

Supplement.

Approved March 22, 1875.

P. L. 1875, p. 37.

Penalty, how
collected.

[Secs. 1 and 2 incorporated in foregoing act.]

10. SEC. 3. That it shall be the duty of any constable, justice of the peace, or sheriff, to seize and take possession of all the goods and chattels of any person or persons offending against the provisions of this act, and hold the same until the determination of the action of debt mentioned in section fourth of the act to which this is a supplement, and in case the penalty mentioned in said section is not paid, to expose the same to public sale, and out of the proceeds, after deducting the sum of one hundred dollars, and all reasonable costs and charges, to pay over the balance to the owner or owners of the said goods and chattels.

Fees and Costs.

1. One hundred words a folio.
2. Fees specified :
 - Of governor.
 - Of secretary of state.
 - In the court of errors and appeals.
 - In the prerogative office.
 - In the prerogative court.
 - In the court of chancery.
 - In the supreme court.
 - Of the attorney-general.
 - Of sheriffs.
 - In the courts of common pleas.
 - In the courts of general quarter sessions.
 - Of coroners.
 - Of criers.
 - Of jurors.
 - Of witnesses.
 - Of constables.
3. Fees of judge, clerk or other officer.
4. Taxation in criminal cases.
5. Penalty for illegal allowance.
6. Fees for searches.
7. Fees of clerks for recording and for copies.
8. Fees for registering mortgages.
9. Fees of justice of the supreme court holding circuit.
10. Fees of sheriffs of certain counties for certain services.
11. Clerk not to incur penalty for illegal allowance unless act willful.
12. Act of April 7th, 1868, extended to all counties.
13. Repealed by section 17.
14. Counties to pay expenses in certain cases.
15. Fees of supreme court commissioners.
16. Sheriff's fees, where more than one execution is issued out of supreme court.
17. Repealer.
18. Salary of prosecutors of pleas in certain counties.
19. Repealer.
20. Fees of judges of common pleas, &c., to be paid to clerk of court.
21. Clerk of county to make quarterly reports of fees received.
22. Penalty for not making reports.
23. Construction of word "costs" in the act to regulate fees.
24. Fees of constables for serving criminal warrants.
25. Repealer.
26. Additional fees of examiners, masters and supreme court commissioners.
27. Fees of prosecutors of the pleas may be supplemented by board of chosen freeholders in certain cases.
28. Medical superintendent of vital statistics may have an official seal and charge fees.
29. To keep record and pay fees.
30. Fees of constables.
31. Repealer.
32. Fees to be divided between lay judges where law judge receives salary in lieu of fees.
33. Officers of courts to divide and pay over fees retained.
34. Repealer.
35. Fee of sheriffs for serving notices on jurors.
36. Searches for soldiers, &c., in claims for pensions to be furnished without fee or charge.
37. Fees of sheriffs in certain cases.
38. Repealer.
39. Amended by section 42.
40. Fees of master, special master and supreme court commissioner for approving bonds.
41. Amended by section 43.
42. Fees of master and special master for making report.
43. Fees of master, special master and supreme court commissioner for attendance.
44. Fees of clerk of supreme court for making searches.
45. Fees of serjeant-at-arms of court of chancery, &c.
46. When upon demurrer or writ of error defendant to have costs.
47. Plaintiff in error, when to pay costs.
48. When to pay double costs.
49. Writ of error quashed, plaintiff to pay costs.
50. Costs on dismissal of bill in equity.
51. Mileage to be allowed for serving writs.
52. Amended by section 54.
53. Repealer.
54. Fees of clerks in chancery and supreme court per folio.
55. Amended by section 62.
56. Secretary of state to make report.
57. Sheriffs and surrogates to make reports.
58. Reports to be kept on public files. Duty of comptroller.
59. Penalty for neglect to make report.
60. Penalty for making false oath to report.
61. Repealer.
62. Clerk in chancery and of supreme court to keep record of fees, &c., and report under oath to comptroller.
63. Fees of copies and abstracts of public records used in evidence, to be taxed in costs of suit.
64. Constables allowed for extra services while attending courts.
65. Extra allowance to constables for taking charge of jury.
66. Bills of costs hereafter taxed in any criminal case where sentence has been suspended, &c., to be valid, &c.
67. Repealer.
68. Bills of costs heretofore taxed in any criminal case where sentence has been suspended, &c., to be valid, &c.
69. Repealer.

An act to regulate fees.

Approved April 15, 1846. R. S. 449, 455.

1. That a sheet or folio shall contain one hundred words, and in all cases where an entry of any writing or copy is to be paid for, the said sheet shall consist of one hundred words. One hundred words a folio.

2. That the officers and persons, in this act named, shall be entitled to demand and receive, for the services hereinafter mentioned, the fees thereto respectively annexed, and no more. (a) Fees.

THE GOVERNOR. (1)

Of governor.

For a license to an attorney and solicitor, three dollars ;
 For a license to a counselor-at-law, three dollars ;
 For the seal to a sheriff's commission, one dollar ;
 For the seal to a surrogate's commission, one dollar ;
 For the seal to a commission for a clerk of any court, one dollar ;
 For the seal to every certificate, exemplification or other paper, one dollar ;

THE SECRETARY OF STATE.

Secretary of state.

For every order, warrant or certificate under the governor's hand and seal, countersigned by the secretary, forty cents ;
 For entering writings on the record, for each sheet, eight cents ;
 For every copy of the same, and other papers in his office, for each sheet, (b) eight cents ;
 For a commission for a sheriff or surrogate, one dollar and thirty-four cents ;
 For a commission for a clerk of any court, one dollar and thirty-four cents ;
 For a license to an attorney and solicitor, three dollars ;
 For a license to a counselor-at-law, three dollars ;
 And for every other commission to be paid by the treasurer of this state, twenty-five cents ;
 For drawing a certificate to pass under the great seal, or any other seal, and engrossing the same, for each sheet, twelve cents ;

IN THE COURT OF ERRORS AND APPEALS.

Errors and appeals.

The clerk's fees.

Clerk.

For reading and filing the writ, return and record, thirty-four cents ;
 For filing every affidavit or other proceeding, twelve cents ;
 For entering every rule, twenty cents ;
 For every certified copy of a rule, twenty cents ;
 For entering every appearance, twelve cents ;
 For entering every judgment, twenty-five cents ;
 For entering every judgment and remittitur on the roll, for each sheet, twelve cents ;
 For the seal to any record or process, fifty cents ;
 For copies of records, pleadings and other proceedings, for each sheet, eight cents ;

(a) For the history of the allowance of costs, see *Aller v. Shurts*, 2 Har. 188. Costs are the creature of statutes, and are not recoverable unless by force of a statute, and the allowance of them in any case will depend on the terms of the statute. *Lehigh Valley R. R. Co. v. McFarland*, 16 Vr. 674. The statute regulating fees does not control the charges which attorneys, solicitors and counsel may make against their clients. *Strong & Sons v. Mundy*, 7 Dick. 333.

(b) A statute giving the secretary of state a certain fee for every copy of a paper on file in his office, will entitle him to such fee from the state when a copy of such file has been ordered by the legislature, such statute having been acted on in that sense by the principal officers of the government for over fifty years. *State v. Kelsey*, 15 Vr. 1.

(1) The governor now receives a salary of \$10,000 (see title SALARIES); the fees in this section are now by act of March 11th, 1862 (P. L., p. 141), paid to the treasurer for the use of the state.

FEES AND COSTS.

On an appeal from a decree or order in chancery, where no fees are by law provided, the same fees shall be allowed to the same officers and persons as are allowed by law for like services in the court of chancery ;(a) *provided*, that no fees be allowed to the court ;

Prerogative office.

IN THE PREROGATIVE OFFICE.

For the seal to every probate of a will or letter of administration, one dollar ;

For engrossing a will and probate, for each sheet, twelve cents ;

For engrossing letters of administration, for each sheet, twelve cents ;

For recording wills and letters of administration, for each sheet, eight cents ;

For filing every will, eight cents ;

For every copy of the same and of all other papers in the office, for each sheet, eight cents ;

For recording inventory, for each sheet, eight cents ;

For filing inventory, eight cents ;

For every bond taken in the office, thirty-four cents ;

For entering and filing caveat, twenty cents.

Prerogative court.

IN THE PREROGATIVE COURT.

Ordinary.

The ordinary.

For making every order or rule, one dollar ;

For the seal to citation, monition or process, fifty cents ;

For hearing and determining every appeal, two dollars and fifty cents ;

Register.

The register.

For drawing citation, monition or process, one dollar ;

For entering every order or rule of court, twenty cents ;

For copy thereof, fourteen cents ;

For entering and filing appeal, twenty cents ;

For filing every petition, pleading or other paper, fourteen cents.

In all cases where no fees are by law provided, the same fees shall be allowed in the prerogative court, to the same officers and persons as are allowed by law for like services in the court of chancery.

Chancery.

IN THE COURT OF CHANCERY.

Chancellor.

The chancellor's fees.

For the seal to every common writ, forty cents ;

For every order on a petition or motion controverted and argued in court, one dollar and thirty-four cents.

