shall be as good and effectual as if they had been rendered at the bar of said court. (b)

Branch court constituted.

Ib., § 3.

21. SEC. 4. That the chief justice or one of the justices of the supreme court, before whom the circuit court in every county of this state shall be held, shall try all issues which have been or shall be joined in the supreme court, or in any other court and brought into the supreme court to be tried, and which are or may be triable in the said county.

Issues tried by whom.

Ib., § 7.

22. SEC. 5. That the chief justice and every justice of the supreme court shall be and hereby is authorized and required, at the said circuit court, to try such issues and take such inquests by default or otherwise, as are or ought to be tried or taken in the said court, to record nonsuits and defaults, to take assizes and to do and execute all other matters and things which by law may or ought to be done respecting the premises.

Duty of justices at circuits.

Ib., § 10.

23. SEC. 6. That the supreme court in term time, or any two justices thereof in vacation, whenever in their opinion the ends of justice and the public interest require it, may order a special circuit court to be holden in any county in this state for the trial of any indictment or indictments for murder or manslaughter, which have been or may be removed into the supreme court, and which may require to be tried in the circuit court of such county; but such order shall designate the indictment or indictments to be tried at such special court, and whether to be tried by a jury or juries of the county in which such special court is to be held, or by a foreign jury or juries; and upon the service of a copy of such order upon the sheriff of said county, at least twenty-five days before the time appointed for holding such special circuit, it shall be his duty to cause to be selected

Special circuit courts authorized, in what cases.

Ib., § 15.

(a) By force of section 1 of article VI. of the constitution, the nature of the supreme court can be altered only by a modification of the constitution itself. Under this constitutional guarantee, the powers which inhere in the court at the formation of the constitution must be unassailable by legislation. *Traphagen v. West Hoboken*, 10 Vr. 235.

(b) This act is constitutional. It is not necessary that the whole or a majority of the justices constituting the court should hear or determine any particular cause. *Wood v. Fulton*, 4 Zab. 838.

Jurors to be summoned.

and to summon in the manner directed by law, a sufficient number of petit jurors to serve at such court, unless the indictment or indictments to be tried at such special court is or are to be tried by a foreign jury or juries; and all process of venire and subpoena made returnable thereat, shall be as good and effectual as if the same were made returnable to a stated term of said court. (a)

Mode of obtaining such foreign juries. *Ib.*, § 17.

**24. SEC. 7.** That in cases arising under the last preceding section, foreign juries shall be obtained and special circuit courts held upon such terms, and subject to such rules and regulations as the supreme court shall from time to time order and direct.

Districts created. *P. L. 1855, p. 17.*

**25. SEC. 8.** That the state shall be divided into seven judicial districts; the first district shall include the counties of Cape May, Cumberland, Salem and Atlantic; the second, the counties of Gloucester, Camden and Burlington; the third, the counties of Mercer, Hunterdon and Warren; the fourth, the counties of Ocean, Monmouth and Middlesex; the fifth, the counties of Morris, Sussex and Somerset; the sixth, the counties of Passaic, Bergen and Hudson; the seventh, the counties of Essex and Union. [See *Sec. 46, post.*]

Appointment of justices to them. *Ib.*

**26. SEC. 9.** That the circuit court in each of the counties of the several districts shall be held by the justice to whom such district has been or shall hereafter be assigned by the justices of the supreme court; *provided*, that if from sickness or any other cause he shall be prevented from holding any of said courts in his district, the same may be held by any other of said justices; *and provided further*, that a new assignment may be made whenever the business of the courts may render it necessary.

Appointment of sergeants-at-arms and criers. *P. L. 1850, p. 50.*  
" 1871, p. 111.

**27. SEC. 10.** That the justices of the supreme court be and they are hereby authorized to appoint two suitable persons as sergeants-at-arms and criers of said courts, to hold their offices during the pleasure of said court, whose duty it shall be to attend said court during the several terms thereof, for which service they shall severally receive three dollars per day, for each day they shall be in actual attendance upon said court, to be paid by the treasurer, on the certificate of the chief justice or any other of the justices of said court.

Supreme court may be convoked in vacation. Revision.

**28. SEC. 11.** That the chief justice, with the assent of two of the associate justices, whenever in their opinion the ends of justice and the public interest require it, may, at any time, in vacation, order the supreme court to be convoked and held, upon a notice of the time fixed for the meeting of the court, served not less than two days prior thereto, on each member of the court.

Circuit courts, by whom held. *R. S. 200, § 1.*

**29. SEC. 12.** That the circuit courts in and for the several counties of this state, shall be held by one or more of the justices of the supreme court, at the times and places prescribed by law.

Teste and return of process. *Ib.*, § 2.

**30. SEC. 13.** That the justices of the supreme court shall be judges of said circuit courts, and all writs and process issuing out of said circuit courts shall be tested in the name of one of the judges of said court, and be returnable therein; and the judgments entered in such circuit courts shall have the same force and effect, when properly entered and recorded, as the judgments of the courts of common pleas of the respective counties.

Regulated, by what laws. *Ib.*, § 3.

**31. SEC. 14.** That the said circuit courts, in all personal actions and causes originally commenced therein, shall be regulated and governed in their proceedings by the same laws as the courts of common pleas now are; and in all real and mixed actions originally commenced, or personal actions removed therein, shall be regulated and governed in their proceedings, as near as may be, by the same laws as the supreme court now is.

Ministerial officers and their duty. *Ib.*, § 10.

**32. SEC. 15.** That the sheriffs, coroners, elisors and constables of the several counties in this state, for the time being, shall be the ministerial officers of said circuit courts held within their respective counties, and shall execute all writs, precepts and process issuing out of said courts, and to them directed and delivered, and make true returns thereof, according to the command in the same.

(a) The absence of the defendant when an order for a special jury was good when made under the order and according to this section. *State v. Peak*, 11 *N. J. L. J.* 201.

**33. SEC. 16.** That the clerks of the several courts of common pleas shall be the clerks of said circuit courts in their respective counties, be entitled to the same fees and subject to the same pains and penalties as are by law prescribed in relation to the clerks of the courts of common pleas, except in real or mixed actions, and personal actions removed into said circuit courts, by certiorari; in which the said clerks shall perform the same duties and be entitled to the same fees as are by law prescribed and allowed to the clerk of the supreme court.

Of the clerks of said courts. *Ib.*, § 11.

**34. SEC. 17.** That if any justice of the supreme court, by whom any circuit court or court of oyer and terminer and general jail delivery is to be held, shall be prevented from attending on the day and at the place, when and where any such court is to be commenced and held, or on any day in the term, no process returnable to, nor any recognizance entered into for the appearance of any person at such courts respectively, nor any indictment, suit or other proceeding depending therein, shall be thereby abated, discontinued or avoided, but the same shall remain and be in full force, as if such justice had opened and attended such courts; and it shall be the duty of the clerk of the said courts to cause the same to be opened by proclamation, in the usual form; and in case one of the justices of the supreme court shall not attend during the day, then the clerk shall in like manner adjourn the said courts to the next day, and so from day to day, until one of the said justices shall be present, or until such courts shall be adjourned for the term, as hereinafter is directed; which proceedings shall be regularly entered by the clerk in the minutes of the said courts.

When justice prevented from attending, clerk to open and adjourn court. R. S. 196.

Amended.

**35. SEC. 18.** That if the justice of the supreme court by whom any circuit court, or court of oyer and terminer and general jail delivery, is to be held, shall be prevented from attending on the day and at the place when and where any such court is commenced, or on any day during the term, the court of common pleas then and there held may order the clerk, instead of proceeding as is required by the preceding section, to adjourn said circuit court, and court of oyer and terminer and general jail delivery, by proclamation, to any subsequent day that shall be requested by any justice of the supreme court in writing or otherwise, and to enter said adjournment in the minutes of said circuit court, and court of oyer and terminer and general jail delivery; and all suits, indictments, processes, orders, rules, recognizances, returns of jurors and other proceedings pending in such courts shall be continued to the time to which such adjournment shall be made, without prejudice to any parties therein, and may then be proceeded in according to law in the same manner as if such courts had been regularly adjourned from day to day. (a)

Judges of pleas may adjourn court. P. L. 1865, p. 469.

Amended.

**36. SEC. 19.** That if no justice of the supreme court shall attend before twelve o'clock on the third day of the term as fixed by law, or at the time to which the court may have been adjourned, then the clerk of the said court of oyer and terminer, and general jail delivery, and circuit court, shall cause the same, by proclamation in the usual manner, to be adjourned to meet according to law; and in such case all suits, actions, indictments, rules and other proceedings pending in the said courts respectively, except such as may be tried in the court of general quarter sessions of the peace, shall be continued and stand over to the next ensuing term of the said courts without prejudice to any of the parties.

In what cases clerks may adjourn court for term. R. S. 198, § 19.

Amended.

**37. SEC. 20.** That the circuit courts, or court of oyer and terminer, and general jail delivery, when sitting in and for any county in this state may be adjourned over from any one day in term to any subsequent day in the same term whenever the public convenience and that of the members of the court may require or justify such adjournment; and in case of such adjournment, all suits, indictments, processes, orders, rules, recognizances, and other proceedings pending in such courts shall be continued to the time to which said adjournment shall be made, without prejudice to any of the parties therein, and may then be proceeded in according to law, in

Courts may adjourn over from one day to another in term. *Ib.*, § 20.

