

be prosecuted by any prosecuting attorney in the name of the state, and the one-half of such recovery shall be paid to the informer, and the residue shall be applied to the support of the poor in the county where such recovery is had.

6. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect the first day of September, one thousand eight hundred and ninety-two. Repealer.

## Bastards.

### I. PROCEEDINGS TO APPREHEND PUTATIVE FATHER OF BASTARD.

1. Application to justice.
2. Examination of mother of bastard. Warrant.
3. Proceedings against father if out of county. Indorsement of warrant.
4. Bond to be taken by justice indorsing warrant.
5. Thereupon discharge granted.
6. If no bond given, arrest proceeded with.

### II. EXAMINATION BEFORE JUSTICES.

7. Justice to associate another with himself. Proceedings of the two justices.
8. Person charged may demand a jury.
9. Trial before jury.
10. Justice may grant adjournments. May take bond for appearance.
11. The father at trial. If in his favor accused to be discharged. If adverse, order of filiation to be made.
12. Reputed father to pay costs and give bond.
13. When father to be discharged, and when committed.
14. Penalty of bond.
15. Proceedings in case bond given out of county.
16. Examination in such case.

### III. APPEAL TO SESSIONS.

17. Appeal to sessions. Notice to be given to justice.
18. Justice to send up papers.
19. Proceedings in sessions.
20. When the accused to be discharged.
21. If decision is against person charged, to give bond or on failure to be sent to jail.
22. Bond to appear at sessions, when forfeited.

### IV. BONDS, AND SUITS ON, &c.

23. Such bonds, how prosecuted.
24. Amended by section 39.
25. Remedy to township where bastard legally settled.

### V. GENERAL PROVISIONS.

26. Court may discharge father when indigent.
27. Mother of bastard may be compelled to disclose name of father.
28. Proceedings against property of absconding father or mother.
29. Bastard born in poor house.
30. Fees.
31. Definition of term "township."
32. Pay of jurymen.
33. Repealer.
34. Breach of bond, how prosecuted.
35. Justice may issue warrant on Sunday.
36. Constable may make arrest on Sunday.
37. Person arrested may be taken before justice on Sunday.
38. Proceedings had on Sunday on return of warrant shall be valid.
39. Bond to perform order of filiation, by whom and how prosecuted.
40. Provisions applicable to bonds heretofore taken.
41. One justice of the peace empowered to do every act under this act.
42. Repealer.
43. In cities, all proceedings to be had before police courts.
44. Repealer.

## I. Proceedings to apprehend putative father of bastard.

### An act for the maintenance of bastard children.

Revision—Approved March 27, 1874.

1. That if any woman (a) shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any township; or shall declare herself to be pregnant of a child likely to be born a bastard, and to become chargeable to any township, (b) any overseer of the poor of the township where such woman may be, or of the township wherein the legal settlement of such woman may be, may apply (c) to a justice of the peace of the same county wherein such woman may be, to make inquiry into the facts and circumstances of the case.

2. That such justice shall, by the examination of such woman on oath, and upon such other testimony as may be offered, ascertain the father of such bastard, or of such child likely to be born a bastard; and shall there-

R. S. 902.

P. L. 1851, p. 137.  
" 1858, p. 467.

Application to justice.

141-1  
RWS98-969  
Rev 98-959  
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Examination of mother of bastard.

(a) A warrant may issue in the case of a married woman, but non-access of the husband must be shown. *State v. Overseer of the Poor*, 4 Zab. 533.

(b) The settlement of a bastard child is at the place of legal settlement of the mother at the time of the birth. *Nottingham v. Amwell*, 1 Zab. 27. Or where the child is born if the mother have no legal settlement. *Quick v. Overseers of Amwell*, Pen. \*1016. *McCoy v. Overseers of Newton*, 8 Vr. 133. Proceedings may be instituted both in the township where the mother last

resided and also in the township where the child was born. *Id.* If the mother, before the birth of the child, remove to another state, and continue to reside there, the child is not chargeable on any township in this state. *Richardson v. Overseer of Burlington*, 4 Vr. 190.

