

Section 4. The provisions of this act shall become **Act effective immediately.**  
effective immediately upon final enactment.

APPROVED—The 10th day of August, A. D. 1951.

JOHN S. FINE

No. 263

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; providing for the organization of orphans' courts, the procedure therein, the powers and duties of the judges thereof, and appeals therefrom.

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Orphans' Court  
Act of 1951.

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

## ARTICLE I.

## PRELIMINARY PROVISIONS.

Section 101. Short Title.—This act shall be known and may be cited as the Orphans' Court Act of 1951.

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:

(1) "Clerk" means the clerk of the orphans' court having jurisdiction.

(2) "Court" means the orphans' court having jurisdiction.

(3) "Register" means the register of wills having jurisdiction to grant letters testamentary or of administration.

(4) "Fiduciary" includes personal representatives, guardians, and trustees, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the orphans' court.

(5) "Trust" means any trust, whether testamentary or inter vivos, subject to the jurisdiction of the orphans' court.

(6) "Inter vivos trust" means an express trust other than a trust created by a will, taking effect during the lifetime or at or after the death of the settlor. It includes:

(i) A life insurance trust;

(ii) A trust created under a deed, agreement, or declaration except as hereinafter excluded;

(iii) A common trust fund or mortgage investment fund created by a corporate fiduciary for the investment of funds held by it as fiduciary or co-fiduciary;

(iv) A tentative trust; and

(v) Similar trusts.

It does not include:

- (vi) A resulting or constructive trust created by operation of law;
- (vii) A trust for creditors;
- (viii) An escrow relationship;
- (ix) A temporary trust to hold disputed property;
- (x) A principal and agent relationship;
- (xi) A trust primarily for the benefit of business employees, their families or appointees, under a stock bonus, pension, disability or death benefit, profit-sharing or other employee benefit plan;
- (xii) A trust for bondholders;
- (xiii) A mortgagee in possession relationship; and
- (xiv) Similar trusts or fiduciary relationships.

Section 103. *Effective Date.*—This act shall take effect on the first day of January, one thousand nine hundred and fifty-two.

Section 104. *Severability.*—If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this act are declared to be severable.

## ARTICLE II.

### ORGANIZATION OF ORPHANS' COURT.

Section 201. *Orphans' Court in Every County.*—In each county of the Commonwealth there shall continue to exist, as heretofore, a court of record, which shall be called "The Orphans' Court of ..... County."

Section 202. *Counties Having Separate Orphans' Courts.*—The separate orphans' courts heretofore established shall continue to exist in the Counties of Allegheny, Berks, Cambria, Dauphin, Delaware, Erie, Fayette, Lackawanna, Lancaster, Lehigh, Luzerne, Montgomery, Philadelphia, Schuylkill, Washington, Westmoreland, and York. Each separate orphans' court shall have the number of judges provided by law.

Section 203. *Counties Having No Separate Orphans' Courts.*—The orphans' court of each county in which no separate orphans' court is established shall be composed of the judges of the court of common pleas of that county.

Section 204. *Court of Record; Seal.*—The orphans' court of each county, whether separate or not, shall be a court of record with all the qualities and incidents of a court of record at common law. Its proceedings and decrees in all matters within its jurisdiction shall not be reversed or avoided collaterally in any other court,

but they may be reversed, modified or altered on appeal. Each orphans' court shall have a seal engraved with the same device as is on the great seal of the Commonwealth and with the name of the court.

Section 205. Sessions; Terms.—Each orphans' court shall be in session as often as its judges shall think necessary or proper. There shall be no terms of the orphans' court.

Section 206. Rules.—Rules and forms of procedure, not inconsistent with the Constitution and laws of the Commonwealth and with rules of the Supreme Court, may be made and prescribed by each orphans' court for the conduct of proceedings before it.

### ARTICLE III.

#### JURISDICTION.

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 decedents' 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.

(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 302. Concurrent Jurisdiction.—Title to Real Estate.—The orphans' court shall have concurrent jurisdiction of the determination of 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.

Section 303. Conflict of Laws.—Nothing contained in this act shall be construed to interfere with the rules of law applicable to the determination of the question whether Pennsylvania courts have jurisdiction of the subject matters enumerated in this act.

Section 304. Incidental Powers.—The orphans' court shall have all legal and equitable powers required for or incidental to the exercise of its jurisdiction.

Section 305. Venue of Decedents' and Minors' Estates.—When a Pennsylvania orphans' court has jurisdiction of a decedent's or a minor's estate, except as otherwise provided by law, the venue for all purposes shall be as follows:

(1) Decedents' Estates. In the case of a decedent's estate, in the county where the letters are granted to the personal representative, and in the absence of such letters, then where the decedent had his last family or principal residence, and if the decedent had no domicile in the Commonwealth, then in any county where any of his property is located.

(2) Minors' Estates. In the case of a guardian of a minor appointed by the court, in the county whose court appointed the guardian. In the case of a guardian of a minor not appointed by the court, or when there is a minor's estate but no guardian, in the county whose court which at the time proceedings are first initiated would have jurisdiction to appoint a guardian of the estate.

Section 306. Venue of Trust Estates.—When a Pennsylvania orphans' court has jurisdiction of any trust, testamentary or inter vivos, except as otherwise provided by law, the venue for all purposes shall be in the county where at the time being is the situs of the trust. The situs of the trust shall remain in the county of the court which first assumed jurisdiction of the trust, unless and until such court shall order a change of situs under the provisions of this act.



Section 307. Situs of Testamentary Trust.—The situs of a testamentary trust shall be in the county where letters were granted to the personal representative, and in the absence of such letters, then in a county where such letters could have been granted, and if no such letters could have been granted, then in a county in which any trustee resides or is located.