For every order on petition out of court, sixty-six cents ;

For every common motion, seventy-five cents ;

For every dismissal of a bill for want of prosecution, one dollar and thirty-four cents ;

For every decree, two dollars and fifty cents ;

(a) The cost of printing the case cannot be included by the successful party under this provision, although the chancellor by the act of March 28th, 1866, could order the cost of printing

the evidence to be included in the taxed bill. *Decamp v. Crane*, 6 C. E. Gr. 545. See RULES OF COURT OF ERRORS, Sec. 36.

The fees of masters.(1)

Masters.

- For every summons, forty cents ;
- For every copy of all charges and discharges brought before the master, and scheduling writings, for each sheet, ten cents ;
- For every report in pursuance of an order made upon hearing a cause, one dollar and thirty-four cents ;
- For every other report made upon petition or motion only, sixty-seven cents ;
- For drawing every report, for each sheet, fourteen cents ;
- For swearing a defendant to an answer or plea, twenty cents ;
- For serving executions, advertising and selling property and making deeds, the same fees and commissions as are allowed to sheriffs for the same services, and under the like restrictions and regulations ;

Examiners' fees.(2)

Examiners.

- For taking the examination of every witness, for each sheet, twenty cents ;
- For certifying every exhibit shown to a witness, ten cents ;

Clerk's fees.(3)

Clerk in chancery

- For entering appearance of the defendant, twenty cents ;
- For copy of rule to answer, reply, or other rule, twelve cents ;
- For entry of every dismissal, fifty cents ;

Fees of solicitor and counsel.

Solicitor, &c.

- For a retaining fee, (a) two dollars ;
- For drawing every bill, answer, plea, demurrer, replication and other pleading, and drawing exceptions and other proceedings, for each sheet, (b) twenty cents ;
- For engrossing the same, for each sheet, ten cents ;
- For drawing and engrossing every subpoena or attachment, forty cents ;
- For drawing other process and writs, for each sheet, twenty cents ;
- For drawing notice of every motion, copy and service, forty cents ;
- For every motion of course, eighty cents ;
- (but no motion to be allowed for common process, nor for rules to answer, reply or the like, which are to be entered of course by the clerk) ;
- For every special motion, one dollar and fifty cents ;
- For counsel arguing every plea or demurrer, or upon petition, or exceptions, or other special matter, three dollars ;
- For counsel arguing upon the final hearing, four dollars ;
- (but no costs to be taxed for more than one counsel in a cause) ;
- For drawing every decree, for each sheet, twenty cents ;
- For engrossing the same, for each sheet, ten cents ;
- For copy of every bill of costs to be taxed before a decree, twenty cents ;
- For copy of every bill of costs to be taxed after a decree, thirty cents ;
- For every term fee, (c) eighty cents ;
- (but no more than three term fees to be allowed in any cause) ;

(a) By the act of April 2d, 1873 (P. L. 1873, p. 116), it is lawful for the chancellor, instead of the retaining fee, to allow and order paid to the counsel such sum as he may consider justly warranted, which allowance shall be included in the taxed bill. No retaining fee is allowed when a cause is prosecuted by a party *pro se*, but term fees are allowed. Hal. Dig., p. 240, § 8.

(b) A map annexed to a bill or answer, and used on an application for an injunction, cannot be taxed as an affidavit. *Booker v. North Hudson Co. R. R. Co.*, 17 Stew. 70.

(c) Only three term fees are allowed. *Andrews v. Ford*, 2 Hal. Ch. 489.

(1) The fees of masters in chancery upon special references in cases specified, are fixed by the forty-seventh rule of the court of chancery.

(2) For examiner's fees where suit for divorce is commenced by petition, see title DIVORCE, Sec. 17.

(3) For the other fees of the clerk in chancery, see *post*, title SALARIES, section 3 of an act entitled "An act fixing the compensation of certain public officers of the state," approved March 16th, 1876. P. L. 1876, p. 50.

Sergeant-at-arms.

Fees of the sergeant-at-arms. (1)

For attending the court at each of its stated terms, for every day he shall attend, to be paid by the treasurer, one dollar ;

For attending every special sessions for the argument of any plea or demurrer in any cause or causes, to be paid by the party or parties applying for such special session, and to be taxed to him or them in his or their bill of costs, if costs shall be adjudged, one dollar ;

Supreme court.

IN THE SUPREME COURT.

Judges.

Fees to be divided among the judges who are attending court when the service is performed. (2)

For license to an attorney and solicitor, three dollars ;
 For a license to a counsel, three dollars ;
 For the first motion in every cause, eighty cents ;
 For the trial or argument of every cause, one dollar ;
 For assessment of damages, one dollar ;
 For every recognizance, forty cents ;
 For every rule in a cause, thirty-four cents ;

Judge.

Fees to be paid to the judge who shall perform the service.

For drawing order for bail, forty cents ;
 For taking bail, forty cents ;
 For every justification or disallowance of bail, forty cents ;
 For allowing every writ of error, habeas corpus, certiorari, prohibition, procedendo, supersedeas, or other writ, where an allowance is necessary, fifty cents ;
 For making a return of a writ of error, examining and annexing a transcript of the record thereto, and delivering the same to the court of appeals, one dollar ;
 For signing and returning postea [see Sec. 9], one dollar ;
 For order of commitment of every person surrendered by or in discharge of his bail, forty cents ;

Counsel.

Counsel's fees in the court of errors and appeals and supreme court.

For trial of a cause or arguing a demurrer or special verdict, three dollars ;
 (but no costs to be taxed for more than one counsel on each side) ;
 For attending the court of errors and appeals to make or oppose a motion, one dollar and fifty cents ;

Attorneys.

FEES OF ATTORNEYS-AT-LAW.

For a retaining fee in each cause, one dollar ;
 For drawing every summons, capias or other mesne process, thirty-four cents ;
 For drawing a warrant of attorney, ten cents ;
 For copy thereof, seven cents ;
 For drawing every affidavit, fourteen cents ;

(1) By an act of April 6th, 1871 (P. L. 1871, p. 111), the sergeant-at-arms of the court of chancery, of the supreme court and court of errors, shall receive \$3 for each day he shall attend either of said courts. See *ante*, p. 1024, Sec. 27.

(2) By act of March 30th, 1888 (P. L., p. 329), the chief justice and justices of the supreme court receive an annual salary in full for all services. See *post*, title SALARIES.

For copy of the same, when necessary, seven cents ;
 For drawing special bail piece and attending the judge, forty cents ;
 For drawing notice of justification of bail, thirty cents ;
 For copy and service thereof, twenty cents ;
 For every declaration filed in any cause, one dollar and fifty cents ;
 For copy thereof, when necessary, seventy-five cents ;
 For every plea or other pleading, not exceeding three sheets, seventy cents ;
 For copy thereof, when necessary, thirty cents ;
 For every plea or other pleading, exceeding three sheets, for every sheet, twenty cents ;
 For copy thereof, for every sheet, ten cents ;
 For every writ of error, dower, replevin, habeas corpus, certiorari, prohibition, procedendo, scire facias, venire or distringas, sixty cents ;
 For copy of bond, note of hand, account or other deed or writing, for every sheet, eight cents ;
 For every special motion, not exceeding two in any cause, eighty cents ;
 For every subpoena, thirty-four cents ;
 For every ticket for the same, ten cents ;
 For drawing notice of every motion, where notice of the same is necessary, twenty-five cents ;
 For copy and service thereof, twenty cents ;
 For attendance on striking a jury, one dollar ;
 For drawing notice of trial, twenty-five cents ;
 For copy and service thereof, twenty cents ;
 For drawing every breviat, forty cents ;
 For copy thereof, fourteen cents ;
 For arguing every special motion, one dollar and twenty-five cents ;
 For arguing demurrer or special verdict, or trying every cause, two dollars ;
 For drawing notice of taxing costs, where necessary, twenty-five cents ;
 For copy and service thereof, twenty cents ;
 For drawing capias ad satisfaciendum, fifty cents ;
 For drawing execution against goods and chattels, fifty cents ;
 For drawing execution against goods and lands, seventy cents ;
 For term fee, eighty cents ;
 (but no more than two term fees to be allowed where judgment is entered by default, nor more than three in any case) ;
 For every attendance before the court of errors and appeals, in order to make or oppose a motion, one dollar ;

FEES OF THE CLERK OF THE SUPREME COURT IN CIVIL CASES. (1)

Clerk.

For drawing every summons, capias, subpoena or other process, if he shall do it, thirty-four cents ;
 For sealing every writ, fourteen cents ;
 For entering every action, ten cents ;
 For entering an appearance or default, fourteen cents ;
 For entering the return of a writ, fourteen cents ;
 For entering every rule of court, sixteen cents ;
 For a certified copy thereof, when required, twelve cents ;
 For filing every writ, declaration, pleading, roll or other paper, eight cents ;
 For entering every retraxit, discontinuance, or non-suit, fifteen cents ;
 For reading every petition, and entering order thereon, twenty cents ;
 For every copy of such order, twelve cents ;
 For calling and swearing every jury, forty cents ;
 For swearing each witness, eight cents ;

(1) For the fees of the clerk of the supreme court, after expiration of term of present incumbent, see title SALARIES, section 3 of an act entitled "An act fixing the compensation of certain public officers of the state," approved March 16th, 1876. P. L. 1876, p. 50.

FEES AND COSTS.

