

No. 80.

AN ACT

Relating to Registers and Registers' Courts.

SECT. 1. *It is enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met,* That every person who shall be appointed to the office of Register, before he shall enter upon the duties of the office, shall make oath or affirmation to support the constitution of the United States and the constitution of this commonwealth, and to perform the duties of the office of Register with fidelity, and shall also, with one or more sureties, to be approved of by any two judges of the Common Pleas of the respective county, and also by the Governor, give a joint and several bond to the commonwealth in a sum equal to half the sum prescribed by law for the official bond of the sheriff for the time being of the same county, with condition faithfully to execute the duties of his said office, and well and truly to account for and pay, according to law, all monies received by him for the use of the commonwealth, and to deliver up the books, seals, records and other writings, belonging to his said office, whole, safe and undefaced, to his successor in office, which said bonds shall be for the use of all persons concerned, and for the relief of all who may be aggrieved by the acts or neglect of such register.

Registers oath
of office.Approval,
Penalty, &c.
of bond.General du-
ties.

SECT. 2. Every person appointed as aforesaid shall cause the bond hereinbefore prescribed, being duly acknowledged by him and his sureties, before a magistrate of the city or county respectively, to be recorded by the recorder of deeds of the respective county, and as soon afterwards as convenient, to be transmitted into the office of the Secretary of the Commonwealth, for custody, of which transmission he shall be entitled to receive the Secretary's certificate without fee or reward.

Bond to be
acknowledg-
ed, recorded,
and transmit-
ted to the Se-
cretary of the
Common-
wealth.

SECT. 3. Copies of the record of the official bond of any register, acknowledged and recorded as aforesaid, and duly certified by the recorder of deeds for the time being, shall be good evidence in any action brought against him or his sureties, on such bond, according to its form and effect, in the same manner as the original would be if produced and offered in evidence.

Copies of the
record of the
bond, evi-
dence.

SECT. 4. Every register shall appoint and keep a deputy to officiate in his absence, for whose conduct he and his sureties shall be accountable, and such deputy shall be ca-

Registers to
appoint deputy
ties.

pable in law to take the probate of wills and testaments, and to grant letters of administration, and to do whatever else by law appertains to the office of Register.

Jurisdiction
of Registers.

SECT. 5. Every Register qualified to act as aforesaid, shall have jurisdiction within the county for which he shall have been appointed of the probate of wills and testaments, of the granting of letters testamentary, and of administration, of the passing and filing of the accounts of executors, administrators and guardians, and of any other matter whereof the jurisdiction may be at any time expressly annexed to his said office, and the act of any Register, in any matter whereof another register has the exclusive jurisdiction, shall be void and of no effect.

Acts &c. not
within their
jurisdiction
void.

Jurisdiction
established in
certain cases.

SECT. 6. Letters testamentary and of administration shall be grantable only by the Register of the county within which was the family or principal residence of the decedent, at the time of his decease, and if the decedent had no such residence in this commonwealth, then by the Register of the county where the principal part of the goods and estate of such decedent shall be, and no letter testamentary or of administration, or otherwise, purporting to authorize any person to intermeddle with the estate of a decedent, which may be granted out of this commonwealth, shall confer upon such person any of the powers and authorities possessed by an executor or administrator, under letters granted within this state.

Letters grant-
ed out of the
state invalid.

Registers may
cite persons
having control
of a testamen-
tary writing
to produce it
for probate.

SECT. 7. The Register having jurisdiction as aforesaid shall, at the instance of any person interested, issue a citation to any person having the possession or control of a testamentary writing, alleged to be the last will and testament of a decedent, requiring him to produce and deposit the same in his office for probate, and if such person shall conceal or withhold such writing, during the space of fifteen days, after being personally served with a citation, issued in the manner and form aforesaid, he shall be liable to an indictment as for a misdemeanor, or to an action for damages by the person aggrieved.

Misdemeanor
to withhold it.

May cite wit-
nesses to ad-
appear and tes-
tify. &c.