(a) At the opening of a term, no justice of the supreme court being present, the court of common pleas ordered an adjournment of the oyer and terminer to a later day. *Held*, that such

adjournment did not continue the return of the grand jury to the returned day, so as to prevent the immediate organization of that body by the sessions. *Randall v. State*, 24 Vr. 436.

the same manner as might have been done if such court or courts had been adjourned from day to day.

One justice may take place of another in holding court.  
Ib., § 21.

**38. SEC. 21.** That in case the justice of the supreme court holding any circuit court, or court of oyer and terminer and general jail delivery, shall be prevented from continuing to preside at such court until the business thereof shall be finished, then it shall and may be lawful for any other justice of the supreme court to take his place and to proceed with the business of the said courts, in the same manner as he might have done if he had been present and presiding at the commencement of the term.

To be adjourned for term if justice cannot attend.  
Ib., § 22.

**39. SEC. 22.** That if at any time during the session of any circuit court or court of oyer and terminer and general jail delivery, the justice of the supreme court holding and presiding at such court or courts, shall be prevented from continuing to hold such court or courts, and no other justice of the supreme court shall be at hand to proceed with the business pending in such court or courts, it shall be the duty of the clerk of such court or courts to enter an adjournment for the term, or to any subsequent day in the same term; and all suits, indictments and proceedings remaining undisposed of, in such court or courts, shall be continued and stand over to be tried and disposed of at the next succeeding term of such court or courts, or at the time to which said adjournment shall be made, without prejudice, except such indictments as may be triable in the court of quarter sessions of the peace, and which that court may thereupon proceed to try, if they think proper so to do, in the same manner as they might have done if a rule had been ordered by the court of oyer and terminer and general jail delivery, that the same should be handed down to the court of quarter sessions.

Special term of circuit or oyer and terminer, &c., may be held.  
P. L. 1853, p. 285.

**40. SEC. 23.** That the chief justice or any justice of the supreme court who shall hold any circuit court, or court of oyer and terminer and general jail delivery in a county, whenever in his opinion the ends of justice and the public interest require it, may in term time of the courts in said county, order a special term of said courts, or of either of them, to be held therein for the trial of any causes or indictments then triable and remaining untried, which may require to be tried in either of said courts, before the next regular term thereof; and all suits, indictments, processes, orders, rules, recognizances and other proceedings, pending in any of such courts, shall be continued over to such special term, without prejudice to any of the parties therein, and may then be proceeded in according to law.

Jurors to attend.  
Ib.

**41. SEC. 24.** That the petit jurors summoned to attend at the regular term of such courts shall attend and serve at the special courts; and notice of such special term shall be published in one or more of the newspapers printed and circulated in the county, at least once a week, from the date of the order to the opening of the special term; and in case no newspaper be printed in the county, that then the said notice shall be published as aforesaid, in one or more newspapers printed in an adjoining county or counties, as the court shall direct.

Notice given.

**42. SEC. 25.** That the sheriff or other officer of the county in which the said circuit court is to be held, shall make return to the said court of all writs and juries, with the panels and other matters relative to the same, legally arrayed and executed.

Writs to be returned.  
R. S. 196, § 11.

**43. SEC. 26.** That the justices of the supreme court shall be ex-officio judges of pleas, orphans' court and court of general quarter sessions of the peace, of the several counties; and the justice holding the circuit court in any county, shall be the president judge of the court of common pleas, and court of general quarter sessions of the peace, and orphans' court of said county. (a)

Justices ex-officio judges of pleas, orphans' court and quarter sessions.  
P. L. 1855, p. 17.

**44. SEC. 27.** That the justices of the supreme court shall and may adopt and settle uniform rules of practice in all matters not regulated by law for the government of said circuit courts, and the same from time to time,

Justices may adopt rules of practice.  
R. S. 200, § 8.

(a) The act of 1855 (P. L. p. 17), which makes the justices of the supreme court ex-officio judges of the common pleas, orphans'

court and quarter sessions, is constitutional. *Engeman v. State*, 25 Vr. 247.

alter, repeal and modify as occasion may require; *provided*, such rules are not contrary to the provisions of this act, the laws and constitution of this state, or of the United States.

Supplement.

Approved April 6, 1875. P. L. 1875, p. 54.

45. SEC. 1. That the supreme court shall consist of a chief justice and eight associate justices. Constitution of supreme court.

46. SEC. 2. That there shall be created two additional judicial districts to be known as the eighth and ninth judicial districts; that the fourth judicial district shall be composed of the counties of Middlesex and Monmouth; the sixth judicial district shall be composed of the counties of Bergen and Passaic; the seventh judicial district shall be composed of the county of Essex; the eighth judicial district shall be composed of the county of Hudson; and the ninth judicial district shall be composed of the counties of Union and Ocean. Additional judicial districts.

47. SEC. 3. That after the fourth day of July next, the regular terms of the respective courts mentioned in the act to which this is a supplement, shall be held at the times following, and not otherwise. [See Sec. 136, *post*, for terms of courts.] Times of holding terms of courts mentioned.

48. SEC. 4. That all proceedings in the said several courts shall commence and be continued in conformity to the terms and times hereby established. Proceedings to conform thereto.

49. SEC. 5. That the justices of the supreme court shall assign one of their number to hold the courts in each of the districts embraced in this act. Assignment of justices.

Supplement.

Approved April 21, 1876. P. L. 1876, p. 284.

50. SEC. 1. That at least ten days before the commencement of each regular term of the circuit court to be holden in any county of the state, the sheriff of said county shall make out a list of constables, not exceeding ten in number, who shall attend as constables at the said next term of court in said county, and after making out said list the said sheriff shall thereupon notify, by mail, each of said constables so selected, that he has been so selected to attend at said term; and if upon the first day of said term, or any day thereafter, any of said constables so selected shall for any reason fail to attend at said term, the judges, before the court of common pleas or a major part of them shall, if the necessities of the business of the court require it, or the justice of the supreme court holding the circuit shall so request, direct, by writing under their hand, and filed with said clerk, that other constables of said county duly elected and qualified to act as such, of a number designated by said judges or a major part of them in said writing, shall serve at said term instead of the constables originally selected and absent; and no constable of said county, except those thus selected and summoned, or selected to fill such vacancies, shall receive any compensation whatever for his attendance as a constable upon said court or at said term; *provided*, that in counties containing a population of at least one hundred and fifty thousand persons, it may be lawful to thus select and summon not exceeding fifteen constables, and in counties of a greater population one additional constable for each twenty thousand population may be summoned; *and provided further*, that if at any time the said judges or a major part of them shall deem the attendance of an additional number of constables desirable, or necessary for the proper transaction of the public business, they may by writing authorize the said sheriff to summon such additional constables. (a) How constables shall be selected for attendance at court.

51. SEC. 2. That if at any time during said term it shall appear to said judges or a major part of them, that the attendance of any of said constables so attending at said term may be dispensed with without detriment to the Proviso.

Proviso.

May be discharged from further attendance when expedient.

(a) The judges of the common pleas, when there are vacancies in the number of constables summoned by the sheriff, or where, in their judgment, the attendance of more constables is desirable or necessary for the proper transaction of public business, may require the summoning of such constables as they shall select to attend. *Cox v. Passaic Common Pleas*, 16 Vr. 328.

public business of said term, it shall be the duty of the said judges, or a major part of them, to forthwith discharge from further attendance such and so many of said constables so attending as shall be deemed proper and expedient; *provided*, that such discharge shall not be made if the justice of the supreme court holding the circuit shall refuse to concur therein.

Proviso.

#### Supplement.

Approved April 2, 1891.

P. L. 1891, p. 276.

Law judges to hold county circuit court, when so requested by the justice of the supreme court.

**52. SEC. 1.** That any law judge of any of the courts of common pleas in this state is hereby required and empowered to hold any county circuit court when thereunto requested by the justice of the supreme court within whose district the said circuit court shall be, and that while exercising such jurisdiction the said judge of the common pleas shall have and possess all the powers and authority with which in that respect the said justice of the supreme court is by the laws of this state invested.

Justice to cause a rule to that effect to be entered.

**53. SEC. 2.** That whenever a justice of the supreme court shall desire to make the requisition mentioned in the foregoing section, he shall cause a rule to that effect to be entered in the minutes of the appropriate circuit court; and the judge of the said court of common pleas called in shall, in addition to his salary and emoluments, be entitled to the sum of twenty dollars per diem while so sitting in said circuit court, to be paid by the county to which said latter court appertains.

Compensation of law judge.

An act supplemental to an act entitled "An act relative to the supreme and circuit courts," approved March twenty-seventh, one thousand eight hundred and seventy-four; and also for the appointment of three judges to hold said circuit courts and to define their powers.

P. L. 1893, p. 158.

Approved March 9, 1893.

Circuit court judges to be appointed by the governor.

**54. SEC. 1.** That there shall be nominated by the governor and appointed by him, by and with the advice and consent of the senate, three judges, each of whom shall be empowered to hold, in the absence of a justice of the supreme court, the respective circuit courts in every county of this state; and in like manner there shall be appointed successors to said judges respectively, when said offices or any of them shall become vacant by death, expiration of the official term of the incumbents, or otherwise; that each of said judges shall hold his office for the term of seven years from the date of his commission and shall receive an annual salary of seven thousand five hundred dollars, payable monthly, in equal installments, by the treasurer of the state.

Vacancy filled.

Term of office.  
Salary.

Powers of said judges.