For swearing a constable to attend a jury, eight cents ;
 For taking a general verdict, and entering the same, twenty cents ;
 For entering judgment, twelve cents ;
 For entering every special verdict or demurrer to evidence, for each sheet, twelve cents ;
 For copies of writs, declarations, pleadings, special verdicts, demurrer to evidence, records and other papers, for each sheet, eight cents ;
 For reading and entering a postea, twenty cents ;
 For entering satisfaction on record, twenty cents ;
 For entering confession of lease, entry and ouster, twenty cents ;

Criminal cases. FEES OF THE CLERK OF THE SUPREME COURT AND OF THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY IN CRIMINAL CASES.

For entering every indictment, and filing the same, twenty cents ;
 For every process, subpoena, or other writ, thirty-four cents ;
 For sealing the same, fourteen cents ;
 For every ticket for a subpoena, ten cents ;
 For entering an appearance or default, fourteen cents ;
 For entering a recognizance taken in court, twenty cents ;
 For discharging by proclamation, and entering the same, twenty cents ;
 For entering and filing a plea, fourteen cents ;
 For entering a relinquishment of a plea, eight cents ;
 For entering an order or rule of court, sixteen cents ;
 For a certified copy thereof, when required, twelve cents ;
 For calling and swearing every jury, forty cents ;
 For swearing each witness, eight cents ;
 For swearing constable to attend jury, eight cents ;
 For taking and entering a general verdict, twenty cents ;
 For entering every special verdict, for each sheet, twelve cents ;
 For entering judgment, twelve cents ;
 For copies of writs, indictments, pleadings, special verdicts and other papers for each sheet, eight cents ;
 (but no costs to be allowed where the indictment is quashed, judgment arrested or the defendant acquitted or discharged for want of prosecution) [see Sec. 23, *post*];

Clerks of supreme court circuits.

FEES OF THE CLERKS OF THE SUPREME COURT CIRCUITS.

For entering every action, ten cents ;
 For filing every nisi prius record, ten cents ;
 For entering every non-suit and rule, ten cents ;
 For a copy of a rule, eight cents ;
 For filing every venire or distringas, and return, ten cents ;
 For entering every appearance or default, ten cents ;
 For entering confession of lease, entry and ouster, sixteen cents ;
 For calling and swearing a jury, thirty cents ;
 For swearing each witness, eight cents ;
 For filing every bill of exceptions, ten cents ;
 For a copy thereof, for each sheet, eight cents ;
 For swearing a constable to attend a jury, eight cents ;
 For taking and entering a general verdict, twenty cents ;
 For entering in the minutes every special verdict or demurrer to evidence, for each sheet, twelve cents ;
 For copy thereof, for each sheet, eight cents ;
 For drawing postea, when a general verdict is found, seventy cents ;
 For drawing postea in case of a special verdict or demurrer to evidence, for each sheet, eight cents ;

FEES OF THE ATTORNEY-GENERAL. (a)

Attorney-general.

For every indictment to which the defendant or prisoner pleads guilty, ten dollars ;

For every indictment to which the defendant or prisoner pleads not guilty, and afterwards retracts his plea and pleads guilty, twelve dollars ;

For every indictment to which the defendant or prisoner pleads not guilty, is tried and found guilty, fifteen dollars ;

The above sums to be in full of the taxable costs and charges of the attorney-general ; but no costs shall be allowed where the indictment is quashed, the defendant is acquitted or the judgment is arrested ;

FEES OF SHERIFFS.

Sheriffs.

For serving every subpoena, attachment, or any mesne process issuing out of the court of chancery ; every attachment, (1) summons, capias ad respondendum, declaration in ejectment, or any mesne process (b) issuing out of the supreme court, or any circuit court or court of common pleas ; every citation, attachment, or any mesne process issuing out of the prerogative court or orphans' court, or issued by the surrogate of any county, the sheriff or other officer serving such process, shall, for the first defendant or party on whom such process is served, be allowed the sum of two dollars, and for service on a second defendant named therein, one dollar and fifty cents, and for serving such process on any other defendant or defendants therein named, the sum of fifty cents each, and no more ; and if a man and his wife be named in such process they shall be understood as one defendant, and no mileage shall be allowed but on one or two services, as the case may be, as aforesaid ;

For serving a capias ad satisfaciendum, (c) one dollar and fifty cents ;

For returning every writ, twelve cents ;

For mileage on serving every writ or declaration in ejectment, two cents, out and in, for every mile, to be computed from the court-house, (d) (2) but the whole mileage shall in no case exceed two dollars ; *provided*, that no mileage shall be allowed on a writ of fieri facias, partition, possession, restitution, seizin, venire facias, distringas or inquiry ;

For taking every bail bond, fifty cents ;

For serving venire facias or distringas, and return, one dollar ;

For producing the list of freeholders and attending the judge within the county, two dollars and seventy cents ; and, if out of the county, twenty cents for every mile from the court-house of his county to the place where he shall attend the judge, in addition to the said fee of two dollars and seventy cents ;

For summoning a special jury, two dollars and seventy cents ;

For summoning a jury of view, when not a special jury, one dollar and fifty cents ;

For attending a jury of view, each day, one dollar and fifty cents ;

For executing every writ of partition, swearing the jury and making return of the writ, three dollars ; and if the execution of the said writ shall occupy more time than one day, then, in addition to the above sum, he shall be allowed after the rate of one dollar and fifty cents a day, for every day more that he shall attend the said jury ;

(a) When a defendant, removes an indictment into the supreme court, and carries it down to the circuit for trial, the attorney for the state cannot tax his costs as in a civil action, but is only entitled to his regular fees, as in criminal cases. *State v. Reed*, 3 *Hal.* 178.

(b) This includes the fee for serving a *mandamus*. *Ferguson ads. State*, 2 *Vr.* 291.

(c) Upon serving a *ca. sa.* the sheriff is entitled to all his fees,

including his centage upon the whole amount of the execution to be paid by the plaintiff, on the principle that the party is satisfied. 4 *Grif. Reg.* 1225.

(d) Mileage is computed not from the court-house of the county but from the house in which is to be held the court before whom the return is to be made. *Ferguson ads. State*, 2 *Vr.* 292.

(1) By P. L. 1891, p. 510, for serving every writ of attachment, \$3.50 ; and for serving writs or process in cases requiring personal service on the defendant, twenty-five per centum in addition to fees now fixed by law. See Sec. 37, *post*.

(2) By P. L. 1891, p. 510, four cents for every mile. See Sec. 37, *post*.

For executing every writ of possession and return, two dollars ;
 For executing every writ of inquiry, summoning the jury and returning the inquisition, two dollars ;

For serving every execution against goods or lands and making an inventory and return, (1) one dollar ;

When a sale is made by virtue of an execution, on all sums not over one thousand dollars, two per centum on the amount of sales ; if over one thousand dollars, and not exceeding three thousand dollars, one per centum on such excess ; and if over three thousand dollars, one-half of one per centum on such excess ; (a) when the execution is settled without actual sale, and such settlement is made manifest to the officer, the one-half of the amount of percentage allowed in cases of sale. (b)

For making statement of execution, sales and execution fees, one dollar ;

For advertising the property for sale, provided the sheriff or deputy sheriff attend in pursuance of the advertisement, three dollars and fifty cents ;

For the crier of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale, one dollar ;

For every adjournment of a sale, one dollar ;

(but no more than one adjournment shall be allowed ; and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending and adjourning, as if he had but one execution) ;

For drawing and making a deed to a purchaser of real property, two dollars and fifty cents ;

For every person committed to prison, (c) twenty-five cents ;

For discharging every person from prison, twelve cents ;

For victualing a prisoner, for every day, ten cents ;

For attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving him into custody, one dollar and fifty cents ;

(The sheriff shall file his taxed bill of costs with the clerk of the court out of which execution issued, at the term next after the sale of the property, or, in default thereof, he shall not be entitled to any costs ; and if any sheriff shall charge in such bill of costs for services not done, or not allowed by law, or shall take any greater fee or reward for any service by him done, than is or shall be allowed by law, he shall pay to the party aggrieved thirty dollars, to be recovered by action of debt, with costs) ; (2)

Common pleas.

IN THE COURTS OF COMMON PLEAS.

Judges.

Fees to be divided among the judges who are attending court when the service is performed.

For the first motion in every cause, fifty cents ;

For every rule in a cause, twenty cents ;

For the trial or argument of every cause, fifty cents ;

For assessment of damages, seventy-five cents ;

For every writ of error or habeas corpus allowed and entered, twenty cents ;

(a) When the plaintiffs, having a mortgage on lands of the defendant, obtain judgment on their bond, and execution is placed in the hands of the sheriff, who levied on the mortgaged premises, and the premises are afterwards sold under *prior* executions, and are purchased by the plaintiffs for six cents an acre more than the amount of their mortgage, the sheriff is only entitled to centage upon the amount over and above the mortgage. *Black v. Ely*, 1 *Hal.* 232. If the proceeds of the property exceed the sum due thereon, he is entitled to centage only on the sum raised for the plaintiff. *Sinnickson v. Gale*, 1 *Har.* 21.

(b) Whenever by payment of the execution, or otherwise, a sale is rendered unnecessary, he is entitled to one-half of the amount of percentage allowed in cases of sale. *Shurges v. Lackawanna Railroad Co.*, 3 *Dutch.* 424. Where several executions are issued to the sheriffs of different counties, on the same judgment, and each sheriff makes a levy, each one is allowed his centage upon the value of the goods levied on by him ; and in case of dispute, the court will determine the value by affidavits taken under a rule. *Ib.*

(c) This charge has reference only to civil proceedings. *Freeholders of Morris v. Freeman*, 15 *Vt.* 631.