SECT. 8. Whenever any testamentary writing shall be offered for probate, before any Register having jurisdiction thereof, such register shall have power to issue a citation to any person whose name may be subscribed thereto as a witness, or who may be alleged to him to be otherwise capable of proving the due execution of such testamentary writing, such person being within the proper county, or within thirty miles of the office of such Register, commanding him, under a penalty of three hundred dollars, to appear before him at the office of the Register of the county, on a day certain, not less than five days from the service of such citation, and depose and testify what he may know concerning the execution of such writing, and if such person, being cited and

summoned as aforesaid, shall refuse or neglect to appear as commanded, the Register shall have power to issue an attachment against such witness, to compel his appearance, or the party aggrieved may have an action against him to recover the said penalty, in the manner now allowable by law, in cases of subpoenas issued to witnesses by the courts of Common Pleas.

And compel appearance by attachment.

SECT. 9. On the application of any person interested, every Register shall have power to issue commissions to take the depositions of witnesses in other counties or states, or foreign countries, in all cases within his jurisdiction, upon interrogatories filed in his office.

Registers may issue commissions to take testimony.

SECT. 10. No nuncupative will shall be admitted to probate, nor shall letters testamentary thereon be issued, till fourteen days after the day of the death of the decedent be fully expired, nor shall any nuncupative will, at any time, be admitted to probate, unless process have first issued to call in the widow, if any, and such of his relations or next of kin as would be entitled to the administration of his estate, in case of intestacy, to contest the same, if they please.

On nuncupative wills not within fourteen days, nor without citation first issued to widow and kindred.

SECT. 11. No testimony shall be received to prove any nuncupative will after six months elapsed from the speaking of the pretended testamentary words, unless the said testimony, or the substance thereof, were committed to writing within six days after the making of such will.

Oral testimony of nuncupative wills inadmissible after six months, &c.

SECT. 12. Copies of wills and testaments proved in any other state or country, according to the laws thereof, and duly authenticated, may be offered for probate, before any Register having jurisdiction and proceedings thereon, may be had with the same effect, so far as respects the granting of letters testamentary, or of administration, with the will annexed, as upon the originals, and if the executor or other person producing any such copy shall produce also therewith a copy of the record of the proceedings for the probate of the original thereof, and of the letters testamentary, or other authority to administer, issued thereon, attested by the person having power to receive the probate of such original, in the place where it was proved, with the seal of office, if there be one annexed, together with the certificate of the chief judge or presiding magistrate of the state, country, county or district where such original was proved, that the same appears to have been duly proved, and to be of force, and that the attestation is in due form, such copies and proceedings shall be deemed sufficient proof, unless the contrary be shown for the granting of letters testamentary or of administration, with the will annexed, as the case may require, without the production or examination of the witnesses attesting such will.

Copies of wills proved out of the state may be offered, &c. instead of the original.

Register may
issue a precept
for the trial of
facts in dis-
pute.

SECT. 13. Whenever a caveat shall be entered against the admission of any testamentary writing to probate, and the person entering the same shall allege as the ground thereof any matter of fact touching the validity of such writing, it shall be lawful for the Register, at the request of any person interested, to issue a precept to the court of Common Pleas of the respective county, directing an issue to be formed upon the said fact or facts, and also upon such others as may be lawfully objected to the said writing, in the following form, viz:

County ss The Commonwealth of Pennsyl-
vania:



Form of the
precept.

To the judges of the court of Common Pleas of the said county greeting:—Whereas, A. B. on the _____ day of _____ in the year, &c. presented to G. H., our Register of wills of said county, for probate, a certain writing hereto annexed, purporting to have been made the _____ day _____ in the year, &c. [or otherwise describing the paper in question,] which said writing the said A. B. avers is the last will and testament of the said C. D., and whereas E. D., who is a son and heir of the said C. D. [or intermarried with F. D. who is a daughter and heir, &c. according to the fact,] hath objected before our said Register that the said writing was procured by duress and constraint, [stating the matters of fact objected,] and whereas the said A. B. [or E. D.] hath requested that an issue may be directed into our said court to try by a jury the validity of the said writing, and the matters of fact which may be objected thereto in our said court, therefore we command you that you cause an action to be entered upon the records of our said court, as of the day of the delivery of this our precept into the office of the prothonotary of our said court, between the said A. B. and the said E. D., so that an issue therein may be formed upon the merits of the controversy between the said parties. and tried in due course, according to the practice of our said courts in actions commenced by writ; and further, that you cause all other persons who may be interested in the estate of the said C. D. as heirs, relations, or next of kin, devisees, legatees, or executors, to be warned, so that they may come into our said court, and become party to the said action, if they shall see cause, and that you certify the result of the trial so had in the premises, into the office of our said Register,