**55. SEC. 2.** That the said judges so to be appointed, and each of them, shall have the same authority, power and jurisdiction, by virtue of their said office as is now vested by the common and statute law in the several justices of the supreme court by reason of their being judges of said circuit courts.

Manner of disposing of supreme court issues.

**56. SEC. 3.** That the issues of the supreme court when sent down for trial, may be disposed of by consent of the parties in the manner following, to wit: a jury being waived, the justice of the supreme court may refer the matter for trial to the judge holding the county circuit court of the given county, who shall thereupon proceed to try the cause, either with or without a jury, as the said parties may agree; and the result of said trial having been reported to the said justice the same shall be received as conclusive evidence in the trial before him; and the supreme court shall be authorized to grant new trials in such procedures as in other cases. (a)

Supreme court may assign circuit court judges to hold court.

**57. SEC. 4.** That the supreme court may from time to time assign and appoint any of said circuit county court judges to hold such of such circuit courts as may be deemed expedient.

(a) Rules 35 and 36 of the supreme court apply to supreme court issues referred to the circuit court pursuant to this section. *La Valle v. Electric Cutlery Co.*, 27 Vr. 59. The applica-

tion for a rule to show cause for a new trial in such cases must be made to the justice of the supreme court holding the circuit. Form of *postea* required. *Id.*

**58. SEC. 5.** That if it shall happen that any of said circuit court judges shall be prevented from attending any of said courts at any time or times, or from continuing the business therein transacting, the same proceedings, and the same results shall ensue as now obtain by law in case of a like default on the part of a justice of the supreme court.

Proceedings on failure of attendance of judges.

**59. SEC. 6.** That each of said judges shall, before he shall enter upon the duties of his said office, take and subscribe the following oath: I do solemnly promise and swear (or affirm) that I shall administer justice without respect to persons, and faithfully and impartially perform all the duties incumbent on me as a judge of the circuit courts of the counties of this state according to the best of my ability and understanding, agreeably to the constitution and laws of the state of New Jersey, so help me God.

Oath of judge.

**A further supplement to an act respecting circuit courts in the several counties of this state.**

Approved March 27, 1874.

P. L. 1874, p. 113.

**60. SEC. 1.** That the stenographers appointed or hereafter to be appointed in each of the circuit courts of this state, shall, when called upon so to do by the judge of such circuit, attend the sessions of any court of quarter sessions in such circuit, and perform therein like duties to those now required by law of such stenographers in the said circuit courts.

Stenographers when called on shall attend the quarter sessions.

1029-60  
R01-20

**61. SEC. 2.** That the compensation of stenographers now appointed or hereafter to be appointed in the several courts of this state for attendance in the said courts, and for transcripts of the proceedings of said courts when furnished by order of the court, shall be fixed by the circuit judge of the said court, and paid by the county collector of the county in which the said court is held, upon the certificate of the said judge that such service has been performed by the said stenographer. (a)

Compensation, by whom fixed.

**62. SEC. 3.** That all acts and parts of acts inconsistent herewith are hereby repealed.

Repealer.

**An act to provide for the printing and publishing of the list of causes noticed for trial in the circuit courts and courts of common pleas of the several counties of this state.**

Approved April 21, 1876.

P. L. 1876, p. 253.

**63. SEC. 1.** That in all the counties of this state, whenever the judge holding the circuit court therein shall deem it proper and necessary that the list of causes noticed for trial at any of the regular terms of the said circuit courts and courts of common pleas shall be printed and published for the use of the said courts, he may order and direct the same to be done by the clerk of the said courts and prescribe the form in which the same shall be printed and direct the said clerk to advertise for one week in two newspapers of different political parties in the county for bids for said work for one year and give said printing to the lowest bidder; and the expenses of the printing and publishing thereof shall be paid by the board of chosen freeholders of the county, upon the certificate of the said circuit judge that such printing has been done.

How lists of causes shall be printed and published.

1029-63  
R01-20

**An act to authorize the transfer of suits from the several county circuit courts to the several inferior courts of common pleas.**

Approved March 23, 1892.

P. L. 1892, p. 224.

**64. SEC. 1.** That when any suit is or shall be pending in any circuit court of any of the counties of the first and second classes of this state it shall be lawful for any justice of the supreme court presiding in that district, at his discretion, to order the process, pleadings and other papers pertaining thereto to be delivered to the clerk of the inferior court of common pleas of such county, who is hereby directed to file the same in his

Transfer of suits from circuit courts of counties of the first and second classes to the inferior courts of common pleas.

1029-64  
29V-431  
RWS01-21

(a) See *Knigh v. Freeholders of Ocean*, 19 Vt. 77.

Proviso.

office, and to make an entry thereof in the minutes of said last-named court; and that thereupon said inferior court of common pleas shall have authority to hear and decide said suit and to proceed therein, in like manner as if the same had been originally brought in said court; *provided, nevertheless*, that said justice of the supreme court may at any time by his order remand said suit into the circuit court from which it shall have been removed; and thereupon said process, pleadings, minute entries and other proceedings shall be returned to and filed in said circuit court, and said suit shall therein be proceeded with according to law. (a)

Compensation of law judge presiding at trial of suits so transferred.

**65. SEC. 2.** That every law judge of the inferior court of common pleas who shall preside at the trial of any of said suits so removed shall be entitled to receive from the county, for each day so employed, the sum of twenty dollars.

## Supplement.

Approved May 16, 1894.

P. L. 1894, p. 377.

Law judge may certify case transferred to the common pleas to supreme court.

**66. SEC. 1.** That in any suit that has been transferred or shall hereafter be transferred from the circuit court to the inferior court of common pleas by virtue of the act to which this is a supplement, the presiding law judge of said inferior court of common pleas may, at his discretion, and upon such terms as he may think reasonable, direct any case of doubt or difficulty to be made and stated and certified by him to be argued at the bar of the supreme court, which court shall hear the same, and, after opinion given therein, shall certify the same to the said inferior court of common pleas, which court shall render judgment thereon in conformity with such opinion.

Proceedings and practice in such cases.

**67. SEC. 2.** That in such cases so certified that the same proceedings and practice shall be had thereon as is now had in cases certified from the circuit courts of this state to said supreme court.

An act to provide for the payment of expenses incurred by order of the supreme court.

Approved March 14, 1895.

P. L. 1895, p. 320.

Payment of expenses incurred by order of supreme court.

**68. SEC. 1.** That whenever any item of expense has been incurred by order of the supreme court in the execution of its duties, the payment of which is not otherwise provided for by law, the same shall, when so directed by the order of said court, be paid by the state treasurer, which order shall be countersigned by the comptroller when attested by the justice of said court presiding therein at the time said order is made.

1080-68  
R01-21

## III. Prerogative court.

Rev. 179, 574, 776,  
789.

Har. 297.

R. S. 203.

Authority of the ordinary.

An act respecting the prerogative court, and the power and authority of the ordinary.

Approved April 16, 1846.

**69. SEC. 1.** That the authority of the ordinary shall extend only to the granting of probates of wills, letters of administration, letters of guardianship, and to the hearing and finally determining of all disputes that may arise thereon. (b)

Proof required before probate granted.

**70. SEC. 2.** That probate of any will shall not be granted by the ordinary, until proof be made to his satisfaction that no caveat against proving such will hath been filed in the office of the surrogate of the county where the testator resided at the time of his death, or that notice hath been given to all persons concerned of the application to the ordinary of such probate.

(a) Wherea caveat is entered to a will, and the questions in controversy are certified into the circuit court, that court cannot send the case to the common pleas for trial under this act. *Bumsted v. Judges of Monmouth Pleas*, 27 Vr. 414. When a case of which the common pleas would have jurisdiction, if originally instituted there, is brought in the circuit court and sent down to the common pleas for trial under this act, and is tried in that court without objection, the losing party cannot, after judgment, challenge the jurisdiction of the trial court. *North Hudson Ry. Co. v. Flanagan*, 28 Vr. 236.

(b) Original jurisdiction of ordinary in matters of probate of wills and granting letters of administration. *Abraham Cowden's Will*, 3 Gr. Ch. 408. *Will of Isaac Lawrence*, 3 Hal. Ch. 215. *Chambers v. Sunderland*, Hal. Dig. 216, §1. The ordinary has no jurisdiction where the title of lands comes in question. *Haring v. Van Buskirk*, 4 Hal. Ch. 545, 548. Nor in matrimonial causes. *McClurg v. Terry*, 6 C. E. Gr. 228, per *Zabriskie*, C. The proper proceeding is by petition. *Webster's Case*, 3 Gr. Ch. 558. *Green's Case*, 4 Hal. Ch. 550. See *Trimmer v. Adams*, 3 C. E. Gr. 505.

**71. SEC. 3.** That for the hearing and determination of all causes cognizable before the ordinary, he shall hold a prerogative court at each stated term of the court of chancery, and at such other times and at such place or places as he shall from time to time appoint, when he shall hear and finally determine all causes that shall come before him, either directly or by appeal, from any surrogate or from the orphans' court of any county. (a)

Court, when to be held.

**72. SEC. 4.** That the register of the prerogative court shall attend the sitting of the court at the stated terms, to register the decrees and proceedings of the court.

Register's duty.

**73. SEC. 5.** That it shall and may be lawful for the ordinary, in any case in which he may be interested, or may have been concerned for either party, or may have given an opinion as attorney, solicitor, or counsel for either party, or in any other case in which he may deem it expedient, to call to his assistance one or more of the justices of the supreme court, to sit and advise with him on the hearing or argument of such case, or of any motion touching the same, and by and with the advice of such justice or justices to make and pronounce such order, sentence or decree as shall be according to law, and the rules and practice of the prerogative court.