(1) By P. L. 1891, p. 510, §3.50. See Sec. 37, *post*.

(2) By act of March 31st, 1899, it is made the duty of the sheriff of Monmouth county to serve all subpoenas on the part of the state in criminal cases, and he shall be entitled to receive \$1.25 for each person subpoenaed. And by act of April 3d, 1873 (P. L. 1873, p. 618), the sheriff of Monmouth receives thirty cents a day for victualing each prisoner, in addition to the price fixed by law.

Fees to be paid to the judge who performs the service.

- For drawing order for bail, twenty-five cents ;
- For taking bail, twenty-five cents ;
- For every justification or disallowance of bail, twenty-five cents ;
- For order of commitment of every person surrendered by or in discharge of his bail, twenty cents ;

Fees of the clerks.

Clerks.

- For drawing every summons, capias or other process, if he shall do it, thirty cents ;
- For sealing every writ, fourteen cents ;
- For entering every action, eight cents ;
- For entering an appearance or default, ten cents ;
- For entering the return of a writ, ten cents ;
- For entering every rule of court, ten cents ;
- For a certified copy thereof, when required, eight cents ;
- For filing every writ, declaration, pleading or other paper, eight cents ;
- For entering every retraxit, discontinuance or non-suit, eight cents ;
- For reading every petition, and entering order thereon, fifteen cents ;
- For every copy of such order, ten cents ;
- For calling and swearing the jury, twenty cents ;
- For swearing each witness, six cents ;
- For swearing constable to attend a jury, six cents ;
- For taking and entering a general verdict, eight cents ;
- For entering judgment, eight cents ;
- For entering every special verdict or demurrer to evidence, for each sheet, ten cents ;
- For copies of writs, declarations, pleadings, special verdicts, records and other papers, for each sheet, eight cents ;
- For entering satisfaction on record, fourteen cents ;
- For reading and entering every allowance of a writ of error, habeas corpus or other writ, requiring an allowance and returning the same, fifty cents ;
- For entering deeds and conveyances on the record, for each sheet, six cents ;

IN THE COURTS OF GENERAL QUARTER SESSIONS.

Quarter sessions.

Fees to be divided among the judges who are attending court, when the service is performed. (a)

Judges.

- For the first motion in a cause, fifty cents ;
- For every rule in a cause, twenty cents ;
- For the trial or argument of every cause, fifty cents ;
- For every recognizance, twenty-five cents ;

Fees to be paid to the justice of the peace who performs the service, where he is entitled to fees, and they are not otherwise ascertained by law. (1)

Justices.

- For every recognizance, twenty-five cents ;
- For a pass, twenty cents ;
- For a mittimus, twenty-five cents ;
- For taking examinations, for each sheet, fourteen cents ;
- For every oath or attestation, five cents ;

(a) See *Kenny v. O'Neill*, 27 Vr. 440.

(1) For fees of justices of the peace, see title JUSTICES' COURTS, sub-title *Costs*.

FEES AND COSTS.

- For a warrant against a person for a breach of the peace or a misdemeanor, twenty-five cents ;
- For a summons on a penal law, thirteen cents ;
- For drawing a conviction, twenty-five cents ;
- For a warrant to levy a penalty, twenty-five cents ;

Clerks.

Fees of the clerks.

- For entering and filing an indictment, sixteen cents ;
- For every process, subpoena or other writ, twenty-five cents ;
- For sealing the same, fourteen cents ;
- For every ticket for a subpoena, nine cents ;
- For entering an appearance or default, ten cents ;
- For entering a recognizance taken in court, fifteen cents ;
- For entering and filing a plea, eight cents ;
- For discharging by proclamation, and entering the same, fifteen cents ;
- For entering the relinquishment of a plea, eight cents ;
- For reading every petition, and entering order thereon, fifteen cents ;
- For copy of such order, ten cents ;
- For every rule or order of court, ten cents ;
- For copy of such rule or order, eight cents ;
- For searching the records, twelve cents ;
- For calling and swearing the jury, twenty cents ;
- For swearing each witness, six cents ;
- For swearing constable to attend a jury, six cents ;
- For taking and entering a general verdict, eight cents ;
- For entering judgment, eight cents ;
- For entering every special verdict, for each sheet, ten cents ;
- For copies of writs, indictments, pleadings, special verdicts and other papers, for each sheet, eight cents ;
- For entering the allowance of every habeas corpus, writ of error or certiorari, and returning the same, fifty cents ;
- (but no costs to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted or discharged for want of prosecution);

Coroners.

Fees of coroners. (1)

- For a precept to summon a jury, fifty cents ;
- For swearing the jury, twenty-five cents ;
- For swearing every witness, six cents ;
- P. L. 1871, p. 32. For drawing and returning the inquisition, two dollars ;
- For taking examinations in writing, for each sheet, fourteen cents ;
- (which fees the collector of the county is hereby authorized and required to pay, on being taxed by the clerk of the court of common pleas of the county);
- For serving writs, advertising and selling property and making deeds, the same fees and commissions as are by law allowed to sheriffs for the same services, and under the like restrictions and regulations ;

Crier.

Crier's fees. (2)

- For calling every action, nine cents ;
- For calling a jury, twelve cents ;
- For swearing a witness, six cents ;
- For calling the plaintiff on a non-suit, eight cents ;
- For calling the defendant on a default, eight cents ;

(1) For other fees of coroners, see *ante*, title CORONERS, p. 897, Sec. 35. For mode of taxation of bills of fees, see same act, Sec. 27.
 (2) For compensation of criers, see title SALARIES.

For calling the defendant on a recognizance, eight cents ;
 For calling the bail on a recognizance, eight cents ;
 For making proclamation to discharge a person, eight cents ;

Fees of jurors.

Jurors.

For every juror, for each action on which he is sworn or affirmed, including a writ of inquiry and coroner's inquest, twenty-five cents ;

For every juror who appears in a cause, but is not sworn or affirmed, twelve cents ;

For every juror going to, attending and returning from a view, for each day, one dollar ;

For every juror from a foreign county, going to, attending at, and returning from court, being sworn or affirmed in a cause, for each day, one dollar ;

For every such juror who attends, and is not sworn or affirmed, to be allowed for going to, attending at, and returning from court, after the rate of fifty cents for each day ;

(but no fees shall be paid by virtue of this section to any juror for services for which he is entitled to pay under the act respecting jurors, nor shall any fees in such case be taxed or included in the bill of costs);

Fees of witnesses, &c.

Witnesses.

For every witness attending a court, or commissioners, or referees, or arbitrators, in his own county, for each day, (a) fifty cents ;

For every witness from a foreign county attending a court, or commissioners, or referees, or arbitrators, after the rate of one dollar a day, in which shall be included his or her going to and returning from the same, allowing one day for every thirty miles from and to his or her place of residence ;(b)

For the secretary of this state, or any clerk attending on subpoena, with wills, records or other written evidence, after the rate of one dollar a day, and mileage as aforesaid ;

For every surveyor, for his actual service on a view, for each day, two dollars ;

For every surveyor, for his going to and returning from a view, for each day, one dollar ;

For every chain-bearer, on a view, for each day, seventy cents ;

For serving a subpoena on each witness, thirteen cents ;

Fees of the constable, (1) when not otherwise ascertained by law.

Constable.

The constable shall, for the same services, be allowed the same fees as are established by the act constituting courts for the trial of small causes ; and also, seventy-five cents per day for every day he shall attend at the supreme court, circuit court, court of oyer and terminer and general jail delivery, court of common pleas and general quarter sessions of the peace, in his county, to be paid, except for attendance at the supreme court, by

(a) The plaintiff's attorney cannot charge witness fees for himself. *Anonymous*, *Spn.* 113. A party may charge a *per diem* for the time his witnesses necessarily attended. The entry on the minutes of the court that they were sworn, is *prima facie* evidence of their attendance on the day the cause was noticed for trial and of their continuing until it closed. It may be shown, however, that they were sooner dismissed, or went away by consent. *Den v. Vanclieve*, 2 *South.* *719. An allowance of a *per diem* to a person detained in vacation in custody as a witness in a criminal case, cannot be charged in a bill of

costs taxed against the defendant on conviction. *State v. Walsh*, 15 *Vr.* 470.

(b) Mileage can only be charged for distances traveled within the state. *Den v. Johnson*, 1 *Gr.* 156. *Semble* the court will notice distances. See *Ferguson* *ads. State*, 2 *Vr.* 291. A witness from a foreign county is entitled to mileage on his first attendance at court. The allowance of further mileage is under the discretionary control of the court in which the action is pending. *Henry v. Walton*, 23 *Vr.* 370.

(1) For fees of constables, see *post*, title JUSTICES' COURTS. P. L. 1871, p. 116, § 1.

the county collector of the same, and for attendance at the supreme court by the treasurer of the state, on his producing a certificate from the presiding judge or justice of such court, setting forth the number of days he may have so attended; *provided*, that when two or more courts are held at the same time, the constable shall receive no more than seventy-five cents per day for his attendance on all the said courts [see Sec. 30, *post*];

For serving a warrant in all criminal cases, upon conviction, sixty cents;

For attending prisoner during trial for larceny under six dollars, before two justices, twenty-five cents.