(c) The complaint need not be in writing. *State v. Overseer of the Poor*, 4 Zab. 533. No order can be made against the putative father before such application. *Anonymous*, Pen. \*870.

Warrant.	upon issue his warrant, directed to any constable of the county, commanding him forthwith to apprehend such reputed father, and to bring him before such justice, for the purpose of having an adjudication respecting the filiation of such bastard, or of such child likely to be born a bastard. (a)
Proceedings against father if out of county.	<b>3.</b> That if the person charged as such reputed father shall be or reside in any other county of the state than that in which such warrant shall be issued, the justice issuing the same shall, in writing thereupon, direct the sum in which any bond shall be taken of the party so charged; and it shall be the duty of the constable to carry it to some justice of the county wherein such person resides, or can be found; the justice to whom the same shall be presented, on proof being made to him of the handwriting of the justice who issued such warrant, shall indorse his name thereon, with an authority to arrest such person in the county where the justice so indorsing shall reside, which shall be a sufficient authority to the constable bringing such warrant in the county where it shall be indorsed.
Indorsement of warrant.	
Bond to be taken by justice indorsing warrant.	<b>4.</b> That upon the party so charged being apprehended, he shall be carried before the justice who indorsed the said warrant, or some other justice of the same county, who may take from such person a bond to the state of New Jersey, with good and sufficient surety or sureties in the sum so directed on the said warrant, with one or other of the following conditions:
Conditions.	first, that in case such person be adjudged or found, under the provisions of this act, to be the father of such bastard, or child likely to be born a bastard, as the case may be, he will obey and comply with any order of filiation that may be made against him, and will indemnify each and every of the townships of this state which may have incurred any cost or expense, or which thereafter may be put to or incur any cost or expense for the support of such bastard or child, or of its mother during her confinement, or from any proceedings arising therefrom; or, second, that such person will appear at the next court of general quarter sessions of the peace of the said county in which said warrant was originally issued, and will not depart the said court without leave. (b)
Thereupon discharge granted.	<b>5.</b> That upon a bond being so entered into, with either of the conditions aforesaid, the justice taking the same shall discharge the person so apprehended from arrest, and shall indorse upon the warrant a certificate to that effect; he shall deliver the warrant, with the bond so taken by him, to the constable who brought such warrant; who shall deliver the same to the justice who granted the same, who shall proceed thereupon in the same manner as if such bond had been taken by him.
If no bond given, arrest proceeded with.	<b>6.</b> That if the person so charged shall not execute the bond so required, with one or other of the conditions aforesaid, to the satisfaction of the justice before whom he shall be brought, then the constable having the warrant shall take such person before the justice who originally issued the warrant.

## II. Examination before justices.

Justice to associate another with himself.	<b>7.</b> That upon the person so charged with being the father of such bastard, or of such child likely to be born a bastard, being brought before the justice who issued the warrant for his apprehension, whether he was arrested in the same or in any other county, the said justice shall immediately call to his aid another justice of the same county; and the said two justices, if the party charged does not demand a trial by jury, shall proceed, without unnecessary delay, to make examination of the matter; and shall examine the mother of such bastard, or the woman so pregnant as aforesaid, on oath, in the presence of the person so charged, touching the father of such child, and shall hear any proofs that may be offered in relation thereto; and, on application, either of said justices shall issue subpoenas to compel the attendance of witnesses before them, which shall
Proceedings of the two justices.	

(a) It is not necessary that the township have actually paid money for the expenses of the mother, before proceedings can be instituted for its relief: it is sufficient if the township has promised to pay them. *Garwood v. Waterford*, 3 *Dutch*. 437. The justice, in issuing the warrant, acts ministerially, and the

putative father cannot litigate the case before him. *State v. Overseer of the Poor*, 4 *Zab*. 533.