Attest,

G. H. Register of wills of the said county; and the facts established by the trial had and certified to the Regis-

Facts estab-
lished by the
trial not to be
re-examined,
&c.

ter as aforesaid, shall not be re-examined by the said Register, nor upon any appeal from his decision.

SECT. 14. Before any Register shall issue letters of administration, letters testamentary, or of administration, with a will annexed, he shall administer an oath or affirmation to the person or persons receiving the same, in the following form, viz: You do, &c. that as executor of the last will and testament, [or as administrator of the estate of A. B. deceased, as the case may be,] you will well and truly administer the goods and chattels, rights and credits of said deceased, according to law, and also "will diligently and faithfully regard and well and truly comply with the provisions of the law relating to collateral inheritances."

Oaths of executors and administrators,

SECT. 15. It shall be the duty of the said executors and administrators to make a true and perfect inventory of all the goods, chattels and credits of the deceased, as far as they may know or can ascertain them, and exhibit the same into the Registers' office, within thirty days from the time of administration granted, and also a just account and settlement thereof in one year, or when thereunto legally required, *Provided*, That in the case of the will of a decedent, not resident at the time of his decease within this commonwealth, proved in another state, or in a foreign country, whereof letters testamentary or of administration, with the will annexed, may be granted in this state, the inventory and account therein mentioned, shall be of the goods, chattels and credits of the deceased within this commonwealth.

Inventory to be exhibited within 30 days,

Proviso. Non-residents at time of decease.

SECT. 16. Before the Register shall issue letters testamentary to any executor, not being an inhabitant of this Commonwealth, he shall take from him a bond, with two or more sufficient sureties, being inhabitants of this commonwealth, respect being had to the value of the estate to be administered, in the name of the Commonwealth, with the following condition, viz: "the condition of the obligation, is, that if the said A. B., executor of the last will and testament of C. D. deceased, shall make a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, being within this commonwealth, which have come or shall come to his hands, possession or knowledge, or into the hands and possession of any other person for him, and the same so made do exhibit into the office of the Register of the county of _____ within thirty days from the date hereof, and the same goods do well and truly administer, according to law, and make a just and true account of all his actings and doings therein, in one year from the date hereof, or when thereunto lawfully required, and shall well and truly comply with the laws of this Commonwealth relating to collateral inheritances, and in all other respects with the laws of this commonwealth relating to his duty as executor, then this obligation to be void otherwise of force and effect."

Registers to take bonds from executors residing out of the state.

Conditions of the bond.

Will &c. proved, to be recorded and filed.

SECT. 17. All original wills, after probate, and the copies of all original wills produced under the provisions of this act, shall be recorded and filed by the Register of the respective county, and shall remain in his office except when required to be had before some higher tribunal by certiorari, or otherwise, and if removed for such cause they shall be returned in due course to the office where they belong, and the copies of all such and of the probates thereof, under the public seals of the courts or offices where the same may have been or shall be so taken or granted respectively, except copies or probates of such wills and testaments as shall appear to be annulled, disproved or revoked, shall be adjudged and are hereby enacted to be matter of record, and good evidence to prove the gift or devise thereby made.

Copies thereof evidence.

Letters of administration, &c. to be granted when all the executors, refuse, &c.

SECT. 18. Whenever the executors named in any last will and testament, shall all refuse or renounce the trust and execution thereof, the Register having jurisdiction as aforesaid, may receive the probate of such will, and grant letters of administration with it annexed, to the person by law entitled thereto.

Also when a sole or surviving executor dies.

SECT. 19. Whenever a sole executor, or the survivor of several executors, shall die, leaving goods or estate of his testator unadministered, the Register having jurisdiction, shall, notwithstanding such executor may have made his last will and testament, and appointed an executor or executors thereof, grant letters of administration, of all such goods and estate in the same manner as if such executor had died without having made any testament or last will, and the executor of such deceased executor shall in no case be deemed executor of the first testator.