3. That for the service specified in this section, when performed by any clerk, judge or other officer authorized by law to perform the same, such clerk, judge or other officer shall be entitled to receive the fees thereto respectively annexed, and no more, except when otherwise specially authorized by law;

Judge, &c.

Judge or other officer.

For taking every affidavit, twelve cents;

For taking every acknowledgment or proof of a deed or conveyance, fifty cents;

For signing every judgment, fifty cents;

For transcribing names of jurors, striking jury and certifying list, two dollars;

For drawing depositions and examinations in all causes, civil and criminal, where the same are required to be reduced to writing by the officer, except in the court of chancery, for each sheet, fourteen cents;

Clerks.

Clerks.

For recording every judgment, and indexing the same, one dollar;

For taxing every bill of costs, fifty cents;

For searching the records of judgments against each individual, for each year, four cents;

For searching the records of deeds, mortgages, wills, or other records, for each name, each year, (a) four cents;

For drawing certificate and seal, twenty cents;

And in addition thereto, for copies or abstracts of all deeds, mortgages, judgments, or other records, included in such certificate, for each sheet, eight cents.

[SEC. 4 and 5 repealed. See PRACTICE OF LAW, Sec. 282, *post*.]

Taxation in criminal cases.

4. SEC. 6. That all bills of costs in criminal cases, shall be taxed by the clerk of the court in which the judgment is had, in the manner provided by the fourth section of this act; and the said clerk shall in no case allow on such taxation, either for himself or others, any item or charge for any service or proceeding, unless the same shall have been required by law, in the regularly conducting such case, and unless the same shall have been actually performed, and shall so appear upon the minutes or records of the court; and such clerk shall not allow any charge for more than one service, for taking and entering the recognizances of several persons who appear and enter into recognizance together at the same time, nor shall any charge be allowed for more than one process of subpoena for the appearance of all the witnesses in the same case, residing in the same county, at the same term.

Penalty for illegal allowance.

5. SEC. 7. That if any clerk, in the taxation of any bill of costs in a criminal case, shall allow any item, fee or charge, contrary to the provision of the preceding section, he shall for every such offense forfeit and pay the sum of thirty dollars, to be recovered by action of debt, with

(a) County clerks are not entitled to demand fees for searches not made by themselves or their assistants, of the records of

deeds, mortgages, judgments, &c., in their offices. *Lum v. McCarty*, 10 Vr. 287, overruling *Flemming v. Clark*, 1 Vr. 280.

costs of suit, by any person who shall sue for the same, the one-half to the use of the county wherein such clerk shall reside, the other half to the use of the person who shall sue for and prosecute the same to effect. [See Sec. 11, *post.*]

[Secs. 8 and 9 repealed. See PRACTICE OF LAW, Secs. 283 and 284.]

Supplement.

Approved March 2, 1847. P. L. 1847, p. 150.

6. SEC. 1. That four cents for each book, and no more, be allowed for searching the records of deeds, mortgages, wills or other records, for each name, in case there shall be more than one book of such records in any one year.

Fees for searches.

Supplement

Approved March 7, 1866. P. L. 1866, p. 257.

7. SEC. 1. That clerks and registers of the respective counties of the state may, from and after the passage of this act, lawfully charge at the rate of ten cents per folio for the recording all deeds, mortgages and assignments of mortgages; and may also charge twelve cents per folio for official copies and abstracts from the records and files of their respective offices when made by them.

Fees of clerks for recording and for copies.

8. SEC. 2. That said clerks and registers may charge the sum of seventy-five cents for the registration of each and every mortgage by them registered after the passage of this act.

Fee for registering mortgages.

[Sec. 3 repealed and transferred to CRIMINAL PROCEDURE. See *ante*, p. 1141.]

Supplement.

Approved April 3, 1868. P. L. 1868, p. 782.

9. SEC. 1. That the justice of the supreme court holding any circuit shall be entitled to receive in lieu for all other fees for services in the circuit court included in the taxable costs in any cause, the following fees, which shall be allowed and taxed accordingly: on the return of every writ in the circuit, except subpoena and final process, two dollars; for the trial or hearing of every cause, three dollars; for signing every *postea*, two dollars; for signing every judgment, two dollars; for hearing every demurrer or certiorari, three dollars. (*a*)

Fees of justice of supreme court holding circuit.

Supplement.

Approved April 7, 1868. P. L. 1868, p. 796.

10. SEC. 1. That from and after the passage of this act, the sheriffs of the counties of Salem, Cumberland, Sussex, Atlantic and Bergen, of this state, shall be allowed for crying every sale of personal property made by virtue of any execution, the sum of five dollars; for serving every execution, two cents out and in for every mile, to be computed from the court-house; and for every day engaged in attending the regular terms of the courts of the county the sum of three dollars per day. [See Sec. 12, *post.*]

Fees of sheriffs of certain counties for certain services.

Supplement.

Approved April 21, 1868. P. L. 1868, p. 1189.

11. SEC. 1. That the seventh section of the act to which this is a supplement, shall be so construed that no forfeiture or penalty shall be incurred by, or recovered against any clerk, under the said act, unless it shall appear that the error or errors made by him in the taxation of any bill of costs, were willfully, knowingly and fraudulently allowed, and that no more than one penalty shall be recovered in any case upon one bill of costs, and that this act shall take effect immediately.

Clerk not to incur penalty for illegal allowance unless act willful.

(*a*) By act of March 30th, 1868 (P. L. 1868, p. 329), the justices of the supreme court receive an annual salary in full for all services. See *post*, title SALARIES.

FEES AND COSTS.

Supplement.

Approved March 14, 1871.

P. L. 1871, p. 37.

Preamble.

WHEREAS, The fees of the sheriffs of the several counties of this state are not uniform; and whereas, the said sheriffs have been and now are deprived of a large portion of the fees, revenues and emoluments heretofore pertaining to their said offices, by reason of the operation of an act of congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" therefore,

Supplement of
April 7th, 1868, ex-
tended to all
counties.

12. SEC. 1. That the provisions of an act entitled "A further supplement to the act entitled 'An act to regulate fees,'" approved April fifteenth, one thousand eight hundred and forty-six, approved April seventh, one thousand eight hundred and sixty-eight, be and the same is hereby extended to the several counties of this state.

13. SEC. 2. [Repealed by Sec. 17, *post.*]

Supplement.

Approved April 6, 1871.

P. L. 1871, p. 101.

Counties to pay
expenses in cer-
tain cases.

14. SEC. 1. That in all cases where any sheriff, coroner, constable or special deputy shall receive any bench warrant, state warrant, *capias ad testificandum*, or other compulsory process whatever, issued by any court of record or justice of the peace of this state, and to execute the same it shall become necessary for such officer to go beyond the limits of his county, the said officer shall receive from the county collector of said county in which said process is issued, his traveling and other expenses necessarily incurred in such service, whether he shall be able to execute the same or not; *provided*, a particular statement of said expenses shall be made out and sworn to by said officer, and the same certified to as reasonable and just by the prosecutor of the pleas and the presiding judge of the court of oyer and terminer of the county from which said process issued.

Proviso.

Supplement.

Approved March 27, 1874.

P. L. 1874, p. 121.

Fees of supreme
court commis-
sioners.

15. SEC. 1. That from and after the passage of this act, supreme court commissioners shall be entitled to receive for their services the following fees and no more:

For making every order for bail, the sum of one dollar;

For taking every recognizance of bail, the sum of one dollar;

For approving every replevin bond, the sum of one dollar;

For ordering the entry of every judgment on bond and warrant of attorney, the sum of one dollar;

For taking testimony, the same fees as are now allowed to masters in chancery for like services.

Supplement.

Approved April 20, 1876.

P. L. 1876, p. 224.

Sheriff's fees,
where more than
one execution is
issued out of
supreme court.

16. SEC. 1. That whenever more than one execution shall be issued out of the supreme court of this state upon any judgment recovered or docketed therein, each sheriff to whom such execution shall be directed and delivered shall be entitled to collect and receive from the defendant or defendants named in such execution the fees allowed by law for making a levy and return and statement thereon, or for such other services as may be actually performed by him, and the sheriff who shall collect the amount named in said execution or any part thereof, shall be entitled to the legal percentage upon whatever amount may be so collected by him, but in case any such judgment shall be settled between the parties and the amount due thereon shall not be collected by either sheriff, then the percentage on the amount collected which would be due the sheriff thereon in case only one execution had been issued shall be equally divided among the several sheriffs in whose hands an execution in the same cause may have been placed.

An act to amend an act entitled "A further supplement to the act entitled 'An act to regulate fees,' approved April fifteenth, one thousand eight hundred and forty-six, and the various supplements thereto," approved March fourteenth, one thousand eight hundred and seventy-one.

Approved March 6, 1877.

P. L. 1877, p. 49.

17. SEC. 1. That the second section of the act hereby amended [see Sec. 13, *ante*], which section is in the words following, to wit :

"That from and after the passage of this act the following fees shall be allowed to the sheriffs of the several counties of this state, to wit : twenty-five per centum additional in each case for all services to be by them performed ; *provided*, that this section shall only continue in force during such time as the said act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' shall remain in effect," be and the same is hereby repealed, made void and of no effect ; *provided, however*, that this act shall not affect or in any way interfere with the fees of any sheriff of any county who may be in office at the time of the taking effect of this act. (a)

Repealer.

Proviso.

Proviso.