(b) The provisions of this section are only for the security of the township and for the detention of the putative father until the bastard is born. *Matter of Thomas Murphy*, 3 *Zab*. 180.

have the same effect as if they were issued by a justice of the peace in the court for the trial of small causes. [See Sec. 41, *post.*]

8. That if the person charged shall, before such examination is entered upon, deny that he is the father of such bastard child, or of such child likely to be born a bastard, and shall demand a trial by jury, it shall be the duty of said justices to issue a venire facias to any constable of said county to summon a jury of twelve men competent as jurymen, according to law, to be and appear before said justices at such time and place as shall be expressed in such writ, to make a jury for the trial of such accusation made against said person, of being the father of such child; a return of which jurors shall be made, as made in cases arising under the act for the trial of small causes, and as to any or all of whom the same right of challenge shall belong to both parties, that exist in civil cases at law. (a)

Person charged may demand a jury.

9. That said justices shall proceed to impanel and swear such jury, and the witnesses produced to establish and rebut such accusation, and the said accusation shall thereupon be tried, as in cases in courts of common law, before such jury.

Trial before jury.

10. That if sufficient reasons are given therefor, the said justices may adjourn said hearing or trial for any time not exceeding six weeks, and shall take a bond with sureties, if the same shall be tendered, from the person charged for his appearance at such time, before them, in the penalty hereinafter directed; if no bond be given the said justices shall commit the said person charged to the jail of said county, there to remain until said day of adjournment.

Justices may grant adjournments.

May take bond for appearance or commit person charged.

11. That at the trial aforesaid the said justices, or the said jury, in case a jury has been demanded, shall decide whether the person so charged is the father of such bastard, or of such child likely to be born a bastard; if the decision is that he is not the father of such bastard, or child, he shall be forthwith discharged; but if the decision is that he is such father, the said justices shall make an order of filiation, in which they shall specify the sum to be paid weekly, or otherwise, by such putative father, for the support of such bastard, or of such child likely to be born a bastard, after the same shall be born; if the mother of such child be in indigent circumstances they shall determine the sum to be paid by such putative father for the sustenance of such mother during her confinement; they shall certify the reasonable expenses of apprehending the said father, and of the trial and order of filiation; and they shall reduce their proceedings to writing and subscribe the same. (b)

The finding at trial.

If in his favor accused to be discharged. If adverse, justices to make order of filiation.

12. That such person so adjudged to be the reputed father shall, upon notice of such order, immediately pay the amount so certified for the costs of apprehending him, and of the trial and order of filiation; and shall also enter into bond to the state of New Jersey, in such sum as such justices shall direct, with good and sufficient surety or sureties, to be approved of by them, with one or other of the following conditions: first, that such person will obey and comply with the said order of filiation so made against him, and will indemnify each and every of the townships of this state, which may have incurred any costs or expense, or which thereafter, may be put to, or may incur, any costs or expense for the support of such bastard, or child, or of its mother during her confinement, or from any proceedings arising therefrom; or, second, that such person will appear at

Reputed father to pay costs and give bond.

(a) An order of the justices which has been affirmed by the sessions will not be reversed on *certiorari* because it does not appear on the order when, where or before whom the venire was returnable, what the names and number of jurors were, whether the jury were sworn or by whom, whether any witnesses were sworn before the jury or by whom, or what the verdict was. *Dunn v. Overseer of South Amboy*, 3 Vr. 275.

(b) If the jury find the putative father "guilty," it is sufficient, and the justices may thereupon enter their order. *Gaskill v. Overseer of Doune*, 7 Vr. 356. The order of filiation is a judicial act and must be executed by the justices jointly and not separately. *The State v. Prall*, 5 Hal. 161. *The State v. Joslin*, 1 Gr. 267. *Matter of Murphy*, 3 Zab. 180. See *Charles v. City of Hoboken*, 3 Dutch. 203. An order may be made at any time after the bastard is born and before he is twenty-one years of