When justices called to advise.

**74. SEC. 6.** That the justice or justices so sitting with the ordinary in the prerogative court, shall be entitled to receive the same compensation as is allowed by law for sitting with the chancellor in the court of chancery.

Justice's fees in such case.

**75. SEC. 7.** That the payment of costs when awarded by the prerogative court, may be compelled in the same manner as the court of chancery is authorized to compel payment thereof.

How payment of costs compelled.

**76. SEC. 8.** That if any person shall neglect or refuse to obey any citation, or to perform any sentence or decree of the ordinary or judge of the prerogative court, it shall and may be lawful to and for such ordinary and such court to cause such person or persons, by process directed to any sheriff of any county of this state, to be taken and imprisoned until he shall obey the said citation, or perform the said sentence or decree; and every sheriff is hereby directed to cause all such process, to him at any time directed, to be duly executed, and to confine the person against whom such process shall be issued, as in execution, until he shall be delivered by due course of law; and if any sheriff shall neglect his duty therein, he shall be answerable to the party aggrieved in such manner as he would be answerable upon process of the like nature issuing out of the supreme court.

Power to issue compulsory process.

Liability of sheriff.

**77. SEC. 9.** That the transcript of any will or testament registered or recorded in the prerogative office, duly certified by the register of the said office to be a true transcript, shall be received in evidence in any court of this state, and shall be as good and effectual in law as if the books in which the same are registered or recorded were then and there produced and proved.

Transcript of will, evidence.

Supplement.

Approved February 17, 1869.

P. L. 1869, p. 84.

**78. SEC. 1.** That all persons aggrieved by any order or decree of the prerogative court, may appeal from the same, or any part thereof, to the court of errors and appeals in the last resort in all causes, which appeal shall be taken within the same time and prosecuted in the same manner in all respects as now provided by law for appeals from the court of chancery. (b)

Appeal from prerogative court to court of appeals.

(a) Appeal lies to orphans' court in matters as to granting letters of guardianship. *Read v. Drake*, 1 Gr. Ch. 78. *Matter of Clement*, 10 C. E. Gr. 508. But see *Tendbrook v. McCollm*, 5 Hal. Ch. 393. Or in regard to a guardian's account. *Bunkle v. Gale*, 3 Hal. Ch. 101. Or granting probate of a will. *Coursen's Will*, 3 Gr. Ch. 408. *Perrine v. Applegate*, 1 McCart. 531. Or on a decree revoking letters of administration. *Delany v. Noble*, 2 Gr. Ch. 559. *Quidori v. Pergeaux*, 3 C. E. Gr. 472. See *Morris v. Morris*, 1 Har. 526. Or from an order fixing the amount of an executor's commissions. *Anderson v. Berry*, 2 McCart. 232. Or from a decree refusing to confirm and setting aside a sale. *Conover v. Walling*, 2 McCart. 167. Or from an order and proceedings in partition. *Diamant v. Love*, 2 Vr. 220. Or the appointment of a trustee. *Brush v. Young*, 4 Dutch. 237. Who may appeal. *Borback v. Van Buren*, 5 C. E. Gr. 461. *Sonckhamer v. Kline*, 10 C. E. Gr. 503. *Ratleigh v. Rogers*, 10 C. E. Gr. 506. When the appeal must be taken. *Clark v. Haines*, 3 Gr. Ch. 138. *Hillyer v. Schenck*, 2 McCart. 399. The order of the prerogative court to answer a petition of appeal is an order of

course, but is not to be taken until after the transcript shall have been filed. *Wyckoff v. Hulse*, 1 Stew. 429. How evidence is taken. *Read v. Drake*, 1 Gr. Ch. 78. *Reeve v. Townsend*, 4 Hal. Ch. 81. *Sayre v. Sayre*, 1 C. E. Gr. 505. After a decision the case may be continued in the prerogative court, if further proceedings are necessary. *Bunkle v. Gale*, 3 Hal. Ch. 101. *Trimmer v. Adams*, 3 C. E. Gr. 505. *Osborn v. Rogers*, 4 C. E. Gr. 429. The verdict of a jury in a will case, certified by the orphans' court into the circuit, is not conclusive as to facts; the ordinary can look into the testimony for the purpose of passing upon the propriety of the verdict. *Eusting v. Eusting*, 9 Stew. 603. For costs, see CHANCERY, Sec. 105, note (c), and *Perrine v. Applegate*, 1 McCart. 532.

(b) This act is constitutional. *Harris v. Vanderveer's Exr.*, 6 C. E. Gr. 424. An appeal will lie from an order of the prerogative court determining the amount of commissions allowed to executors, administrators and trustees under a will. *Pomeroy v. Mills*, 10 Stew. 578.

## Supplement.

Approved April 18, 1891.

P. L. 1891, p. 511.

Register of the prerogative court to receive the same fees for recording wills, &c., as surrogates.

1032-79  
35V-6

**79. SEC. 1.** That it shall be the duty of the register of the prerogative court to record all wills, proofs, probate, letters testamentary issued thereon and inventories hereafter proven, and in cases now pending in the prerogative court or before the ordinary, and all accounts of executors, administrators, trustees and guardians, letters of guardianship and letters of administration hereafter issued, granted or allowed by the ordinary, and all orders, decrees and other papers of a similar nature which are now required by law to be recorded in the surrogates' offices of the respective counties; and for all official services as register of the prerogative court he shall be entitled to charge and receive the same fees as are now allowed by law to the surrogates of the several counties of this state for like services; *provided*, that all expenses incurred in carrying out the provisions of this act shall be paid by the register out of the fees so collected. (a)

Proviso.

Repealer.

**80. SEC. 2.** That this act shall take effect immediately, and all acts and parts of acts inconsistent herewith, be and the same are hereby repealed.

## Supplement.

Approved March 10, 1893.

P. L. 1893, p. 180.

Register to receive same commissions on deposits as clerk in chancery.

Repealer.

**81. SEC. 1.** That the register of the prerogative court shall be entitled to charge and receive on all moneys and securities that are now or may be hereafter deposited with him under any law of this state or the rules of the prerogative court, the same commissions as are now allowed by law to the clerk in chancery for commissions on deposits.

**82. SEC. 2.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

## An act to facilitate proceedings in the prerogative court.

Approved February 11, 1888.

P. L. 1888, p. 22.

Vice ordinary or surrogate-general appointed by ordinary.

1032-83  
RWS01-22

**83. SEC. 1.** That there shall be a vice ordinary or vice surrogate-general, who shall be a counselor-at-law of at least ten years' standing, who shall be appointed by the ordinary or surrogate-general from among the vice chancellors of the court of chancery, and commissioned by the governor under the great seal of the state, and who shall continue in office during his term of office as vice chancellor.

**84. SEC. 2.** That the ordinary or surrogate-general may refer to such officer any cause or other matter which at any time may be pending in the prerogative court, to hear the same for the ordinary or surrogate-general, and report thereon to him and advise what order or decree should be made therein; and any matter or cause in which the ordinary or surrogate-general is interested, may be so referred.

Ordinary may refer to him any cause or matter pending.

**85. SEC. 3.** That when any cause or matter shall be so referred to such officer it shall be lawful for him to take and hear the evidence of any or all witnesses in said cause or matter, orally, in the same manner as the evidence is now taken and heard in the several courts of law in this state on trials before a jury; and if a report of the evidence so taken before him shall become necessary in the progress of said cause, for use on appeal from the order or decree of the ordinary or surrogate-general, then such officer shall settle and sign such report.

Vice ordinary to take and hear evidence in said cause, &c.

**86. SEC. 4.** That it shall be lawful for such vice ordinary or vice surrogate-general to employ a competent stenographic reporter, for the same purposes that vice chancellors are now authorized by law to employ such reporters, and that such stenographic reporters shall be compensated in the same manner and after the same rates that such stenographers are compensated for services rendered to vice chancellors.

Authorized to employ stenographer.

**87. SEC. 5.** [Repealed by Sec. 88, *post*.]

(a) *Heath's Case*, 7 Dick. 807.

## Supplement.

Approved January 31, 1893. P. L. 1893, p. 13.

**88. SEC. 1.** That the fifth section of an act entitled "An act to facilitate proceedings in the prerogative court," approved February eleventh, one thousand eight hundred and eighty-eight, which fifth section reads as follows [see P. L. 1888, p. 22], be and the same is hereby repealed.

Repealer.

## IV. County courts (1)

## An act to ascertain the times and places of holding certain courts.

Revision—Approved April 18, 1846. R. S. 253.

[Secs. 1, 2, 3, 4 and 5 repealed by P. L. 1876, p. 28.]

**89. SEC. 6.** That it shall be lawful for the court of common pleas, the court of general quarter sessions of the peace, and the orphans' court in and for the several counties of this state, to adjourn over for any day in term to any subsequent day in the same term, whenever the convenience of the public and of the said courts respectively, shall require such adjournment; and in case of such adjournment, all suits, indictments, process, orders, rules, recognizances and other proceedings pending in such court, shall be continued to the time to which such adjournment shall be made, without prejudice to any of the parties therein, and may then be proceeded in according to law, in the same manner as if such court had been adjourned from day to day.

Power of court of common pleas, &c., to adjourn over to subsequent day in term.  
R. S. 253, § 6.