Supplement.

Approved March 21, 1878

P. L. 1878, p. 165.

18. SEC. 1. That in those counties whose population, as ascertained by the last census of this state, is over forty thousand and less than forty-nine thousand inhabitants, the salary of the prosecutor of the pleas shall be fifteen hundred dollars per annum, which sum shall be paid to him by the county collector in quarterly installments, and shall be in lieu of all fees and costs now received by him or to which he now is or might be by any law entitled in criminal cases, which said fees and costs shall be collected by the sheriff and be by him paid over to the county collector for the use of the county.

Salary of prosecutor of pleas in certain counties.

19. SEC. 2. That all acts, general and special, inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

Supplement.

Approved March 2, 1881.

P. L. 1881, p. 59.

20. SEC. 1. That hereafter no fees to which any judge of the court of common pleas, court of general quarter sessions of the peace or orphans' court in any county in this state, shall be entitled for services performed in court, shall be paid by the parties liable for the same to any such judge, but shall be paid to the clerk of the court, under such rules as the court may prescribe, and shall be paid over by him to the judge or judges entitled to the same ; and if any of the judges of said court shall be in receipt of a fixed salary allowed by law in lieu of all fees, then and in that case it shall be the duty of the clerk to pay over to the collector of the county, at least once in each quarter, for the use of the county, all fees received by him during the preceding quarter, for services performed by any such salaried judge or judges ; for collecting the same the said clerk shall be entitled to five per centum of all fees collected by him.

Fees of judges of common pleas, &c., to be paid to clerk of court.

Clerk, in certain cases, to pay fees to collector of county.

21. SEC. 2. That it shall be the duty of the clerk of each county to report on the first day of July next, and quarterly thereafter, under oath, to the collector of the county, whether or not he has received during the preceding quarter any fees for licenses of any kind, granted by the court of which he is clerk, and, if so, from whom, the amount in each case, and the disposition made of the same ; and when not otherwise provided by law it shall be the duty of such clerk to pay over to the collector of the county, at the time of making such quarterly report, the amount of such license fees so received by him during the preceding quarter ; and the said collector shall forthwith report to the board of chosen freeholders of the county the amount of fees so received by him from such county clerk.

Clerk of county to make quarterly reports of fees received.

(a) See *American Insurance Co. v. Andrew*, 3 *Stew.* 87.

Penalty for not making reports.

22. SEC. 3. That any clerk failing to make the report and payment required by the second section of this act, at the time named, shall be liable to a penalty of one hundred dollars for every such failure, which penalty shall be forthwith sued for by the collector of the county in any court of competent jurisdiction, in an action of debt, for the use of the county.

An act explanatory of an act entitled "An act to regulate fees," approved April fifteenth, one thousand eight hundred and forty-six.

P. L. 1882, p. 226.

Approved March 31, 1882.

Preamble.

WHEREAS, Doubts have arisen as to the construction of the act of which this is explanatory, in respect to the payment of fees of the clerk of the supreme court and of the court of oyer and terminer and general jail delivery in criminal cases, because of the provisions contained in section two of said act, wherein it is provided that no costs are to be allowed where the indictment is quashed, judgment arrested or the defendant acquitted or discharged for want of prosecution; therefore, in order to remove said doubts,

The word "costs," how construed.

23. SEC. 1. That the word "costs," as it appears in section two of the act of which this act is explanatory, under the title, "fees of the clerk of the supreme court and of the court of oyer and terminer and general jail delivery in criminal cases," shall not be construed to apply to the fees of said clerks for subpoenas and other writs, and sealing the same, where said writs have been legally served in cases investigated by the grand jury, or either of them, as specified in that part of said section.

Supplement.

Approved March 31, 1882.

P. L. 1882, p. 249.

Fees of constables for serving criminal warrants.

24. SEC. 1. That the several constables of this state shall be entitled to receive from the collector of the county wherein any warrant issues, their lawful fees for serving any criminal warrant that may be issued by any justice of the peace or police justice duly qualified and commissioned as such in any county in this state, whether any such offender be indicted or not for the offense of which he, she or they may have been charged. [See, also, title JUSTICES' COURTS, Sec. 5, *post.*]

Repealer.

25. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Supplement.

Approved April 17, 1885.

P. L. 1885, p. 249.

Additional fees of masters and supreme court commissioners.

26. SEC. 1. That from and after the passage of this act, in addition to the fees now allowed by law to examiners and special masters in chancery, and supreme court commissioners, for taking testimony in any matter or cause pending in any of the courts of this state, or in any proceeding based upon or growing out of any decree or judgment of any of the courts of this state, there shall be allowed the sum of three dollars for every appointment at which no testimony shall be taken, said sum to be paid by the moving party in case there shall be no adjournment of the taking of such testimony, and by the party applying for an adjournment in case such adjournment is granted.

Supplement.

Passed April 15, 1886.

P. L. 1886, p. 223.

Fees of prosecutors of the pleas may be supplemented by chosen freeholders in certain cases.

27. SEC. 1. That if in any county of this state having more than twenty thousand inhabitants the fees of the prosecutor of the pleas shall in any year amount to less than one thousand dollars, the board of freeholders of such county may direct the payment to said prosecutor of a sum sufficient to make, when added to the fees received by said prosecutor, the sum of one thousand dollars.

Supplement.

Approved April 3, 1888. P. L. 1888, p. 385.

28. SEC. 1. That the medical superintendent of the bureau of vital statistics of this state is hereby authorized to have an official seal, and to demand and receive for the services hereinafter mentioned, the following fees, and no more, to wit: for every search made in the office of said bureau for the record of any marriage, birth or death, the sum of forty cents; and for every certificate of said superintendent appended thereto, the sum of fifty cents. [See Sec. 36, *post.*]

Medical superintendent of vital statistics may have an official seal and charge fees.

29. SEC. 2. That said superintendent shall keep a true record and account of all fees received under the provisions of this act, and shall pay the same quarterly into the treasury of this state.

To keep record and pay fees.

Supplement.

Approved April 24, 1888. P. L. 1888, p. 528.

30. SEC. 1. That hereafter the constables of the several counties of this state shall receive per day, for each and every day engaged in attending the circuit court, court of oyer and terminer and general jail delivery, court of common pleas and general quarter session of the peace, in their respective counties, the following fees: those residing within two miles of the court-house, two dollars and fifty cents; those residing more than two miles from and within five miles of the court-house, three dollars; those residing more than five miles from and within ten miles of the court-house, three dollars and twenty-five cents, and those residing more than ten miles from the court-house, three dollars and fifty cents, which payments shall be in full and in lieu and stead of all mileage or other allowances heretofore allowed.

Fees of constables.

31. SEC. 2. 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 take effect immediately.

Repealer.

Supplement.

Approved March 25, 1889. P. L. 1889, p. 90.

WHEREAS, It appears that there are different practices in different counties of this state in the manner of the payment of the fees allowed by law to the judges of the court of common pleas where there are law or president judges who receive a salary in lieu of fees; therefore, in order that there may be a regularity in such distribution, and to define the duties of such officers as may have the distribution of such judges' fees;

Preamble.

32. SEC. 1. That hereafter all such fees as are authorized by law to be paid into court for the services of the common pleas judges, in counties where there are law or president judges receiving salaries in lieu of fees, shall be equitably divided between the lay judges, except in counties where the lay judges also receive stipulated salaries in lieu of fees. (*a*)

Fees to be divided between lay judges where law judge receives salary in lieu of fees.

33. SEC. 2. That in all cases where the court officers have retained and have remaining in their custody any of such judges' fees, said court officers are hereby authorized to divide and pay over such sum or sums in accordance with section one of this act.

Officers of courts to divide and pay over fees retained.

34. SEC. 3. That all acts or part of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved May 3, 1889. P. L. 1889, p. 329.

35. SEC. 1. That from and after the passage of this act, the sheriffs of the several counties in this state shall be entitled to the same fees for the service of notices on grand and petit jurors as are now allowed by law for the service of a summons issued out of the court of common pleas.

Fee of sheriffs for serving notices on jurors.

(*a*) This act does not include fees for the services of a law judge paid under a special act providing fees for his services only. *Kenny v. O'Neill*, 27 Vr. 440.

A supplement to the act entitled "A further supplement to the act entitled 'An act to regulate fees,' approved April fifteenth, one thousand eight hundred and forty-six," approved April third, one thousand eight hundred and eighty-eight.

P. L. 1891, p. 498.

Searches for soldiers, &c., in claims for pensions to be furnished without fee or charge.

Approved April 17, 1891.

36. SEC. 1. That hereafter the searches and certificates of the medical superintendent of the bureau of vital statistics of this state, for the record of marriages, births and deaths in all cases of soldiers, their widows and children, and dependent parents, when required in their claims for pension, shall be furnished without fee or charge.

Supplement.

P. L. 1891, p. 510.

Fees for sheriffs.

Approved April 18, 1891.

37. SEC. 1. That from and after the passage of this act the sheriffs of the several counties in this state shall be entitled to demand and receive for the services hereinafter named the following fees as compensation, to wit: for serving every writ of attachment, three dollars and fifty cents; for serving every execution against goods or lands and making an inventory and return, three dollars and fifty cents; for mileage on serving every writ on which mileage is now allowed by law, four cents out and in for every mile of travel, to be computed from the court-house; for serving writs or process in cases requiring personal service on defendant, twenty-five per centum in addition to the fees now fixed by law for such service.