Also when the administration becomes vacant by a decree of the O. C.

SECT. 20. In all cases where the administration of the estate of any decedent shall become vacant, by reason of any decree of the Orphans court, the Register having jurisdiction shall, on being certified thereof, under the seal of the said court, grant new letters, in such form as the case shall require, to the person or persons by law entitled thereto.

Not to be granted after 21 years from decedent's death, except upon cause shown.

SECT. 21. No letters of administration shall in any case be originally granted upon the estate of any decedent, after the expiration of twenty-one years from the day of his decease, except on the order of the Register's court, upon due cause shown.

Shall be granted to the widow.

SECT. 22. Whenever letters of administration are by law necessary, the Register having jurisdiction shall grant them in such form as the case shall require, to the widow, if any, of the decedent, or to such of his relations or kindred as by law may be entitled to the residue of his personal estate, or to a share or shares therein after payment of his debts, or he may join with the widow in the administration,

Or kindred of the decedent.
—Or to both,

such relation or kindred, or such one or more of them, as he shall judge will best administer the estate, preferring always of those so entitled, such as are in the nearest degree of consanguinity with the decedent, and also preferring males to females, and in case of the refusal or incompetency of every such person, to one or more of the principal creditors of the decedent applying therefor, or to any fit person at his discretion: *Provided* That if such decedent were a married woman, her husband shall be entitled to the administration in preference to all other persons: *And provided further*, That in all cases of an administration with a will annexed, where there is a general residue of the estate bequeathed, the right to administer shall belong to those having the right to such residue, and the administration in such case shall be granted by the Register to such one or more of them as he shall judge will best administer the estate.

Or to creditors, &c.

Or to the husband.

Or legatees of a residuo.

SECT. 23. Whenever all the executors named in any last will and testament, or all the persons entitled as kindred to the administration of any decedent's estate, shall happen to be under the age of twenty-one years, it shall be lawful for the Register to grant administration as aforesaid to any other fit person or persons, subject nevertheless to be terminated at the instance of any of the said minors who shall have arrived at the full age of twenty-one years.

Provision for cases where executors are minors.

SECT. 24. It shall be the duty of every Register upon his granting any letters of administration of the goods and chattels of any person dying intestate, to take a bond or bonds from the person or persons receiving such letters, with two or more sufficient sureties, respect being had to the value of the estate, in the name of the commonwealth, with a condition in the following form, viz: "the condition of this obligation is, that if the above bounden A. B., administrator of all and singular the goods, chattels and credits of C. D. deceased, do make or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits, of the said deceased, which have come or shall come to the hands, possession or knowledge of him the said A. B., or into the hands and possession of any other person or persons, for him, and the same so made, do exhibit or cause to be exhibited into the Register's office, in the county of _____ within thirty days from the date hereof, and the same goods, chattels and credits, and all other the goods, chattels and credits of the said deceased, at the time of his death, which at any time after shall come to the hands or possession of the said A. B., or into the hands and possession of any other person or persons for him, do well and truly administer according to law, and further do make, or cause to be made, a just and true account of his said administration, within one year from the date hereof, or when thereunto legally

Registers to take bonds from administrators.

Form of the condition.

required, and all the rest and residue of the said goods, chattels and credits which shall be found remaining upon the said administrator's account, the same being first examined and allowed by the Orphans court of the county having jurisdiction, shall deliver and pay unto such person or persons as the said Orphans' court, by their decree or sentence, pursuant to law, shall limit and appoint, and shall well and truly comply with the laws of this commonwealth relating to collateral inheritances, and if it shall hereafter appear that any last will and testament was made by the said deceased, and the same shall be proved according to law, if the said A. B. being thereunto required, do surrender the said letters of administration into the Register's office aforesaid, then this obligation to be void otherwise to remain in full force:" *Provided*, That in every case of special administration, the form of the foregoing condition shall be modified so as to suit the circumstances of such case.

Proviso.
May be altered in special cases.

Registers to call a Register's court.

For the decision of difficult matters.