1033-89  
R01-22

**90. SEC. 7.** That the courts of common pleas for the several counties of this state, are hereby authorized, at their stated terms, to order and appoint special terms of the said court, to be holden at such time in the vacation between the stated terms of said court, as they in their discretion shall think fit; and, at such special terms, to hear, try and determine all appeals from the courts for the trial of small causes depending in said court, in which no jury shall be demanded or required; and also at such special term, to hear and determine all such arguments upon matters of law, arising in causes depending in said court, as shall by the consent of parties, be set down for hearing at such special term; *provided, always*, that at such special term, the hearing of appeals shall have preference of argument upon matters of law. (a)

Pleas may appoint special terms, try appeals, &c.  
Ib., § 7.

## An act to re-organize the courts of law.

Approved February 9, 1855. P. L. 1855, p. 17.

[Secs. 1, 2, 3 and 4 transferred to "An act relative to the supreme and circuit courts" [Revision], approved March 27th, 1874. See Secs. 18, 25, 26 and 43, *ante*. Sec. 6 repealed by P. L. 1876, p. 28. See Sec. 137, *post*.]

**91. SEC. 5.** That after the fourth day of July next [1855], there shall be no more than three judges of the inferior court of common pleas in each county, exclusive of the justice of the supreme court; and any two of the said judges may hold the orphans' court and court of general quarter sessions of the peace; (2) *provided*, that the judges of said court that may be in office on the first day of April next shall continue until their terms of office shall expire. [See Sec. 108, *post*.]

Number of judges of the court of common pleas.

1033-91  
RWS01-22  
98-940  
Rev00-332

(a) For original ordinance creating common pleas, see 1 *Hal., Appendix*, p. 2. The common pleas has a common-law jurisdiction, and its judgments cannot be questioned collaterally. *Diehl v. Page*, 2 *Gr. Ch.* 143. *Den. Vanderveer v. Gaston*, 4 *Zab.* 818. *Young v. Rathbone*, 1 *C. E. Gr.* 224. *Hendrickson v. Norcross*, 4 *C. E. Gr.* 417. See *Den v. Zellers*, 2 *Hal.* 153. But they cannot discharge from jail a prisoner confined under the process of another court. *Stryker v. Rea*, 6 *Hal.* 319. See *English v. Bonham*, 3 *Gr.* 481. Matters resting in discretion, or on its

rules and practice, cannot be reviewed on *certiorari*. *State, Newell v. Bassett*, 4 *Vt.* 26. But they cannot by adopting rules alter the laws. *Hinchley v. Machine*, 3 *Gr.* 476. *Ten Eyck v. Farlee*, 1 *Har.* 348. Nor on the trial of an appeal can they seal a bill of exceptions. *Clark v. Fulse*, *Pen.* \*263. *Moore v. Hamilton*, 4 *Zab.* 532. *Roston v. Morris*, 1 *Dutch.* 173. Whether they can do so in an insolvent case, see *Davis v. Hendrickson*, 3 *Gr.* 481. *Van Waggoner v. Coe*, 1 *Dutch.* 197. They may send up a state of the case. *Curtis v. Hall*, 1 *South.* \*361 (a).

(1) See title CRIMINAL PROCEDURE, *post*, sub-title *Courts*, and note (1), giving the special acts to facilitate judicial proceedings in different counties of the state.

(2) See CRIMINAL PROCEDURE, sub-title *Court*, and notes.

## Supplement.

P. L. 1877, p. 218.

Approved March 9, 1877.

Clerk of the county to be clerk of special quarter sessions court.

Sheriff to be the officer of the court.

Judge to determine rules, &c., in absence of the justice of supreme court.

**92. SEC. 1.** [Amended by Sec. 95, *post.*]

**93. SEC. 2.** That the clerk of said county shall be the clerk of said court hereby provided for, and shall issue all processes, whether of *capias*, *subpoena* or execution, which shall be required in carrying out this act, which processes shall be delivered to the sheriff of said county, and shall be by him served and returned under the same regulations and with the same compensation as heretofore; and the said sheriff shall be the officer of said court and exercise the same direction and supervision of all constables and subordinate officers attending said court, and in all other things pertaining to the office, as heretofore.

**94. SEC. 3.** That in all matters within the jurisdiction of the said several courts, relating to the practice and settlement of legal rules and questions, the said judge shall, in the absence of the justice of the supreme court, have exclusive power and authority to determine such rules, questions and practice.

## Supplement.

P. L. 1878, p. 372.

Approved April 5, 1878.

Proceedings for trial in cases when the person charged waives an indictment and trial by jury.

Judge to call a court of special quarter sessions of the peace.

Prosecutor to attend trial in person or by deputy.

Costs, how taxed and paid.

**95. SEC. 1.** That the first section of the supplement to said act, which supplement was approved March ninth, eighteen hundred and seventy-seven, and which now reads as follows [see P. L. 1877, p. 218], be amended as follows:

[That whenever in any county in this state in which a counselor-at-law, of not less than five years of active practice, shall have been appointed one of the judges of the court of common pleas, orphans' court, and court of general quarter sessions of the peace for said county, and in which there shall be no law judge appointed as such, or wherever in any county there now is or there hereafter may be appointed a law judge, any person shall be charged, upon oath, before any justice of the peace or police justice, or any other officer authorized by law to hear said charge in said county, with any offense now triable at law before the court of general quarter sessions of the peace of said county, and such person shall, in writing, signed by him or her, addressed to the prosecutor of the pleas of said county, waive an indictment and trial by jury, and request to be tried immediately, it shall be the duty of the said prosecutor to apply to said judge, being such counselor-at-law, or law judge, as the case may be, for the immediate trial of such person; and said judge, unless he shall think the public interests will be benefited by denying such request, shall call a court of special quarter sessions of the peace, to be composed of himself and at least one other of the members of said court, which court is hereby empowered and required to try such person with all due speed, having regard to all the circumstances of the case, the public benefit, and the possibility of obtaining necessary witnesses and to determine and adjudge the guilt or innocence of the person charged; and if such person be acquitted by said court he or she shall forthwith be discharged; if he or she shall plead guilty, or be convicted, said court shall thereupon forthwith render and record such judgment of imprisonment or fine, or both, as shall be authorized by law in case such person shall be duly indicted and convicted; and it shall be the duty of said prosecutor to attend on such trial in person or by deputy, and prefer to said court an allegation, in writing, alleging the time, place and nature of the offense with which such person is charged, to which such person shall forthwith plead; and the proceedings for bringing such person to trial before said court, the accusation, plea, trial and sentence shall be in conformity with the law and practice heretofore, except so far as the same is altered by this act; and the costs of all proceedings in said court under this act shall be taxed and paid in the same manner as costs of proceedings upon indictments found in the court of oyer and terminer and general jail delivery of said county are now taxed and paid, but not including any costs of indictment except the fees of the prosecutor of the pleas, which shall be the same.]

**Supplement.**

Approved March 14, 1879. P. L. 1879, p. 248.

**96. SEC. 1.** That it shall be lawful for the law judge in any county, acting under the provisions of the act to which this is a supplement, to receive any plea of such person as may come before him charged with any offense cognizable in such court, without calling in any lay judge or judges to act in the matter if such law judge shall see fit so to do.

Law judge may accept plea without lay judge.

**An act in relation to lay judges.**

Approved March 29, 1878. P. L. 1878, p. 214.

WHEREAS, By the revised statutes approved April seventeenth, eighteen hundred and forty-six [see Rev. p. 486, Sec. 1], it requires three or more of the judges of the inferior court of common pleas in the several counties of this state to grant licenses to persons to keep inns or taverns, and as the law only provides for three of said judges for each county; therefore,

Preamble.

**97. SEC. 1.** That any two of the judges of the inferior court of common pleas shall be a majority of said three judges sitting as a court, and such majority shall have authority to grant licenses or any other application that may lawfully come before said court.

Licenses, &c., may be granted by two judges of common pleas.

1035-97  
R01-22

**98. SEC. 2.** That all acts or parts of acts inconsistent with the provisions of this act, except special acts authorizing the legal voters of any township in this state to vote on the question of license or no license, be and the same is hereby repealed.

Repealer.

**An act concerning the number of lay judges of the inferior court of common pleas in the several counties of this state.**

Approved April 5, 1878. P. L. 1878, p. 315.

**99. SEC. 1.** That hereafter the number of lay judges of the inferior court of common pleas shall consist of two in those counties having a law judge, and of three in all other counties; *provided*, this act shall not apply to counties having a population of more than fifty thousand inhabitants according to the last census.

Number of lay judges in common pleas courts.

Proviso.

1035-99  
R01-22

**A further act in relation to the number of lay judges of the inferior courts of common pleas in the several counties in this state.**

Approved March 11, 1880. P. L. 1880, p. 240.

**100. SEC. 1.** That no further appointments of lay judges of the inferior courts of common pleas in the respective counties of this state shall be made until the number of such judges shall be reduced to two in counties having a law judge, and three in all other counties; and thereafter there shall be but two lay judges of such court in counties having a law judge, and not more than three lay judges in all other counties.

No appointment of lay judges to be made until number is reduced.

1035-100  
R01-22

**101. SEC. 2.** That any action of said court requiring the concurrence of three judges, shall be valid and effectual when concurred in by a majority of the judges of such court.

Action of court, when valid.

**An act to provide for holding the court of special quarter sessions, in counties where the same now may be held, by a less number of judges, in certain cases.**

Approved April 5, 1878. P. L. 1878, p. 351.