age. *Matter of Thomas Murphy*, 3 Zab. 180. It may be made against both or either of the parents. *Tyrrel v. Township of Woodbridge*, 3 Dutch. 416. No action can be maintained against the father of a bastard for its support, or the expenses of the mother, without an order. *Layton v. Cooper*, Pen. \*65. The order must recite such facts as show the jurisdiction of the justice over the matter adjudicated upon. *Tompkins v. Schomp*, 16 Vr. 488. Facts requisite under this act to confer jurisdiction stated. *Id.* That there was in fact a prior order of filiation against defendant, in behalf of the same township, respecting the same child, will not justify the reversal of the order of filiation brought up unless it appeared that the bar of the prior order was set up in the court below, and that there was an adjudication thereon. *Leconey v. Overseer*, 14 Vr. 406.

the next court of general quarter sessions of the peace in said county, and will not depart the court without leave. (a)

When father to be discharged and when committed.

**13.** That upon such bond being delivered to the satisfaction of said justices, they shall discharge such person from arrest; but if he refuses or neglects to execute a bond with one of the conditions aforesaid, or to pay the costs and charges so certified, he shall be committed by such justices, or either of them, to the common jail of the county, there to remain until discharged by the quarter sessions, or until he shall execute such bond to the satisfaction of either of said justices, who upon receiving such bond is hereby authorized to discharge such person from his said confinement. (b)

Penalty of bonds.

**14.** That the penalty of every bond which shall be taken for the appearance of any such reputed father, either before justices of the peace or at the quarter sessions, or for indemnifying the townships, shall in all cases be such a sum as shall insure a full indemnity to every township in the state for the expense that has been, or which may be, incurred by reason of supporting such bastard and its mother during her confinement and the costs of all proceedings connected therewith.

Proceedings in case bond given out of county.

**15.** That when any bond, taken out of the county as aforesaid, shall be returned to the justice who issued the warrant, such justice shall in like manner call in the aid of another justice of the peace of the same county; and the said two justices shall proceed in manner aforesaid, to examine and determine who is the father of such bastard child, or of such child likely to be born a bastard; and shall make an order of filiation, and prescribe the sum to be paid by such putative father for the support of such child, and for the sustenance of the mother as aforesaid; and shall certify the costs and expenses as aforesaid.

Examination in such case.

**16.** That such examination and order may be made in the absence of the person so charged, unless before the same be made he shall in writing require of the justice issuing the warrant, that such examination be made in his presence; in which case reasonable notice of the time and place of such examination shall be given to the person so charged; he may appear and offer testimony in relation to the matters to be inquired into, and may demand and have a trial by jury, and the same proceedings shall be had as in case of the person so charged being brought before such justice; but if the decision on said trial shall be adverse to the person charged, no new bond shall be required of him by the said justices, but he and his sureties shall remain liable for the performance of the condition of the bond theretofore given.

### III. Appeal to sessions.

Appeal to sessions.

**17.** That any person so charged as aforesaid, or any township, that may deem himself or itself aggrieved by the finding of the jury, or order of the two justices, may, within five days thereafter, appeal therefrom to the next court of general quarter sessions of the peace, to be holden in the same county; and in such cases, the party taking such appeal shall deliver within said period, a written notice of appeal to one of said justices.

Notice thereof.

Justices to send up papers.

**18.** That in case of appeal the said justices shall send the bond which has been taken from the person charged, to the clerk of said court of quarter sessions, immediately after receiving said petition of appeal, together with the orders of maintenance and sustenance aforesaid and all the papers connected therewith.

Proceedings in sessions.

**19.** That the said court to which such appeal shall be made shall have full cognizance of the case, and shall proceed to hear the allegation and proofs of the respective parties, the burthen of proof being upon the town-

(a) In an action on a joint and several bastardy bond, infancy of the reputed father is no defense when he is legally chargeable in exoneration of the public. *Bordentown v. Wallace*, 21 Vr. 13. A bond given to indemnify townships against expenses for the education as well as for the birth and maintenance of the bastard, does not contain a condition more onerous than that required by the statute. *State v. Such*, 24 Vr. 351. If the condition for indemnity was extra-statutory, it would not affect that part of the condition respecting the maintenance of the

child, which is a separable part. *Id.* The variance in the Christian name of mother in a bastardy bond may be disregarded as immaterial. *Such v. State*, 26 Vr. 239.