And give notice thereof to all concerned.

Of appraisers.

Register granting letters, &c. without bond, liable.

SECT. 25. Where objections are made, or a caveat is entered against the probate of any last will and testament, and no precept for an issue is directed by the Register, into the Common Pleas, as aforesaid; or where objections are made to the granting of letters of administration to any person applying therefor, or where any question of kindred, or other disputable and difficult matter comes into controversy, before any Register, he shall, at the request of any person interested, appoint a Register's court for the decision thereof, to be held at a time certain, and as soon as convenient, at the court house or other public place in the respective county, giving convenient notice of the time and place of holding the same, by citation, or otherwise, to all concerned, as well to the persons interested, as to the judges whose assistance he shall require, and in the mean time he shall do and receive all proper acts preparatory to the business of such court.

SECT. 26. Every executor or administrator shall cause a just appraisement to be made of the goods, chattels and credits of the decedent by two appraisers, of which an inventory is to be made, agreeably to the preceding sections of this act, and the said appraisers shall be sworn or affirmed well and truly, and without prejudice or partiality, to value and appraise said goods, chattels and credits, and in all respects to perform their duty as appraisers, to the best of their skill and judgment.

SECT. 27. If any Register shall grant letters testamentary to any person, not being an inhabitant of this commonwealth, or shall grant any letters of administration to any person or persons whatsoever, without having in either case taken a bond and sureties in the manner hereinbefore prescribed, such letters shall be void, and every person acting under them shall be deemed, and may be sued, and in all

respects treated as an executor of his own wrong, and the Register granting the same, and his sureties, shall be liable to pay all damages which shall accrue to any person by reason thereof. Letters so granted void, &c.

SECT. 28. All bonds taken by any Register in pursuance of this act from any executor or administrator may be excepted to before such Register by any person interested, both in respect of the sufficiency of the sureties therein, and of the sum in which they may be bound. Bonds taken by Registers may be excepted to.

And whenever any such exception shall be so made to any such bond, the Register shall give notice thereof to the executor or administrator, and require him to appear before him in a reasonable time, not exceeding ten days, and shew cause against the allowance of such exception, and if upon the hearing of the objections of all persons interested, and of such executor or administrator, or of such of them as shall appear, such Register shall see cause, he shall order such executor or administrator to find additional sureties, or to give security in a larger amount, as the case may require, and if such executor or administrator shall refuse to comply with such order, or if he shall neglect so to do during the space of thirty days after the making thereof, the Register shall revoke the letters granted to him, and grant other letters, in such form as the case shall require, to the person by law next entitled thereto, they giving to such Register the security by him ordered as aforesaid: *Provided*, That no such exception shall be so made, or proceedings thereunto be had before the Register, after one year elapsed from the time of the filing, of a full and perfect inventory by such executor or administrator of the whole of the estate in question. Registers to give notice of the exception. May order further security. And may revoke letters if not given.

SECT. 29. Every Register, before he shall allow the accounts of any executor or administrator, shall carefully examine the same, and require the production of the necessary vouchers, or other satisfactory evidence of the several items contained in it. Accounts to be vouched before allowance by the Register.

SECT. 30. Every Register having allowed and filed any account in his office, shall prepare and present a certified copy thereof to the Orphan's court of the respective county, at its next stated meeting, being not less than thirty days distant from the time of such filing and allowance, of all which he shall give notice to all persons concerned, in the following manner, viz: by an advertisement enumerating all the accounts to be presented at any one time to the said court, in at least two newspapers (if there be two,) published in the respective county, or if there be but one newspaper published in such county, then in that one, or if there be none, then in one printed one nearest to the said county, at least once a week during the four weeks immediately preceding the meeting of the court at which such account shall Notice of filing to be published by the Register. Manner of publication.

be presented, setting forth in substance that the accountants, (naming them and the character in which they respectively act,) have settled their accounts in the office of the said Register, and that the same will be presented to the Orphan's court for confirmation, at a certain time and place, (mentioning the same,) and also by setting up conspicuously in his office, and in at least six other of the most public places in the county, at least four weeks before the time appointed for the presentation of such accounts as aforesaid, fairly written or printed copies of such advertisements, and the actual expense of such advertisement, according to the usual rates of advertising in such newspapers, and of the setting up of such notices, shall be divided among all the accounts presented at the same court, and the proper proportion thereof only shall be charged in any of the said accounts, and allowed to the Register as the cost of such advertisement and notices.