**102. SEC. 1.** That whenever, by reason of a vacancy in the office of a lay judge of the court of common pleas in any county wherein a court of special quarter sessions may now be held, there shall be but one lay judge in said county, the court of special quarter sessions may be held by the law or presiding judge, together with such lay judge, until such vacancy can be filled; *provided*, that in such case, if said court, in the trial of any person charged with crime, shall disagree as to any question of fact arising therein,

Quarter sessions court may be held by the presiding judge and one lay judge, in certain cases.

Proviso.

1035-102  
R98-940

## COURTS.

such disagreement shall not operate to acquit or discharge the prisoner, who shall be held, and either tried again upon the allegation against him, or upon any indictment found against him by the grand jury.

An act relating to the powers and duties of law or president judges of the courts of common pleas.

Approved March 2, 1883.

P. L. 1883, p. 56.

1086-103  
R01-22

Law judge may preside during absence, sickness, &c., in courts of any county.

May preside during absence, &c., of justice of supreme court.

Request to be in writing.

To be filed in office of county clerk.

Proceedings valid.

**103. SEC. 1.** That the law or president judge of the inferior court of common pleas in and for any county of this state may, at the request of the law or president judge of the inferior court of common pleas in and for any other county of this state, preside during the absence or sickness or other inability of the judge making the request aforesaid, in the courts or in any of them wherein the judge making such request was specially appointed to preside.

**104. SEC. 2.** That the law or president judge of the inferior court of common pleas in and for any county of this state, may preside in the inferior court of common pleas, orphans' court and court of general quarter sessions of the peace in and for any other county of this state not having a law or president judge specially appointed therefor, during the absence, sickness or other inability of the justice of the supreme court assigned to the judicial district in which such county not having a law or president judge specially appointed therefor is situated, if he shall have been thereto requested by the justice aforesaid.

**105. SEC. 3.** That the requests mentioned in the first and second sections of this act shall be in writing; and it shall be the duty of the law or president judge to whom such request as aforesaid shall have been made, before presiding in the courts of any county in this state other than that for which he was specially appointed, to file the request aforesaid in the office of the clerk of the county in the courts of which he shall have been so as aforesaid requested to preside.

**106. SEC. 4.** That when the law or president judge of the inferior court of common pleas in and for any county of this state shall so preside and sit for the law or president judge of the inferior court of common pleas in and for any other county of this state, or for a justice of the supreme court, all proceedings and acts had and done before him and in the courts in which he shall so preside by request, shall be of the same validity, force and effect as though the judge or justice who made the request aforesaid were himself present and presiding.

An act respecting judges of the court of common pleas.

Approved March 10, 1885.

P. L. 1885, p. 75.

Justice of the peace not to be appointed judge common pleas.

1086-107  
R01-22

**107. SEC. 1.** That no justice of the peace shall be hereafter appointed a judge of the inferior court of common pleas, and the appointment of any justice of the peace to be such judge and his qualification as such shall vacate his office of justice of the peace.

An act relative to the court of common pleas, the orphans' court and the court of general quarter sessions of the peace in the several counties of this state.

Approved April 4, 1887.

P. L. 1887, p. 133.

1086-108  
R01-22

Two judges of common pleas may hold pleas, orphans' court and sessions. In counties having law judge he shall be member of court. Repealer.

**108. SEC. 1.** That any two of the judges of the inferior court of common pleas in each county of this state may hold the court of common pleas, the orphans' court and the court of general quarter sessions of the peace; *provided*, that in those counties having a law judge as president judge such judge shall be present as a member of said court. (a)

**109. SEC. 2.** That all acts or parts of acts, whether general, special or local, inconsistent with the provisions of this act are hereby repealed, and that this act shall be a public act and take effect immediately.

(a) A justice of the supreme court and any one of the judges of common pleas may lawfully hold the quarter sessions in counties where there is a law judge of the common pleas. *Engeman v. State*, 25 Vr. 247.

An act relative to the court of common pleas, the orphans' court, and the court of general quarter sessions of the peace, in the several counties of this state.

Approved February 15, 1888.

P. L. 1888, p. 64.

**110. SEC. 1.** That in case of absence, sickness or other inability or vacancy in the office of the law or president judge of any county in this state, to sit or perform the duties of his office, it shall be lawful for the chief justice or any associate justice of the supreme court, if he shall be unable to perform the duties himself, which he is hereby authorized and required to do, to designate and request the law or president judge of any other county to preside in the place and stead of any such law or president judge thus absent, sick or unable to sit and preside in the courts to which he was especially appointed, which said law or president judge so designated and requested shall have all the power and perform all the duties of any such law or president judge thus absent, sick or unable to attend to the duties of his office, upon filing such designation and request in the office of the clerk of the county in the courts of which he shall have been requested so as aforesaid to preside. (a)

Designation of judge to act in absence or vacancy in office of law or president judge of any county.

1087-110  
R01-22

An act authorizing the presiding judges of the court of oyer and terminer, the court of special sessions and the court of general quarter sessions of the peace, in counties of the second class, to appoint an interpreter to said courts, and fixing the salary of the same.

Approved May 3, 1889.

P. L. 1889, p. 329.

**111. SEC. 1.** That the presiding judges of the court of oyer and terminer, court of general quarter sessions of the peace, the courts of special sessions, be and are hereby empowered to appoint an interpreter to attend any of the above-named courts when said judges may deem it necessary to employ a constant attendant in the nature of an interpreter, whose duty shall be to interpret in all the foreign languages, either in person, when that may be possible by said interpreter understanding said foreign language, or in case said foreign language be not understood by said court interpreter so chosen, then said court interpreter shall, out of the salary that he may receive under the provisions of this act, furnish to said courts a competent interpreter in the said foreign language not understood by said court interpreter.

Presiding judges empowered to appoint an interpreter.

1087-111  
R98-987

**112. SEC. 2.** That said court interpreter shall be in constant attendance upon said courts at general and special sessions, and may be called upon at all times at chambers, and shall respond to all calls from said judges at all times and all places within the jurisdiction of said judges, not beyond the bounds of the county, in assisting said courts in the interpretation of foreign languages.

Interpreter to be in constant attendance upon courts.

**113. SEC. 3.** That said interpreter shall receive as compensation for such service an annual salary of not less than four hundred dollars and not more than six hundred dollars, to be fixed by the judges of said courts, said salary to be paid out of the county funds by the collector in quarterly payments, upon certificate being presented to him, signed by the judges of said courts.

Compensation of interpreter and how paid.

An act relative to the court of common pleas, the orphans' court and the court of general quarter sessions of the peace in the several counties of this state.

Approved June 13, 1890.

P. L. 1890, p. 454.

**114. SEC. 1.** That if the president judge of any court of common pleas, orphans' court or court of general quarter sessions of the peace of any county of this state, by which any judgment, order or decree has been or shall be rendered, made or pronounced, or by which any matter or cause has been or

Successor to president judge of common pleas and other judge to sign judgments, &c., unsigned.

1087-114  
R01-23

(a) This act provides only for filling the position of a judge who is temporarily absent by reason of sickness or other like disability, and not to an office vacated by the death of the incumbent. *Fritts v. Kuhl*, 22 Vr. 207. Absence in this act means

non-presence in the courts. When the law judge is temporarily away, he must be presumed to be away by reason of some inability to attend, and is absent in the statutory sense. *Engeman v. State*, 25 Vr. 251.

shall be heard and determined, or in which any proceeding or proceedings have been or shall be taken and determined, has died or shall die, or has gone out of office or shall go out of office, and some other person has been or shall be appointed president judge, before the judgment, order or decree therein has been or shall have been signed, then it shall be the duty of his successor in office, or the president judge for the time being, together with at least one of the other judges of the said court, to sign such judgment, order or decree, and all judgments, orders and decrees so signed shall be as good and effectual in law, to all intents and purposes, as if the same had been duly signed by the judges of the said court when such judgment, order or decree was rendered, made or pronounced.

**An act to facilitate judicial proceedings in counties of the second class. (1)**

P. L. 1894, p. 173.

Approved May 1, 1894.

1038-115  
R98-941

Courts of common pleas, oyer and terminer, &c., in counties of second class, how constituted.

**115. SEC. 1.** That the courts of common pleas, oyer and terminer and general jail delivery, general quarter sessions of the peace and orphans' courts, in and for the several counties of this state of the second class, shall hereafter consist of one law judge and two lay judges in addition to the justices of the supreme court holding the circuit for said county, and the said law judge shall be a counselor-at-law of this state of at least five years' standing, and in the absence of the justice of the supreme court he shall be the president judge of said courts of common pleas, oyer and terminer and general jail delivery, general quarter sessions of the peace and orphans' courts, and shall have in all matters within the jurisdiction of the said several courts the exclusive power and authority to settle and determine all legal questions and matters of practice.

Appointment of law judge.

Persons charged with offense triable in quarter sessions may waive indictment and trial by jury.

Law judge may call court of special sessions.

