

tary or of administration with a will annexed may be granted thereon as though the original will had been offered before such register. If, in addition to such copy, there shall be produced a duly authenticated copy of the record of the probate proceeding of the original instrument, the will shall be entitled to probate in this Commonwealth and appropriate letters shall be issued thereon without the production or examination of the witnesses to prove such will, unless *the will was probated outside of the United States* and the record shows or it is satisfactorily proved that an essential requirement of Pennsylvania law for a valid will has not been met. [In such event] *If the will was probated outside of the United States*, the probate proceedings may be supplemented by the submission of additional evidence to the register.

Effective date.

Section 2. This act shall take effect January one, one thousand nine hundred fifty-six.

APPROVED—The 10th day of February, A. D. 1956.

GEORGE M. LEADER

No. 322

AN ACT

Amending the act of August ten, one thousand nine hundred fifty-one (Pamphlet Laws 1163), entitled, as amended, "An act relating to the orphans' court; conferring exclusive jurisdiction on such courts over the administration and distribution of decedents' estates, trust estates, minors' estates, and absentees' estates; conferring concurrent jurisdiction over the administration and distribution of incompetents' estates and the determination of title to real estate in certain cases; providing for the organization of orphans' courts, the procedure therein, the powers and duties of the judges thereof, and appeals therefrom," conferring exclusive jurisdiction on orphans' courts (except the orphans' courts of Philadelphia County) over the administration and distribution of incompetents' estates, and on the orphans' court of Philadelphia County over inter vivos trusts, and revising the procedure on and effect of jury trials and the availability of jurors.

Orphans' Court  
Act of 1951.

The title, act of  
August 10, 1951,  
P. L. 1163,  
amended July 28,  
1953, P. L. 690,  
further amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title, act of August ten, one thousand nine hundred fifty-one (Pamphlet Laws 1163), known as the "Orphans' Court Act of 1951," amended July twenty-eight, one thousand nine hundred fifty-three (Pamphlet Laws 690), is amended to read:

AN ACT

Relating to the orphans' [court] *courts*; conferring exclusive jurisdiction on such courts over the administration and distribution of decedents' estates, trust estates, minors' estates, [and] absentees' estates

[; conferring concurrent jurisdiction over the administration and distribution of] *and (except in Philadelphia County)* incompetents' estates and the determination of title to real estate in certain cases; providing for the organization of orphans' courts, the procedure therein, the powers and duties of the judges thereof, and appeals therefrom.

Section 2. Section one hundred two of the act is amended by adding, at the end, a new clause to read:

Section 102, act of August 10, 1951, P. L. 1163, amended by adding a new clause (7).

Section 102. Definitions.—The following words, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

\* \* \* \* \*

(7) An "incompetent" is any person who has been adjudged unable to manage his property.

Section 3. Section three hundred one of the act is amended to read:

Section 301, act of August 10, 1951, P. L. 1163, amended.

Section 301. Exclusive Jurisdiction.—The orphans' court shall have exclusive jurisdiction of:

(1) Decedents' Estates. The administration and distribution of the real and personal property of decedent estates.

(2) Testamentary Trusts. The administration and distribution of the real and personal property of testamentary trusts whether created before or after the effective date of this act, except any testamentary trust created before the effective date of the Fiduciaries Act of 1917, jurisdiction of which already has been acquired by another Pennsylvania court. Another court which has acquired jurisdiction of the trust may transfer it to the orphans' court.

(3) Inter Vivos Trusts. The administration and distribution of the real and personal property of inter vivos trusts whether created before or after the effective date of this act, except any inter vivos trust created before the effective date of this act, jurisdiction of which already has been acquired by another Pennsylvania court. Another court which has acquired jurisdiction of the trust may transfer it to the orphans' court. [The jurisdiction of the orphans' court of Philadelphia County over the administration and distribution of the real and personal property of inter vivos trusts shall be concurrent with the several courts of common pleas as heretofore.]

(4) Minors' Estates. The administration and distribution of the real and personal property of minors' estates.

(4.1). *Incompetents' Estates.* *The administration and distribution of the real and personal property of the estates of incompetents, except where jurisdiction thereof already has been acquired by another Pennsylvania court before the effective date of this act. Another court which has acquired jurisdiction of the estate may transfer it to the orphans' court. The jurisdiction of the orphans' court of Philadelphia County over the administration and distribution of the real and personal property of the estates of incompetents shall be concurrent with the several courts of common pleas as heretofore.*

(5) *Absentees' and Presumed Decedents' Estates.* The administration and distribution of the real and personal property of absent persons and of presumed decedents.