Costs thereof to be divided among all the accounts.

Appeals from the Register.

Proviso.

Register to make copies of proceedings in his office.

Fees.

Refusal a misdemeanor.

To transmit receipts of the county treasurer to the Auditor General.

To account for and pay annually all moneys received for the commonwealth.

SECT. 31. From all the judicial acts and decisions of the several Registers, appeals may be taken to a Register's court of the respective county to be appointed and called by the respective Register in the manner prescribed by this act: *Provided*, That such appeals be made within the term of three years.

SECT. 32. It shall be the duty of every Register to make and certify, under the seal of his office, true copies of all bonds, inventories, accounts, actings and proceedings whatsoever, remaining in his office, being thereunto required by any person having an interest therein, and to deliver the same within a reasonable time to such person applying therefor, on receiving the fee allowed to him by law for such copy or copies, and if any Register shall refuse, after the tender of his lawful fees, to make or deliver such copy or copies as aforesaid, he shall be deemed guilty of a misdemeanor in office.

SECT. 33. Whenever any receipt given by the treasurer of any county for monies paid to him by any executor or administrator for the use of the commonwealth, under the provisions of the laws relating to collateral inheritances, shall be lodged by such executor or administrator with the Register having jurisdiction of his account, such Register shall without delay record such receipt, and immediately thereupon transmit the same to the Auditor General of this commonwealth.

SECT. 34. Every Register shall annually, in the month of September, account for, under oath or affirmation, to the Auditor General, and pay into the treasury of the commonwealth, all moneys which may have been received by him for the use of the commonwealth during the year immediately preceding the first day of the said month, deducting there-

from such sum only as shall be allowed to him by law for receiving and paying the same.

SECT. 35. Every Register shall annually, in the month of October, render an account, under oath or affirmation to the Auditor General of all fees which shall have been received by him, or by any person employed by him for official acts and services performed in his office, and whenever the amount thereof, as allowed by the Auditor General, shall exceed the sum of fifteen hundred dollars he shall pay one half of the excess into the treasury of the commonwealth.

To settle an account of fees annually and pay, &c.

SECT. 36. On the probate of any will, and the granting of letters testamentary thereon, also on the granting of any letters of administration, every Register shall demand and receive for the use of the commonwealth in each case, the sum of fifty cents.

To demand State tax on certain proceedings.

SECT. 37. The fees to be received by the several Registers shall be as follows, viz: For the probate of a will and letters testamentary thereon, one dollar; for registering the same, for every ten words one cent; for letters of administration seventy-five cents; for bonds taken of executors or administrators one dollar and fifty cents, for filing and entering the renunciation of an executor or administrator, fifty cents; for annexing a will, for every ten words, one cent; for issuing a citation or attachment with seal, fifty cents; for entering a caveat, twenty-five cents; for issuing a commission to take the testimony of witnesses, seventy five cents; for issuing a precept for an issue, thirty-seven and a half cents; for administering an oath or affirmation, six cents; for filing a list of articles appraised, twenty-five cents; for filing a list of articles sold at vendue, twenty-five cents, for examining, passing and filing the account of an executor or administrator two dollars and fifty cents; for advertising executors or administrators accounts, two dollars; for advertising guardian's accounts, one dollar; for every copy if demanded, of such account, not exceeding seventy-five items, with certificate and seal, one dollar, and for every additional item one cent; for entering exceptions to an executors or administrators bond, and hearing the same, fifty cents; for holding Register's court, per day, two dollars; for every search where no other service is performed for which fees are allowed, twelve and a half cents; for certificate and seal fifty cents, for the copy of any bond filed in his office, fifty cents; for commissions on taxes received by him for the use of the commonwealth, on proceedings in his office, three cents on every dollar: *Provided*, That in all cases where the value of the whole estate of the decedent shall not exceed the sum of two hundred and fifty dollars, the Register shall receive in lieu of all fees for official acts hereinbefore specified, to be performed after the letters testamentary of the

Fees of the Registers.