**116. SEC. 2.** That whenever any person shall be charged upon oath before any officer authorized to hear the same in any of said counties, with any offense now triable by law before the court of general quarter sessions of the peace, and such person shall, in writing, signed by him or her, addressed to the prosecutor of the pleas, waive indictment and trial by jury, and request to be tried immediately, it shall be the duty of said prosecutor, unless he shall think the public interest will be benefited by denying said request, to apply to said law judge for the immediate trial of said person, and the said law judge shall thereupon in his discretion call a court of special sessions, to be composed of himself and at least one other judge of said county, which court is hereby empowered and required to try such person with all due speed, having due regard to the circumstances of the case, the public interest and the possibility of obtaining necessary witnesses to determine the guilt or innocence of the person charged; if such a person be acquitted by the said court, he or she shall be forthwith discharged; if he or she shall plead guilty or be convicted, said court shall thereupon forthwith render and record such judgment of imprisonment or fine, or both, as shall be authorized by the law, in case such person had been duly indicted and convicted; and it shall be the duty of said prosecutor (in person or by deputy) to attend upon said trial, prefer to said court an allegation in writing alleging the time and place and nature of the offense with which such person is charged, and to which said person shall forthwith plead, and the proceedings for bringing such person for trial before such court, the accusation, place, trial and sentence shall be in conformity with the law and practice heretofore, except as the same are altered by this act, and the cost of all proceedings in said court under this act shall be taxed and paid in the same manner as costs of proceedings and indictments found in courts of oyer and terminer and general jail delivery of said county are now taxed and paid; *provided*, that hereafter no person charged with larceny shall be tried otherwise than before said court of special sessions hereby provided for, or on regular indictment, according to the usual course of proceedings at law.

Trial.

Costs, how taxed.

Proviso.

(1) See title CRIMINAL PROCEDURE, *post*, sub-title *Courts*, and note (1), giving the special acts passed to facilitate criminal proceedings in different counties of the state.

**117. SEC. 3.** That the respective clerks of said counties shall be the clerks of said courts of special sessions and shall issue all process, whether of *capias*, subpoena or execution, which shall be required in carrying out the provisions of this act, which process shall be delivered to the respective sheriffs of the said counties, and shall be by them served and returned under the same regulations and penalties, and with the same compensation as heretofore; and the said sheriffs shall be the officers of said courts, and exercise the same supervision and direction of all constables and subordinate officers attending said courts, and in all things pertaining to the office, as heretofore.

Clerk of county shall be clerk of the court, issue process, &c.

Sheriff shall be officer of the court.

**118. SEC. 4.** That said law judges shall each receive such compensation and salary as is now provided by law, payable in monthly payments by the respective county collectors of said counties, but shall receive no share of the fees which are divided among or paid to the judges of the court of common pleas or orphans' court.

Compensation of judges.

**119. SEC. 5.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall be deemed a public act and take effect immediately; *provided, however*, that nothing herein shall operate to repeal or modify any of the acts whereby law judges have been heretofore provided for in any of the counties of this state.

Repealer.

Proviso.

**An act respecting the appointment of sergeant-at-arms in the court of common pleas, orphans' court and court of general quarter sessions of the peace.**

Approved March 31, 1887. P. L. 1887, p. 96.

**120. SEC. 1.** [Amended by Sec. 122, *post.*]

**121. SEC. 2.** That all acts and parts of acts inconsistent with this act are hereby repealed, and that this act shall take effect immediately.

Repealer.

1039-120  
RW-01-2

**Supplement.**

Approved March 19, 1889. P. L. 1889, p. 67.

**122. SEC. 1.** That section one of an act entitled "An act respecting the appointment of sergeant-at-arms in the court of common pleas, orphans' court and court of general quarter sessions of the peace," approved March thirty-first, anno domini one thousand eight hundred and eighty-seven, which is as follows [see P. L. 1887, p. 96], be and the same is hereby amended so as to read as follows:

[That in each county of this state having within its territorial limits a population exceeding one hundred and fifty thousand inhabitants, the judges of the court of common pleas of said county be and they are hereby authorized to appoint a suitable person as sergeant-at-arms, to hold his office during the pleasure of said judges, whose duty it shall be to attend said courts during the several terms thereof, for which service he shall receive nine hundred dollars per annum, to be paid monthly, by the county collector of said county, on the certificate of the presiding judge of said court; *provided*, that no more than one sergeant-at-arms shall be appointed by the said judges in each of such counties.] [See Secs. 126 and 127, *post.*]

In counties having population exceeding 150,000, judges of common pleas authorized to appoint sergeant-at-arms.

**123. SEC. 2.** That all acts and parts of acts inconsistent with this act are hereby repealed, and that this act shall take effect immediately.

Repealer.

**An act in relation to the appointment of sergeant-at-arms and criers to the several courts of the counties and fixing the salaries for same.**

Approved April 7, 1890. P. L. 1890, p. 181.

**124. SEC. 1.** [Amended by Sec. 126, *post.*]

**125. SEC. 2.** That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

1039-124  
RWS01-23

## Amendatory act.

P. L. 1893, p. 26.

Approved February 21, 1893.

**126. SEC. 1.** That section one of the above-entitled act be and the same is hereby amended to read as follows:

Supreme court justice in districts comprising counties of first class authorized to appoint sergeant-at-arms, also crier of circuit court.

[That the justice of the supreme court to whom a judicial district has been or may be assigned, and which judicial district comprises counties of the first class, is authorized to appoint in their respective judicial district a suitable person as sergeant-at-arms and also a suitable person as crier of the circuit court of said judicial district, to hold office during the pleasure of said justice, whose duties it shall be to attend daily upon the said courts in the county wherein appointed, during the several [terms] thereof, for which services the said sergeant-at-arms and said crier, in all counties of the first class having a population within their territorial limits exceeding one hundred and fifty thousand inhabitants, shall each receive and be paid an annual compensation or salary of nine hundred dollars in lieu of any per diem compensation, such annual compensation or salary to be paid monthly by the county collector upon the certificate of the county clerk of such county; *provided, however*, that whenever it shall seem to be proper and advisable, under all the circumstances, to do so, the said justice of the supreme court may and hereby is authorized to order and fix, in lieu of the annual compensation herein provided for, for said sergeant-at-arms, such per diem allowance to him, not exceeding five dollars per day, as shall appear to said justice in the exercise of his discretion to be fair and reasonable to allow, but said per diem allowance shall be made and taken in lieu of all fees, perquisites and allowances whatever; same to be paid on certificate made as aforesaid, after a claim for the service rendered or claimed to be rendered by the claimant, verified by his oath, shall have been presented to such clerk.]

Annual salary.

Paid monthly by county collector upon certificate of county clerk.

Supreme court justice may fix per diem allowance in lieu of annual salary.

How paid.

**An act in relation to the appointment of sergeant-at-arms to the several courts of the counties, and fixing the salaries for the same.**

P. L. 1890, p. 409.

Approved June 3, 1890.

**127. SEC. 1.** That the justice of the supreme court to whom a judicial district has been or may be assigned is authorized to appoint a suitable person as sergeant-at-arms of the courts within the county having a population within their territorial limits exceeding seventy thousand and under one hundred and fifty thousand inhabitants, who shall receive and be paid an annual compensation or salary of nine hundred dollars in lieu of any per diem compensation, such annual compensation or salary to be paid monthly by the county collector upon the certificate of the county clerk of such county, said sergeant-at-arms to hold office during the pleasure of said justice, whose duty it shall be to attend daily upon the said courts in the county wherein appointed during the several terms thereof.

Justice of supreme court in district comprising counties with population between 70,000 and 150,000 may appoint sergeant-at-arms.

Duty.

Repealer.

**128. SEC. 2.** That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

**An act to provide for the employment of a stenographer in suits commenced in the court of common pleas, and in trials of indictments in the court of oyer and terminer and the court of general quarter sessions of the peace in the several counties of this state.**

P. L. 1891, p. 372.

Approved April 4, 1891.

**129. SEC. 1.** That the presiding judge of the court of common pleas, of oyer and terminer and general quarter sessions of the peace, in and for the several counties of this state, shall upon request of an attorney-at-law employed in any suit originally begun in said court of common pleas, or the prosecutor of the pleas or the attorney of any defendant in any indictment in the said court of oyer and terminer and quarter sessions of the peace, call upon the stenographer of the circuit court to attend either in person or

Employment of a stenographer in the court of common pleas and quarter sessions, when authorized.

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R01-231040-129  
R01-23

by proxy, whose duty it shall be to attend upon any such trial in said court of common pleas, court of oyer and terminer or said general quarter sessions of the peace, and exactly and truly take notes and record verbatim all the evidence and proceedings of such trials, except the arguments of counsel, and, when requested, to make and furnish true reports thereof to the judge and to each party in said cause; *provided*, such request be made to said judge and filed with the clerk of such court at least three days previous to the day fixed for the trial of such suit or indictment.

Proviso.

**130. SEC. 2.** That the compensation of such stenographer shall not exceed ten dollars per day, which sum, in cases originally commenced in the court of common pleas shall be paid by the board of chosen freeholders of the county wherein he is employed, upon the certificate of the presiding judge, and in the trial of indictments said sum shall be deposited by the defendant with the clerk of the court of common pleas at the time of filing his request for a stenographer, and in the event of the conviction of such defendant said sum shall be paid by the clerk to the stenographer; but upon the acquittal of said defendant said sum shall be returned by the clerk to said defendant, and said fee shall be paid to such stenographers by the board of chosen freeholders of the county wherein he is employed upon the certificate of the presiding judge.

Compensation of stenographer.

**131. SEC. 3.** That said reporter, before he enters upon his duties as reporter, shall be sworn in open court faithfully and honorably to perform all the duties required by this act; and no stenographer employed under the provisions of this act shall receive compensation except when actually engaged in the trial of causes.

Stenographer to be sworn.