(b) By act of March 17th, 1874, the penitentiary or workhouse is a part of the common jail of Essex county; and a person confined in the jail at Newark, under the bastardy act, may be removed, by order of the board of freeholders, to said penitentiary. *McDonald v. Vermilye*, 10 Vr. 282.

ship as it was before said justices; (a) if the mother of any bastard be dead, or is insane, or has left the state, the testimony given by her on her examination, shall be received in the same manner as if she was present and testified to the same; (b) the court shall have power to adjourn the hearing from time to time, on sufficient cause shown; at the request of either party the case shall be tried before a jury in the same manner as before said justices.

20. That if on the trial of said appeal it is decided that the said person charged is not the father of such bastard, or child, he shall be forthwith discharged from his imprisonment, or if he has given a bond it shall be canceled by order of the court; but if the decision in said respect be against the party charged, the court shall proceed to examine the order of filiation or sustenance, and may reduce or increase the sum directed by such order to be paid; but the same shall not be quashed for any defects in the form thereof, but the same shall be amended by the court according to the facts and justice of the case. (c)

When the accused to be discharged.

If adverse, the court to examine order of sustenance.

Not to be quashed for defect of form.

21. That if the person charged be in confinement at the time of the trial of such appeal, or has given a bond with condition that he shall appear at such sessions and will not depart the court without leave, he shall immediately, if the decision of such court is against him, pay such costs and expenses as the court shall adjudge to be paid by him forthwith, and shall enter into a bond to the state of New Jersey in such amount as the court shall order, with approved surety or sureties, with a condition similar in substance with the first condition set forth in section twelfth of this act; if he shall neglect or refuse to pay such moneys and execute such bond, he shall be committed to the common jail of the county, there to remain until he shall pay the same and execute the bond aforesaid, or be discharged by said court in the manner hereinafter provided. (d)

If decision is against person charged, to give bond, or on failure to be sent to jail.

To remain until he gives bond or is discharged by court.

22. That if the person, so bound to appear at the sessions, shall depart the said court without executing the bond in the next preceding section required, or without being discharged by the said court, his said bond, with condition to appear at such court, shall be thereby deemed to be forfeited, and may be prosecuted as directed in the next section.

Bond to appear at sessions, when forfeited.

#### IV. Bonds, and suits thereon, &c.

23. That if default as aforesaid be made, the sessions aforesaid shall cause the said bond to be prosecuted by the prosecutor of the pleas of said county, and the penalty thereof shall be recovered, and shall be paid into the said court, and the said court shall, from time to time, order the said moneys paid out to indemnify any township in the state that may have incurred or which may thereafter incur any cost or expense in the sustenance and support of the said bastard or of its mother, or by reason of any proceedings taken against the said father of such bastard; if any

Such bond, how prosecuted. Judgment for penalty.

Moneys paid out under order of court.

Residue.

(a) The jurisdiction of the sessions is only appellate, and consequently they have no authority to make an original order of filiation or maintenance. *The State v. Erice*, 6 Hal. 143. They do not act as a court of error, but may retry the cause and vary the order to conform to the evidence of the case. *State, Dunn v. Overseer of South Amboy*, 3 Vr. 275. The burden of proof is on the township. *The State v. Bidleman*, 2 Har. 20. The accused may prove his previous good character. *Dally v. Overseers of Woodbridge*, 1 Zab. 491. *Hawkins v. The State*, 1 Zab. 630. Where all the requirements for an appeal from a conviction before two justices have been satisfied, an appeal may be entered in the sessions, and that court may rule the two justices to send up the papers in the proceeding. *State v. Cassidy*, 9 Vr. 437.