(6) *Fiduciaries.* The appointment, control, settlement of the accounts of, removal and discharge of, and allowance to and allocation of compensation among, all fiduciaries of estates and trusts of which the court has jurisdiction, except that the grant of letters testamentary and of administration to personal representatives shall remain within the jurisdiction of the register as heretofore.

(7) *Guardian of Persons of Minors.* The appointment, control and removal of the guardian of the person of any minor.

(8) *Custody of Minors.* The determination of the right to the custody of a minor in connection with any proceeding for his adoption or for the appointment of a guardian of his person.

(9) *Specific Performance of Contracts.* To enforce specifically the performance by either party of any agreement made by a decedent to purchase or sell real or personal property.

(10) *Legacies, Annuities and Charges.* Proceedings for the enforcement of legacies, annuities and charges placed on real or personal property by will, inter vivos trust, or orphans' court decree, or for the discharge of the lien thereof.

(11) *Construction of Administrative Power.* The construction of an administrative power as to real estate proposed to be exercised by a fiduciary subject to the jurisdiction of the orphans' court.

(12) *Disposition of Title to Real Estate to Render It Freely Alienable.* The disposition of any interest in real estate of one disabled from dealing with it when

title to it has been acquired by descent or will, or is in an estate or trust subject to the jurisdiction of the orphans' court.

(13) Title to Personal Property. The adjudication of the title to personal property in the possession of the personal representative, or registered in the name of the decedent or his nominee, or alleged by the personal representative to have been in the possession of the decedent at the time of his death.

(14) Appeals and Proceedings from Registers. Appeals from and proceedings removed from registers.

(15) Birth Records. Matters relating to birth records, as provided by law.

(16) Adoptions. Adoptions, as provided by law.

(17) Marriage Licenses. Marriage licenses, as provided by law.

(18) Inheritance and Estate Taxes. Matters relating to inheritance and estate taxes, as provided by law.

The provisions of clauses (8) and (16), in so far as they relate to adoptions, shall not apply to the Orphans' Court of Philadelphia County. Exclusive jurisdiction in the matter of adoptions shall remain in the Municipal Court of Philadelphia.

Section 4. Section three hundred two of the act, amended July twenty-eight, one thousand nine hundred fifty-three (Pamphlet Laws 690), is amended to read:

Section 302, act of August 10, 1951, P. L. 1163, amended July 28, 1953, P. L. 690, further amended.

Section 302. Concurrent Jurisdiction; *Title to Real Estate*.—The orphans' court shall have concurrent jurisdiction [of] to [(1) Title to Real Estate. The determination of] *determine* the persons to whom the title to real estate of a decedent or of the creator of an estate or trust subject to the \*jurisdiction of the orphans' court has passed by devise or descent or by the terms of the trust instrument: Provided, That nothing herein shall be construed to restrict the exclusive jurisdiction of the orphans' court to distribute real estate in an estate or trust within its jurisdiction.

[(2) Incompetents' Estates. The administration and distribution of the real and personal property of incompetents' estates, except when the jurisdiction thereof has been acquired by another Pennsylvania court. Another court which has acquired jurisdiction of the incompetent's estate may transfer it to the orphans' court.]

\* "jurisdiction" in original.

Sections 744, 745  
and 746, act of  
August 10, 1951,  
P. L. 1163,  
amended.

Section 5. Sections seven hundred forty-four, seven hundred forty-five and seven hundred forty-six of the act are amended to read:

Section 744. Testimony in Proceedings Removed From Register.—On appeal from the register, or in a proceeding removed from the register, the court may find, upon the testimony taken before the register, that a substantial dispute of fact exists and [require a jury to decide the issue of fact. In all other cases] *grant a jury trial. When upon the testimony taken before the register a jury trial is not granted*, the court shall hear the testimony de novo unless all parties appearing in the proceeding agree that the case be heard on the testimony taken before the register. In any event, the court may require witnesses already examined and other witnesses to appear before it. *The court, in its discretion, may impanel a jury at any stage of the proceedings.*

Section 745. Jury Trial.—

(a) Will Contest. When a substantial dispute of fact shall arise concerning the validity of a writing alleged to be testamentary, any party in interest shall be entitled to a trial of this fact by a jury, *but the verdict of the jury shall be conclusive only if the court is satisfied with the justness of it on the basis of all the evidence. If the court is not so satisfied, it may set aside the verdict, grant a new trial or enter such other judgment as satisfies its conscience.*

(b) Title to Property. When a substantial dispute of fact shall arise concerning the decedent's title to property, real or personal, any party in interest shall be entitled to a trial of [this fact] *such issue* by a jury. *The verdict of the jury shall have the same effect as the verdict of a jury in a case at law in a court of common pleas.*