### V. Terms and places of holding certain courts.

#### An act in relation to fixing the terms of certain courts.

Approved March 10, 1880.

P. L. 1880, p. 136.

**132. SEC. 1.** That the court of errors and appeals may, from time to time, change the times for holding the stated terms of said court; *provided*, at least three such terms shall be held annually.

Court of errors may change time of holding terms.

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R01-23

**133. SEC. 2.** That the chancellor may, from time to time, change the times for holding the stated terms of the court of chancery and the prerogative court; *provided*, at least three such terms of each court shall be held annually.

Chancellor may change time of holding terms.

**134. SEC. 3.** That the supreme court may, from time to time, change the times for holding the stated terms of the supreme court, the several circuit courts, courts of oyer and terminer and general jail delivery, courts of common pleas, courts of general quarter sessions of the peace and orphans' courts; *provided*, at least three such terms of each court shall be held annually.

Supreme court may change time of holding terms.

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R01-23

**135. SEC. 4.** That no change to be ordered under this act shall become operative until the order therefor shall have been entered upon the minutes of the court making it, and publicly announced in the court whose terms are to be changed, at a regular term, prior to the change going into effect.

No change to be operative until entered on the minutes of said court.

**136. SEC. 5.** That a schedule, showing the times and places for holding said courts, may be printed annually, in the volume of the public laws.

Schedule may be printed in the volume of laws.

#### An act to fix the times and places of holding courts in the respective counties in this state.

Approved March 9, 1876.

P. L. 1876, p. 28.

**137. SEC. 1.** That the circuit court, the court of oyer and terminer and general jail delivery, the court of common pleas, the court of general quarter sessions of the peace and the orphans' court of the respective counties in this state, shall hold annually stated terms at the times and places following, and not otherwise, that is to say:

Time and place of holding regular terms of court, &c., in the counties of the state.

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- Bergen county. I. In the county of Bergen, at New Barbadoes, on the first Tuesday of April, September and December, respectively; (*a*)
- Hudson county. II. In the county of Hudson, at Jersey City, on the first Tuesday of April, September and December, respectively; (*b*)
- Essex county. III. In the county of Essex, at Newark, on the first Tuesday of April, September and December, respectively; (*c*)
- Monmouth county. IV. In the county of Monmouth, at Freehold, on the first Tuesday of May and October and the first Tuesday after the first day of January, respectively;
- Somerset county. V. In the county of Somerset, at Somerville, on the third Tuesday in April, September and December, respectively; (*d*)
- Middlesex county. VI. In the county of Middlesex, at New Brunswick, on the first Tuesday of April, September and December, respectively; (*e*)
- Warren county. VII. In the county of Warren, at Belvidere, on the fourth Tuesday in April, third Tuesday in September, and the first Tuesday after the fourth Tuesday in December in each and every year; (*g*)
- Sussex county. VIII. In the county of Sussex, at Newton, on the first Tuesday of April, September and December, respectively; (*h*)
- Morris county. IX. In the county of Morris, at Morristown, on the first Tuesday of May and October, and the third Tuesday of January, respectively; (*i*)
- Passaic county. X. In the county of Passaic, at Paterson, on the fourth Tuesday of April and September, and the first Tuesday after the first day of January, respectively;
- Hunterdon county. XI. In the county of Hunterdon, at Flemington, on the second Tuesday in April, and the first Tuesday in September and December in each and every year; (*k*)
- Mercer county. XII. In the county of Mercer, at Trenton, on the third Tuesday in January, the second Tuesday in May, and the first Tuesday in October in each and every year; (*l*)
- Burlington county. XIII. In the county of Burlington, at Mount Holly, on the third Tuesday of April, September and December, respectively; (*m*)
- Camden county. XIV. In the county of Camden, at Camden, on the first Tuesday of May, October, and the second Tuesday of January, respectively; (*n*)
- Cumberland county. XV. In the county of Cumberland, at Bridgeton, on the first Tuesday in the months of October, January and May, respectively;
- Salem county. XVI. In the county of Salem, at Salem, on the third Tuesday in the months of October, January and May, respectively;
- Gloucester county. XVII. In the county of Gloucester, at Woodbury, on the first Tuesday of April, September and December, respectively; (*o*)
- Atlantic county. XVIII. In the county of Atlantic, at Mays Landing, on the second Tuesday of April, September and December, respectively;
- Cape May county. XIX. In the county of Cape May, at Cape May Court House, on the fourth Tuesdays of September and April, and the third Tuesday in December, respectively;
- Ocean county. XX. In the county of Ocean, at Toms River, on the second Tuesday of April, the first Tuesdays of September and December, respectively; (*p*)
- Union county. XXI. In the county of Union, at the city of Elizabeth, on the first Tuesday of May, October and January, respectively.
- When writs returnable. **138. SEC. 2.** That all writs, process, recognizances and other proceedings of the said several courts, which are now by law required to be returned at a term of such court, shall be made returnable at and in conformity to the terms and times hereby established.
- For what time courts may be held. **139. SEC. 3.** That the said several courts may, respectively, be held and continued for so long time as the business thereof shall render necessary

(*a*) Changed by rule of supreme court, under the provisions of section 31, from first Tuesday of September to second Tuesday of September and December.

(*b*) Changed from first Tuesday of September to second Tuesday of September and December.

(*c*) Changed from first Tuesday of September to second Tuesday of September and December.

(*d*) Changed from third Tuesday of September and December to fourth Tuesday of September and December.

(*e*) Changed to second Tuesday of September and December.

(*g*) Changed from third Tuesday of September to fourth Tuesday of September.

(*h*) Changed from first Tuesday of September to second Tuesday of September and December.

(*i*) Changed from first Tuesday of October to second Tuesday of October.

(*k*) Changed from first Tuesday of September to second Tuesday of September and December.

(*l*) Changed from first Tuesday of October to second Tuesday of October.

(*m*) Changed to fourth Tuesday in January, second Tuesday in May and October.

(*n*) Changed to first Tuesday in April, second Tuesday in September and December.

(*o*) Changed to first Tuesday in February and fourth Tuesday in May and October.

(*p*) Changed to first Tuesday in September and second Tuesday in December and April.

## VI. Attorneys.

An act to provide for the examination in certain cases of applicants for admission as attorneys to the supreme court of this state.

Approved February 22, 1882. P. L. 1882, p. 22.

**140. SEC. 1.** That any citizen of this state above the age of twenty-one years presenting to the supreme court of this state, at any stated term thereof, a certificate signed by five counselors-at-law of said court, five years' good standing, that the said citizen is a person of good moral character and unusual aptitude in his knowledge of legal principles, and that the counselors so certifying recommend that the said applicant be admitted to examination at the stated examination of the said court for admission as attorney, shall be by the said court, at any stated term thereof, admitted to such examination, and if found qualified after examination in the books now named by the supreme court in its amended rule relating to examinations of applicants for attorneys' licenses and recommended for admission as attorney by the examiners at such examination, he shall be so admitted to practice as an attorney of said court. (1)

On certificate of five counselors, applicants may be admitted to examination.

1043-140  
R00-62

**141. SEC. 2.** That all acts and parts of acts inconsistent with this act are repealed, so far as the same relate to the particular persons so recommended and certified to as aforesaid. Repealer.

(1) The counselors making a certificate under this act shall, in addition to the matters to be certified by the act, certify that prior to signing said certificate they each examined the person certified for, with respect to his knowledge of legal principles and of the practice of law as established in this state, and that they made such certificate on such examination. *Rule 5 of Supreme Court: (Ed. 1885).*

## Cranberries.

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|--------------------------------------------------|------------------------------------------------------------------------------------------|
| 1. Penalty for gathering on unlocated lands.     | 10. Duty of deputies.                                                                    |
| 2. Or on lands not their own.                    | 11. Penalty for neglect of duty.                                                         |
| 3. Penalty for unlawful taking.                  | 12. Fines, how recoverable and how applied.                                              |
| 4. Removing vines unlawfully.                    | 13. Legal and standard packages for cranberries.                                         |
| 5. Legal and standard packages established.      | 14. Penalty for making or using packages of less dimensions than the legal and standard. |
| 6. Brand or stamp to be furnished manufacturers. | 15. Fines, how recoverable.                                                              |
| 7. Small packages, how marked.                   | 16. State inspectors to be appointed.                                                    |
| 8. Penalty for omitting to mark packages.        | 17. Repealer.                                                                            |
| 9. Appointment of special deputies.              |                                                                                          |

An act for the preservation of cranberries.

Approved April 10, 1846. R. S. 780.

**1.** That if any person or persons shall take or gather from the vines, at any time after the first day of June, and before the fifth day of October, cranberries on the common or unlocated lands within this state, or on any lands not their own property, or for which they pay no tax, such person or persons shall forfeit and pay, for every such offense, the sum of six dollars, and also the further sum of four dollars for each and every bushel so taken or gathered, within the times aforesaid, to be sued for and recovered by action of debt, in any court where the same may be cognizable, with costs of suits, to be applied, one-half, if on the common or unlocated lands, to and for the use of the county where the offense shall have been committed; or if on any of the located lands, one-half to be paid to the owner or possessor of said lands, and the other half to the use of the person or persons who shall sue for and recover the same.

Penalty for gathering on unlocated lands.

**2.** That if any person shall take or gather, and carry away from the vines, at any time after the first day of June, and before the fifth day of October, any cranberries, within this state, on any land not the property of such person or persons, or for which they pay no tax, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine, not exceeding ten dollars.

Or on lands not their own.