(b) Parol evidence of the mother's examination, which had been reduced to writing, cannot be received. *Clark v. Zane*, Pen. \*981. See *State v. Zellers*, 2 Hal. 220. *Atter* where there is conflicting evidence as to whether it was reduced to writing or not. *Tyrrel v. Township of Woodbridge*, 3 Dutch. 416. See *Patton v. Freeman*, Coxe 113. *The State v. Wells*, Coxe 424. *Wilson v. Hill*, 2 Beas. 143.

(c) Where, after an order of filiation had been made on defendant, who entered into a recognizance and appealed to the

sessions, where the order was confirmed, defendant brought a *certiorari*, and a *scire facias* had been issued on the recognizance, the supreme court ordered the proceedings on the *scire facias* to be stayed. *The State v. Bidleman*, 1 Har. 267. Where an adjudication of the justices in favor of the person charged has been appealed from, the sessions, if their adjudication be against him, have the power to make an original order of filiation and maintenance. *Overseer v. Pickell*, 14 Vr. 355. In proceedings in bastardy, irregularities in the procedure before the justices cannot be taken advantage of after an appeal to the sessions. *Schomp v. Tompkins*, 17 Vr. 608. If the jurisdictional facts can be gathered from the order of the justices and the other papers in the case, it is sufficient, as every intendment should be made in favor of these orders. *Ib.* The judgment of the sessions, in this procedure, is to be treated as a common-law judgment, to which the maxim "*omnia presumuntur rite esse acta*" is applicable. *Ib.*

(d) A bond given by one in custody under an indictment made by the sessions, in a penal amount not fixed by the court, but which amount the party had not requested the court to fix, is good, though the sheriff refused to release the party unless such bond was given. *State v. Such*, 24 Vr. 351.

residue remains, the court may direct it to be paid to the person, or his representatives, from whom the said penalty was levied and made. (a)

24. [Amended and supplied by Sec. 39, *post.*]

Remedy to township where bastard legally settled.

25. That if after any order of filiation or sustenance shall have been made by force of this act, the said bastard or its said mother, or both may be removed to the place of their legal settlement, the township wherein such legal settlement shall be, shall be entitled to the benefit of said order of filiation and sustenance, and of the bond given in the proceedings connected therewith; and shall have the same remedies therein as the township at whose instance the original proceedings were taken.

### V. General Provisions.

Court may discharge father when indigent.

26. That whenever any person shall be committed to prison charged as the father of a bastard, or of a child likely to be born a bastard, it shall be the duty of the court of general quarter sessions of the peace of the county in which such person is in jail, to inquire from time to time into the circumstances and ability of such father to procure sureties to be bound with him; and if the court shall at any time be satisfied that such father is wholly unable to support such child, or to contribute to its support, or to procure sureties, the said court may, in its discretion, order such father to be discharged from such imprisonment.

Mother of bastard may be compelled to disclose name of father.

27. That in making the examinations hereby authorized the mother of such bastard or the woman pregnant with such child may be compelled to testify and disclose the name of the father of such bastard or child, and in case of her refusal the said justices or said sessions may, after she is sufficiently recovered from her confinement, commit her to the common jail of the county as and for a contempt of court.

Proceedings against property of absconding father or mother.

28. *And whereas*, The putative father and lewd mother of bastard children often run out of the township, and sometimes out of the county, and leave the said bastard children a charge upon the township where they are born or legally settled, although such putative father or mother have estate sufficient to support such children, and to discharge the township; therefore, it shall and may be lawful for the overseers of the poor of such township where any bastard child shall be born or settled, to apply to any two justices of the peace of the county where the estate, real or personal, or any part thereof, of such putative father or lewd mother may be, and by warrant or warrants, under the hands and seals of the said two justices, who are hereby authorized and required to issue the same, to seize and take the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such putative father or lewd mother, so absconding as aforesaid, for and towards the sustenance, bringing up, and education of such bastard child, so left as aforesaid; and as soon as the said seizure shall be allowed of and confirmed by the court of quarter sessions, it shall and may be lawful for the overseers of the poor of such township, from time to time, and as often as the case may require, to sell and dispose of so much of the said goods and chattels at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said sessions, and to apply the money arising therefrom towards the sustenance, bringing up and education of such bastard child so left as aforesaid; *and further*, that the said overseers of the poor shall be accountable to the court of quarter sessions for all such sum or sums of money as shall or may arise by every such sale or sales, or be by them received for the rents and profits of such lands or tenements.