(b.1) Determination of Incompetency. *Any person against whom proceedings have been instituted to establish his incompetency shall be entitled to a trial of such issue by a jury. The verdict of the jury shall have the same effect as the verdict of a jury in a case at law in a court of common pleas.*

(c) Waiver of Right. [A person entitled to a trial by jury may make demand in writing therefor prior to the hearing of the issues of fact. The right to trial by jury is waived if such a demand is not so made, or if the person claiming the right fails to appear at the hearing or fails to object to trial by the court before the introduction of evidence is commenced.] *A person desiring a trial by jury shall make demand therefor, in writing, at least ten days prior to the initial hearing before the court, or if the initial hearing is dispensed with as pro-*

*vided in section 746 (a.1) then at least ten days prior to the trial. The right to trial by jury is waived if such demand is not so made or, after having been made, the person claiming the right fails to appear.*

(d) When Not of Right. When there is no right to trial by jury or when the right is waived, the court in its discretion may require a jury to decide any issue of fact, [and the verdict in such case shall have the same effect as though a trial by jury had been allowed as a matter of right to a party in interest] *but the verdict shall be conclusive only if the court is satisfied with the justness of it on the basis of all the evidence. If the court is not so satisfied, it may set aside the verdict, grant a new trial, or enter such other judgment as satisfies its conscience.*

#### Section 746. Trials in the Orphans' Court.—

(a) Jury. Jury trials in any case begun before or certified or appealed to the orphans' court shall be tried in the orphans' court. The court shall draw a jury and preside at the trial of the issue and shall have all the powers of a judge in trials by jury in cases at law in the court of common pleas. The panel of jurors drawn for service in the common pleas, [court] *quarter sessions \*and oyer and terminer and general jail delivery courts* of the county in which the orphans' court is located, shall be available for such service in the orphans' court when required, and in counties where there is a separate orphans' court, the orphans' court, and the [court] *courts of common pleas, quarter sessions and oyer and terminer and general jail delivery*, shall, by appropriate rules, provide for and regulate the manner in which the jurors shall be made available and sent to the orphans' court when required for the trial of issues therein.

*(a.1). In any case begun before or certified or appealed to the orphans' court, the court may, on its own motion or on motion of a party and with reasonable notice to all parties, (1) combine the hearing to determine whether a substantial dispute of fact exists with the trial to determine the dispute, and impanel a jury before determining whether or not a substantial dispute of fact exists, and (2) combine the hearing and trial on all wills, the issues in regard to which are closely interrelated. The court may withdraw the case from the jury, if the court determines that no substantial dispute of fact exists.*

(b) Rules of Court. Unless and until the orphans' court otherwise directs, the appropriate rules of the common pleas court of the same county shall apply to

\* "or" in original.

jury trials of issues in the orphans' court, and matters relating to such trials shall be heard and disposed of by the orphans' court.

[(c) Effect of Verdict. The verdict of the jury in the orphans' court shall have the same effect as the verdict of a jury in a case at law in a court of common pleas.]

Act effective  
January 1, 1956.

Section 6. This act shall take effect January one, one thousand nine hundred fifty-six.

APPROVED—The 10th day of February, A. D. 1956.

GEORGE M. LEADER

No. 323

AN ACT

Amending the act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," limiting reimbursement for depreciation to school districts using their own vehicles in pupil transportation.

Public School  
Code of 1949.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

The first paragraph, section 2541, act of March 10, 1949, P. L. 30, amended April 14, 1949, P. L. 456, and May 11, 1949, P. L. 1195, further amended.

Section 1. The first paragraph of section two thousand five hundred forty-one, act of March ten, one thousand nine hundred forty-nine (Pamphlet Laws 30), known as the "Public School Code of 1949," amended April fourteen, one thousand nine hundred forty-nine (Pamphlet Laws 456), and May eleven, one thousand nine hundred forty-nine (Pamphlet Laws 1195), is amended to read:

Section 2541. *Payments on Account of Pupil Transportation.*—School districts shall be paid by the Commonwealth for every school year on account of pupil transportation which, and the means and contracts providing for which, have been approved by the Department of Public Instruction, in the cases hereinafter enumerated, an amount to be determined by multiplying the cost of approved reimbursable pupil transportation incurred by the district by the district standard reimbursement fraction. In addition thereto, the Commonwealth shall pay to school districts which own their own vehicles, an annual depreciation charge of ten per centum (10%), to be calculated on the basis of the [certified] *approved* cost at which the district acquired the vehicle for which depreciation is claimed. *With*