Repealer.

38. SEC. 2. 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 shall take effect immediately.

Supplement.

P. L. 1892, p. 164.

Fees of master, special master and supreme court commissioner for approving bonds.

Approved March 22, 1892.

39. SEC. 1. [Amended by Sec. 42, *post.*]

40. SEC. 2. That every master in chancery, special master in chancery and supreme court commissioner directed to approve any bond by any court or judge thereof, shall be entitled to receive the following fees, in lieu of the fees now allowed by law, namely, the sum of three dollars when the penalty named in said bond does not exceed the sum of one thousand dollars, and five dollars when such penalty shall exceed the sum of one thousand dollars.

41. SEC. 3. [Amended by Sec. 43, *post.*]

An act to amend an act entitled "A further supplement to an act entitled 'An act to regulate fees,' approved April fifteenth, one thousand eight hundred and forty-six," approved March twenty-second, one thousand eight hundred and ninety-two.

P. L. 1893, p. 196.

Fees of master and special master for making report.

Approved March 10, 1893.

42. SEC. 1. That the first section [see Sec. 39, *ante*] of the act of which this act is amendatory be amended so as to read as follows:

[That for making every report in pursuance of any order or decree made, taken or entered in any suit, cause, matter or proceeding in the court of chancery of this state, after the passage of this act, every master in chancery and every special master in chancery shall be entitled to receive the sum of four dollars, and no more, and that for drawing every such report every such master in chancery and special master in chancery shall be entitled to receive thirty cents for every folio of one hundred words.]

43. SEC. 2. That the third section [see Sec. 41, *ante*] of the act of which this act is amendatory be amended so as to read as follows:

Fees of master, special master and supreme court commissioner for attendance.

[That every master in chancery, examiner in chancery, special master in chancery and supreme court commissioner shall be entitled to receive, upon taking the affidavits, depositions or examinations of witnesses upon or under any order or decree made in any cause, matter or proceeding by

any of the courts of this state, or by any judge thereof, for his attendance at the taking of such affidavit or affidavits, deposition or depositions, or examination or examinations of a witness or witnesses, four dollars for every sitting, not exceeding two, under the same order or decree, to be paid by the party or person obtaining such decree or order, and included in his taxable costs.]

Supplement.

Passed June 13, 1895. P. L. 1895, p. 817.

44. SEC. 1. That hereafter the clerk of the supreme court shall be entitled to receive for searching the records the following fees, and no more: for a search, for judgments, attachments, recognizances, docketed judgments and docketed decrees from chancery and from the circuit courts, and all other records which may become a lien upon real estate, four cents for each year or fraction thereof for each name, and five cents for stating a judgment; *provided*, that the fee for a search and certificate shall in no case be less than twenty-five cents.

Fees of clerk of supreme court for making searches.

Proviso.

A further supplement to the act entitled "An act concerning fees and costs," approved March fourteenth, one thousand eight hundred and fifty-six.

Approved April 6, 1871. P. L. 1871, p. 111.

45. SEC. 1. That from and after the passage of this act the sergeant-at-arms of the court of chancery and of the supreme court and court of errors shall receive and be paid the sum of three dollars for each day he shall attend either of said courts.

Sergeant-at-arms of supreme court and chancery to receive \$3 per day.

An act concerning costs.

Approved April 16, 1846. R. S. 449.

[Secs. 1 to 10 repealed. See PRACTICE OF LAW, Secs. 265 to 281.]

46. SEC. 10. That if any person shall commence or prosecute, in any court of record, any action, plaint or suit, wherein upon any demurrer, either by plaintiff or defendant, demandant or tenant, judgment shall be given by the court against such plaintiff or demandant; or if at any time after judgment given for the defendant or tenant, in any such action, plaint or suit, the plaintiff or demandant shall sue any writ or writs of error to annul the said judgment, and the said judgment shall afterwards be affirmed to be good, or the said writ of error shall be discontinued, or the plaintiff shall be non-suit therein, the defendant or tenant in every such action, plaint, suit or writ of error, shall have judgment to recover his costs against every such plaintiff or demandant, and have execution for the same in manner aforesaid.

When upon demurrer or writ of error, defendant to have costs.

47. SEC. 11. That if any defendant or tenant, or any other person who shall be bound by any judgment obtained in any court of record, shall sue, either before or after execution had, any writ of error, to reverse any such judgment, then if the same judgment be affirmed good in the said writ of error, and not erroneous, or if the said writ be discontinued in default of the party, or if any person who shall sue any writ of error be non-suited in the same, the said person against whom the said writ of error is or shall be so sued, shall recover his costs, against the person suing the same, and have execution for the same in manner aforesaid.

Plaintiff in error, when to pay costs.

48. SEC. 12. That if any person shall sue or prosecute any writ of error, for reversal of any judgment whatsoever, given after any verdict in any court of record of this state, and the judgment shall afterwards be affirmed, then such person shall pay unto the defendant in the said writ of error, his or their double costs, to be recovered by execution in manner aforesaid. (a)

When to pay double costs.

(a) The proper method of doubling costs is to tax single costs and multiply them by two. *Shields v. Lozeur*, 5 Vr. 530. *Mairs v. Sparks*, 2 South. *518 (c). Where error is brought upon a judgment by confession, and judgment is affirmed, single costs only are recoverable. *Hastings v. Mayberry*, Coxe 35. Where a trial has taken place before a judge, a jury being waived, a defendant in error, who is successful, is not entitled to double costs. *Shields v. Lozeur*, 5 Vr. 530. Upon the reversal of a judgment

of the supreme court (reversing a verdict at the circuit for the plaintiff at the circuit), said plaintiff is entitled to double costs in the supreme court. *June Term*, 1870. Upon the affirmation of a verdict rendered upon exceptions to the report of a referee, double costs were allowed. *Paulinson v. Halsey*, 9 Vr. 488. Upon the reversal of a judgment of the court of common pleas, sustaining a demurrer to a plea in abatement, costs were denied both parties in error. *Garr v. Stokes*, 1 Har. 410.

Writ of error
quashed, plaintiff
to pay costs.

49. SEC. 13. That upon the quashing of any writ of error, for variance from the original record or other defect, the defendant, in such writ of error, shall recover against the plaintiff suing out such writ, his costs, as he should have done if the judgment had been affirmed, and to be recovered in the same manner.

[Sec. 14 repealed.]

Costs on dismissal
of bill in equity.

50. SEC. 15. That upon the complainant's dismissing his own bill in equity, or the defendant's dismissing the same, for want of prosecution, the complainant in the suit shall pay to the defendant his costs to be taxed.

[Secs. 16 to 18 repealed. See PRACTICE OF LAW, Sec. 281.]

An act in relation to mileage.

Approved March 8, 1876.

P. L. 1876, p. 27.

Mileage to be
allowed for serv-
ing writ.

51. SEC. 1. That for serving any writ hereafter to be issued out of any court of law or of the court of chancery, no officer shall be allowed to receive or charge for mileage upon any greater number of miles than shall have been actually and necessarily traveled by him, from and to the courthouse of his county, in making such service.

An act respecting the compensation of the clerk in chancery, and the clerk of the supreme court of this state

Approved March 14, 1879.

P. L. 1879, p. 333.

Repealer.

52. SEC. 1. [Amended by Sec. 54, *post.*]

53. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, in so far as they are inconsistent herewith, and this shall be a public act and take effect immediately; saving and excepting that so far as the same increases or diminishes the fees or allowance of any public officer now in office, during the term for which such officer was appointed, it shall take effect only upon and immediately after the end of such term.

Supplement.

Approved March 26, 1886.

P. L. 1886, p. 143.

Fees of clerks in
chancery and su-
preme court for
copies and enroll-
ing proceedings.

54. SEC. 1. That the first section of the act to which this is a supplement be amended so as to read as follows:

[That the clerk in chancery and the clerk of the supreme court of this state shall each be entitled to receive for copies and enrolling proceedings, for each folio of one hundred words, five cents, and no more, of which sum they shall respectively retain two cents, and such portion of the balance as shall not be expended and actually paid out for enrolling proceedings, copies and recording shall be paid into the state treasury.]

An act concerning official fees and rendering an account thereof.

Approved March 14, 1879.

P. L. 1879, p. 338.

Secretary of state
to make quarterly
report to comp-
troller.

55. SEC. 1. [Amended by Sec. 62, *post.*]

56. SEC. 2. That the secretary of state of this state shall keep a true record of all the fees and compensation received or taken by him for his own use as secretary of state, clerk of the court of errors and appeals, clerk of the prerogative court and register in the prerogative office, clerk of the court of pardons and commissioner of insurance, or in any other official capacity, from all sources, under the provisions of any law of this state, and shall make a statement, account and report, under oath, to the comptroller of this state, on the first day of July next, and quarterly thereafter, of all such fees and compensation, showing separately and distinctly the gross amount of each class or particular kind of fees and compensation, under proper headings, received by him in the capacities above mentioned, or in any other official capacity, during the next preceding quarter.

57. SEC. 3. That the sheriffs and surrogates of the several counties of this state shall respectively keep a true record of all the fees and compensation received by them for their own use, in their respective offices, under the provisions of any law of this state, and shall respectively make a statement, account and report, under oath, to the collector of their respective counties, on the first day of July next, and quarterly thereafter, of the gross amount of all such fees and compensation so received by them, respectively, during the next preceding quarter, and the collectors of the respective counties of this state shall forthwith file in the office of the county clerk of their county, every statement, account and report made to them under this act.