(a) An overseer cannot maintain, in his own name, a suit on a bastardy bond which has been taken by and in the name of his predecessor in office. *Reed ads. Wood*, 3 *Vr.* 418. The judgment must be entered for the penalty of the bond. *Roll v. Maxwell*, 2 *South*, \*493 (a). An injunction issued out of chancery to restrain proceedings on a bond given by mistake, to indemnify the township, instead of a bond for appearance, where the

putative father had appeared and the justices refused to make an order against him. *Field v. Cory*, 3 *Hal. Ch.* 574. To warrant the making of an order for indemnifying a township, under this section, notice of the relief sought should be given to the parties entitled to any residue of the fund in court, and due proof should be made of the facts entitling the township to indemnity. *Leconey v. Center Township*, 23 *Vr.* 361.

**29.** That whenever a bastard shall be born in any of the poorhouses of this state, or shall be removed thereto, before any proceedings have been had by virtue of this act, proceedings may be had and taken for the better relief of the board of chosen freeholders, or other authority or authorities having the direction and government of such poorhouse, upon the application of any officer of such poorhouse, or of the keeper thereof, in the same manner as by this act may be had and done for the relief of the township in which a bastard is born.

Bastard born in poorhouse.

**30.** That jurymen and witnesses in attendance before said justices shall receive such pay, and be subject to such fines and punishments for non-attendance, and other offenses, as are established by law in cases of actions before the inferior courts of common pleas; and such justices and officers shall receive each such fees for their services as are allowed them for like services in courts for the trial of small causes, the losing party to pay all costs of the suit, as in ordinary cases at law; and when the proceedings are removed to the sessions the same fees and costs shall be allowed as in trials before the common pleas on appeals in civil cases. [See Sec. 33, *post.*]

Fees.

**31.** That the term "township," made use of in this act, shall be construed to comprehend city, town corporate, borough, precinct and ward, respectively.

Definition of term "township."

Supplement.

Approved March 9, 1877. P. L. 1877, p. 166.

**32. SEC. 1.** That jurymen, in a case of bastardy before two justices, shall receive such pay as is allowed to them for like services in the court for the trial of small causes.

Pay of jurymen.

**33. SEC. 2.** That section thirty of said act, so far as the same relates to the pay of jurymen, be and the same is hereby repealed.

Repealer.

Supplement.

Approved February 8, 1883. P. L. 1883, p. 28.

**34. SEC. 1.** That whenever any bond shall be taken, as mentioned in the act to which this is a supplement, to perform any order of filiation, and any breach shall happen in the condition of any such bond, the same may be prosecuted by the counsel or attorney of any city or township in which proceedings shall be taken under said act, and the same proceedings shall be had thereupon as are now provided by the act to which this is a supplement, in the same manner as if said suits were prosecuted by the prosecutor of the pleas, as provided by said act.

Breach of bond, how prosecuted.

Supplement.

Approved April 20, 1885. P. L. 1885, p. 265.

**35. SEC. 1.** That it shall be lawful for any justice of the peace on the first day of the week (commonly called Sunday), on proper application and examination, to issue his warrant, or to indorse the warrant of any other justice, for the apprehension of any reputed father of a bastard child or of a child likely to be born a bastard.

Justice may issue warrant on Sunday.

**36. SEC. 2.** That it shall be lawful for any constable having a warrant issued for the apprehension of any reputed father of a bastard child or of a child likely to be born a bastard, to arrest such person on the first day of the week (commonly called Sunday), whether such warrant was issued on the first day of the week (commonly called Sunday) or on any other day.