Proviso.

ministration have been granted, the sum of two dollars, and no more.

**How collect-
ed.** **SECT. 38.** Whenever any proceedings before a Register or Register's court shall be wholly ended, and the fees and costs accrued thereon shall remain during the space of thirty days thereafter due and unpaid, such Register may file a bill thereof, under his hand and the seal of his office, in the court of Common Pleas of the county, and upon the docking thereof, an execution may be issued, in the name of the commonwealth, to levy the amount of the said bill, in like manner as executions may issue to levy costs accrued in the courts of common law, and subject in like manner to control and taxation by the said court.

**Register's
court how
constituted.** **SECT. 39.** The Register of wills and the judges of the court of Common Pleas of any county, or any two of the said judges, shall compose and hold, from time to time, as occasion may require, the Register's court of such county, and when convened according to law, shall have all and singular the powers and jurisdictions belonging to such courts, and may and shall do all such judicial acts in all matters lawfully brought before them, as belong and of right ought to belong to the office of said Register, and it shall be the duty of said Register to keep a record of the proceedings of such courts, in a book to be provided by him for the purpose, with a sufficient index thereto, which book shall remain in the Register's office.

**Its jurisdic-
tion.**

And records.

**Testimony
therein to be
taken in writ-
ing.** **SECT. 40.** The testimony of all witnesses examined in any cause litigated before any Register's court, shall be taken in writing, and made a part of the proceedings therein, upon which testimony the court having jurisdiction of such cause by appeal may affirm, reverse, alter or modify the decree of the Register's court.

**Precepts to be
issued for the
trial of facts
in dispute.** **SECT. 41.** Whenever a dispute upon a matter of fact arises before any Register's court the said court shall, at the request of either party, direct a precept for an issue to the court of Common Pleas of the county for the trial thereof, in the form hereinbefore prescribed for the direction of Registers, changing such parts thereof as should be changed, according to the circumstances of the case; and the facts established by the verdict returned shall not be re-examined on any appeal.

**Appeals from
the Register's
court to the
supreme
court.** **SECT. 42** Any party aggrieved by the final sentence or decree of any Register's court, or his legal representatives, in any case where the sum mentioned in such sentence or decree, or the sum or matter in controversy shall exceed one hundred and fifty dollars in value, may appeal therefrom to the Supreme court, but no appeal from any decree of such court, concerning the validity of a will, or the right to administer, shall suspend the power or prejudice the acts of any administrator, nor of any executor who shall have given

sufficient security to the Register for the faithful administration of his trust, and in case of the refusal of such executor to give such security, the said Register shall grant letters of administration during the dispute, which shall suspend the power of such executor during that time: *Provided always*, That such appeal be made within the term of one year from the time of pronouncing such final sentence or decree. Proviso.

SECT. 43. No immaterial variation from the forms given and prescribed in and by this act shall vitiate or render void any proceedings in which said forms shall be used. Slight discrepancies not to affect proceedings.

SECT. 44. From and after the passage of this act all bonds given or hereafter to be given, by executors, administrators and guardians, shall be held in trust for the use of the commonwealth, and such person or persons as may be interested therein, and suits may be brought thereon from time to time, by all persons interested therein, in the same manner and with like effect as is now allowed in the case of sheriff's bonds, by the fourth section of the act entitled "An act directing sheriffs and coroners to give sufficient sureties for the faithful execution of their official duties, and for other purposes," passed the twenty-eighth day of March, eighteen hundred and three. Bonds to be given and held under the act of 28th March, 1803.

SECT. 45. This act shall take effect on the first Monday of August next, and so much of any law as is hereby altered or supplied, is hereby repealed from that period. Time of operation. Repealing clause.

JOHN LAPORTE,
Speaker of the House of Representatives.

W. M. G. HAWKINS,
Speaker of the Senate.

APPROVED—The fifteenth day of March, Anno Domini, eighteen hundred and thirty-two.

GEO. WOLF.

No. 81.

AN ACT

Relative to constables and supervisors in certain townships and boroughs.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That so much of the act of the twentieth of March,