Sheriff and surrogate to make report to county collector.

58. SEC. 4. That all such statements, accounts and reports, made and filed under the provisions of this or any other act, shall be kept and remain on the public files of the office in which they are filed, the same as other papers filed therein, and all statements, accounts and reports made to the comptroller of this state under the provisions of this act shall be by him included in each of his annual reports to the legislature.

Statements and reports to be kept on public files.

Duty of comptroller.

59. SEC. 5. That whenever, by the provisions of this act, or of any other act, any person holding any office in this state is required to make or render to the comptroller or other state officer, or to any county collector or other county officer a statement, account or report of the fees and compensation received by him for his use in such office, in detail or in gross, and such person shall refuse, fail or neglect to render such statement, account or report, in the manner and at the time prescribed by law, said person so refusing, failing or neglecting shall for every such refusal, failure or neglect, be liable to a penalty of one hundred dollars, to be sued for and recovered, with costs of suit, by the comptroller or other state officer to whom such statement, account or report is required to be made, for the use of the state, or by the collector or other county officer to whom such statement, account or report is required to be made, for the use of the county, in an action of debt in any court of competent jurisdiction in this state, and it is hereby made the duty of such comptroller or other state officer, and of such collector or other county officer, to promptly bring and prosecute said suit; *provided*, that the fixing or enforcing of any penalty provided for in this or any other act, for such refusal, failure or neglect, shall not prevent or be construed to prevent the supreme court, or any other competent court or any judge thereof, from granting and issuing and enforcing a writ of mandamus or other order, to compel the making of such statement, account or report in every case.

Penalty for refusal or neglect to make report.

Proviso.

60. SEC. 6. That if any person shall falsely swear or affirm in the making of any affidavit or affirmation provided for by this act, the person so offending shall be deemed guilty of perjury, and on conviction thereof shall be liable to all the penalties provided by law therefor.

Penalty for making false oath.

61. SEC. 7. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed, in so far as they are inconsistent herewith, and that this shall be a public act and take effect immediately.

Repealer.

Supplement.

Approved June 10, 1895.

P. L. 1895, p. 738.

62. SEC. 1. That the first section of the act to which this is a supplement, be and the same is hereby amended so as to read as follows :

[That the clerk in chancery and the clerk of the supreme court shall severally keep a true public record of all the fees and compensation received by them for their own use from all sources in their respective offices under the provisions of any law of this state, and shall respectively make a statement, account and report under oath to the comptroller of this state within ten days after the expiration of each term of court of the gross amount of all such fees and compensation so received by them during the next preceding term, whether the same were earned in that term or previously; and they shall also in such statement include a statement of the actual amount expended by them during said preceding term for the current expenses of their office.]

Clerk in chancery and of supreme court to keep record of fees, &c., and report under oath to comptroller.

An act relative to fees paid for copies of records used as evidence.

Approved March 2, 1881.

P. L. 1881, p. 62.

Fees and charges for official copies to be allowed and taxed as taxable costs.
 Proviso.

63. SEC. 1. That the fees and charges paid for official copies and abstracts from the records and files in any public office in this state, for use as evidence in actions brought or to be brought in any of the courts of this state, shall be allowed and taxed as part of the taxable costs therein; *provided*, the amount of such fees and charges be indorsed on such copies by the officer making the same.

An act to provide compensation to constables for extra services rendered to the courts of the several counties of this state.

Approved March 11, 1885.

P. L. 1885, p. 82.

Constables allowed for extra services while attending courts.

64. SEC. 1. That whenever any constable of any circuit court, court of oyer and terminer, court of general quarter sessions of the peace or court of common pleas of this state shall be required by any of the said courts to attend upon any jury while out considering of their verdict for more than six hours after the usual hour of adjournment of said courts, then it shall be lawful for the presiding judge of said court, in his discretion, to order that the said constable be allowed extra compensation for the said extra attendance, at the same rate as is now allowed by law for regular daily attendance upon said courts, and to be paid in the same manner as constables are now paid for attendance upon the said courts.

Supplement.

Approved April 15, 1886.

P. L. 1886, p. 80.

Extra compensation may be allowed constables for taking charge of jury.

65. SEC. 1. That whenever any constable of any circuit court, court of oyer and terminer, court of general quarter sessions of the peace, of this state, shall be detailed and required by any of said courts to take charge of a jury during the progress of a trial, and to keep the persons together who are sworn on such jury, and to prevent others from speaking to them, and such trial shall be continued for more than one day, then it shall be lawful for the presiding judge of said court, in his discretion, to order that said constable be allowed extra compensation for every eight hours of extra attendance or fraction thereof, at the same rate as is now allowed by law for regular daily attendance upon the said courts, and to be paid in the same manner as constables are now paid for attendance upon the said courts.

An act respecting bills of costs in criminal cases.

Approved March 10, 1893.

P. L. 1893, p. 169.

Bills of costs hereafter taxed in any criminal case where sentence has been suspended, &c., to be valid, &c.

66. SEC. 1. That all bills of costs which shall hereafter be taxed in the court of oyer and terminer or court of general quarter sessions of the peace, by the clerk of said courts, in any criminal case where sentence has been suspended, or a nolle prosequi or discontinuance entered, or where there has been a non-conviction for any cause whatever, shall be as valid and effectual in law and shall be paid in the same manner, as bills of costs taxed in criminal cases in said courts upon conviction and sentence.

Repealer.

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

An act concerning bills of costs in criminal cases.

Approved March 10, 1893.

P. L. 1893, p. 170.

Bills of costs heretofore taxed in any criminal case where sentence has been suspended, &c., to be valid, &c.

68. SEC. 1. That all bills of costs heretofore taxed and remaining unpaid, and which said costs have been taxed by the clerk of the court of oyer and terminer and the court of general quarter sessions of the peace in any criminal case in said courts of oyer and terminer or general quarter

sessions of the peace where sentence has been suspended, a nolle prosequi or discontinuance entered, or where there has been a non-conviction for any cause whatever, shall be as valid and effectual in law and shall be paid in the same manner as bills of costs taxed in criminal cases in said courts where there has been a conviction and sentence.

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

Fences and Boundary Lines.

I. FENCES.

1. Amended by section 24.
2. How division fences made and repaired.
3. Amended by section 25.
4. Each party's share adjusted.
5. Rule where brook, &c., divides lands.
6. Partition fences not to be removed without notice.
7. But written agreements binding.
8. If committee cannot agree, may call in third person.
9. Persons neglecting to make their part of the fence liable.
10. Where persons do not keep up fence, shall not impound, or have damages.
11. If they injure beasts breaking in, liable in damages.
12. Remedy if cattle break lawful fence. Impounding.
13. What, if there be no pound.
14. Penalty if township committee neglect.
15. Their compensation and by whom paid.
16. Township clerk to provide book for registering agreements for division of fences, &c.
17. Copy of record evidence.
18. Penalty for failure to enter or register.
19. When fence divided, time to be specified when to be made.
20. Owners of lowland meadow exempt from fencing against sheep.
21. Swinging gates part of a partition fence, a lawful fence.

22. To apply to private roads.
23. Damages by trespass, how appraised.
24. What a lawful fence.
25. Proceedings to place partition fence when parties cannot agree.
26. Barbed wire fences prohibited without consent of adjoining owner.
27. Person erecting such fence without consent liable for damages.

II. HEDGES.

28. Fences authorized in the road to protect hedges.
29. Overseer not to plough or dig within four feet of a hedge.
30. Penalty for violating this act.
31. Provisions of act extended to all evergreen or other hedges.

III. BOUNDARY LINES.

32. Proceedings in case of dispute between owners of adjoining lands.
33. Commissioners to take and subscribe oaths.
34. May enter on lands and examine witnesses. Report to be filed.
35. Parties aggrieved may appeal to circuit court.
36. Compensation of commissioners, &c., and by whom paid.

I. Fences.

An act regulating fences.

Rev. 387.

Passed January 23, 1793.

R. S. 479.

1. [Amended by Sec. 24, *post.*]
2. That where the lands, marshes or meadows of any two or more persons shall join each other, each of them shall make or amend and maintain a just proportion of the division or partition fence between them, except such persons as shall choose to let their adjoining lands lie vacant and open; and if any person shall, after due notice, neglect or refuse to make or amend and maintain his or her part or proportion of such fence, then the other party may make or amend and maintain the same wholly, and shall be entitled to receive one-half of the expenses of the party so neglecting or refusing, as the same shall be appraised and certified in writing by any two of the township committee where the lands lie, residing nearest the premises, and being disinterested and indifferent between the parties, together with the legal fees of such committee for their services, as the same shall also be ascertained in writing; and on non-payment, by the party delinquent as aforesaid, of the sum so found, and fees certified to be due, it shall and may be lawful for the other party to recover the same, by action of debt, with costs of suit, in any court where the same may be cognizable.

How division fences shall be made and repaired.

3. [Amended by Sec. 25, *post.*]
4. That the place where any partition fence is or shall be made, shall be equally divided, regard being had to the quantity of fence necessary, and other conveniences of fencing, and each party shall take an equal share of such fence to make or amend and maintain, so that it may be known

Partition fences shall be equally divided, made and maintained by the parties.