Constable may make arrest on Sunday.

**37. SEC. 3.** That when any such person shall be so arrested it shall be lawful for the constable to carry such person on the same day before the justice issuing or indorsing the warrant, as the case may be, whereupon the usual proceedings, as required by the act to which this is a supplement, may be had.

Persons may be taken before justice on Sunday.

**38. SEC. 4.** That any and all proceedings had and taken on the return of such warrant shall be as legal and valid as if had and taken on any other day of the week; and if a bond be given it shall be of the same force and effect as if given on any other day.

Proceedings on return shall be valid and bond may be given on Sunday.

## BASTARDS.

## Supplement.

Approved February 25, 1888.

P. L. 1888, p. 101.

Bonds to perform order of filiation, by whom and how prosecuted.

**39. SEC. 1.** That section twenty-four of the act to which this is a supplement be and the same is hereby amended to read as follows :

[That when any bond shall be taken as hereinbefore mentioned, to perform any order of filiation, and any breach shall happen in the condition thereof, the same may be prosecuted by the prosecutor of the pleas of the county in which proceedings were originally taken under this act, or by the counsel or attorney of any township at whose instance such proceedings were originally taken, which suit shall be in the name of the state of New Jersey, and judgment, if it passes against the defendants, shall be for the penalty thereof; in such actions the breaches shall be assigned as in actions brought on bonds with condition other than for the payment of money, and the same proceedings shall be had in all respects; it shall not be necessary to prove the actual payment of money by any township or overseer of the poor, but the neglect to pay any sum which shall have been ordered to be paid by any competent authority under this act, shall be deemed a breach of the conditions of such bond, and the amount of damages to be assessed in such case shall be the sum which was so ordered to be paid, and which was withheld up to the time of the commencement of such suit, with interest thereon; for any breaches of such bond which shall happen after the recovery of any damages or the commencement of any suit, a scire facias may issue, upon which the damages shall be assessed from time to time in manner aforesaid; and all moneys which shall be collected on such bond shall be paid to such township or townships as may have incurred or been put to expense in supporting said bastard, or its mother during her confinement, or from costs therefrom arising.]

Provisions of section as amended applicable to bonds heretofore taken.

**40. SEC. 2.** That the provisions of said section twenty-four of said act, as hereby amended, shall be applicable in all respects to bonds heretofore taken under the provisions of the act to which this is a supplement, to perform any order of filiation, in the conditions of which bonds breaches may have happened or shall hereafter happen.

## Supplement.

Approved May 6, 1889.

P. L. 1889, p. 347.

Not necessary for justice to call another to his aid to try cases under act.

**41. SEC. 1.** That where any person shall be arrested under the provisions of said act it shall be no longer necessary for the justice to call to his aid another justice, but one justice of the peace shall be authorized and empowered to do each and every act now required to be done under said act by and before two justices of the peace, and shall receive the same fees as now allowed by law to one justice. (a)

Repealer.

**42. SEC. 2.** That all acts and parts of acts inconsistent herewith are hereby repealed.

## Supplement.

Approved April 16, 1891.

P. L. 1891, p. 478.

In cities all proceedings to be had before police courts.

Police justice to have authority of justice or two justices.

Repealer.

**43. SEC. 1.** That in all cities of this state having police courts or a recorder's court, or in any city which may hereafter have either of them, all proceedings that are directed or authorized by the act to which this is a supplement, or the supplements thereto, to be had by or before a justice of the peace shall be had in such courts; and that then the justice or judge or said court shall have the same power to take action in the matter, and to hear, try and determine the case, that any justice or two justices may now have.

**44. SEC. 2.** That in such cities no justice of the peace shall, after the passage of this act, have any jurisdiction over cases arising under the act to which this is a supplement.

(a) By virtue of this act one justice of the peace constitutes the only tribunal for the trial of bastardy cases. *Weeks v. Sheriff*,

14 N. J. L. J. 27. As to cities having a police or recorder's court, see section 43, post.