Section 308. Situs of Inter Vivos Trust.—

(a) When Provided For in Trust Instrument. If the trust instrument expressly provides for the situs of the inter vivos trust, its situs shall be at the place within or without the Commonwealth which is in accord with such provision.

(b) Not Provided For in Trust Instrument. If the trust instrument does not expressly provide for the situs of the inter vivos trust, its situs shall be:

(1) Resident Settlor. In the case of an inter vivos trust whose settlor is domiciled in the Commonwealth (i) in the settlor's lifetime, either in the county of his principal residence or in the county in which any of the trustees resides or is located, and (ii) after the settlor's death, either in the county in which letters have been granted to his personal representative, or in a county in which letters could have been granted, or in a county in which any trustee resides or is located.

(2) Nonresident Settlor. In the case of an inter vivos trust whose settlor (i) is not domiciled in the Commonwealth at the time when during his lifetime the first application is made to a court concerning the trust, or (ii) was not domiciled in the Commonwealth at his death if the first application to a court concerning the trust was made thereafter, in a county in which any trustee resides, and if there is no such trustee, then in a county where property of the trust is located.

Section 309. Change of Situs—Order of Court.—A court having jurisdiction of a testamentary or inter vivos trust, on application of a trustee or of any party in interest, after such notice to all parties in interest as it shall direct and aided if necessary by the report of a master, and after such accounting and such provision to insure the proper payment of all taxes to the Commonwealth and any political subdivision thereof as the court shall require, may direct, notwithstanding any of the other provisions of this act, that the situs of the trust shall be changed to any other place within or without the Commonwealth if the court shall find the change necessary or desirable for the proper administration of the trust. Upon such change of situs becoming effective by the assumption of jurisdiction by another court, the jurisdiction of the court as to the trust shall cease and thereupon the situs of the trust for all purposes shall be as directed by the court.

## ARTICLE IV.

## JUDGES.

Section 401. Powers.—Any judge of an orphans' court, learned in the law, whether or not the court is separate and whether or not it consists of more than one judge, may hear and determine all matters of which the court has jurisdiction. His determination thereof shall be a final decree, unless exceptions thereto are authorized by rule of court or the decree discloses that it is not intended as such.

Section 402. Sitting in Other Courts.—Subject to regulation by the Supreme Court, any judge of an orphans' court may hear and determine any matter in any court of record except an appellate court with state-wide jurisdiction on call by the president judge of the court in which he is to sit, and any judge of a court of common pleas may hear and determine any matter in an orphans' court on call by its president judge. A judge shall not be required to accept any such call.

Section 403. Powers When the Court is Not in Session.—Any judge of an orphans' court, learned in the law, shall have power, whether or not the court is in session, to administer *ex parte* business and to issue process.

Section 404. When President Judge Unable to Act.—Whenever the president judge of an orphans' court is unable to act, the judge next oldest in commission who is able to act shall have the powers of the president judge.

## ARTICLE V.

## CLERK; SHERIFF.

## A. Clerk.

Section 501. Duties.—The clerk shall have custody of the records and of the seal of the court, shall faithfully perform, under the direction of the court, all the duties of his office, and may appoint an assistant clerk or clerks, but only with the consent and approval of the court. He shall attest in the name of the president judge alone all process, subpoenas, certificates, copies of records and other documents which shall be issued out of the court.

Section 502. Dockets.—The clerk shall keep in the dockets provided for that purpose a record of all proceedings of the court. Local rules may prescribe the recording of all or parts of instruments filed with the court or the clerk, or may prescribe that any instrument be filed in duplicate, and that the duplicates be bound into volumes and preserved in lieu of recording, or may prescribe that any instrument be copied by photographic or other mechanical process.

Section 503. Bill of Costs.—Each orphans' court may establish a bill of costs to be charged for the services of the clerk not otherwise provided for by law.

Section 504. Translation of Foreign Language Documents.—A writing not in English shall not be filed in the court or in the office of the clerk unless there is attached to it and filed with it a translation into English sworn to be correct. A writing filed in violation of this section shall not constitute notice to any person.

Section 505. Advertisement of Accounts.—

(a) Requirement of Notice—Contents of Notice. The clerk shall give notice by advertisement of the time when accounts filed with him and with the register will be presented to the court for confirmation, stating in the advertisement the names and capacities of the respective accountants.

(b) Manner of Advertisement. The notice shall be advertised at least once a week during the four weeks immediately preceding the time for presentation of the accounts to the court in the case of accounts filed with the register, and at least once a week during the two weeks immediately preceding the time for presentation of the accounts to the court in the case of accounts filed with the clerk—

(1) In the legal publication, if any, designated by rule of court for the publication of legal notices, and

(2) In at least one newspaper of general circulation published within the county, and if no such newspaper is published in that county, then in one such newspaper published nearest to that county.

(c) Cost of Advertisement. The expense of the advertisement and of the proof thereof shall be charged to the estate or trust and allowed to the clerk, who shall pay the publication costs to the newspapers upon delivery of the proofs of publication.

Section 506. Money Paid Into Court.—The clerk shall have custody of all funds paid into court. Pending the distribution thereof, the clerk may invest the funds but shall have no duty to do so. Any such investment, except as the court shall otherwise direct, shall be restricted to obligations of the United States or the United States Treasury, or of the Commonwealth.

### B. Sheriff.

Section 511. Powers and Duties.—The sheriff shall serve process and execute orders directed to him pursuant to the provisions of this act.

Section 512. Fees.—The fees and allowances of the sheriff shall be as provided by law or in the absence thereof as fixed by rule of court.

## ARTICLE VI.

MASTERS, AUDITORS, EXAMINERS, GUARDIANS AD LITEM  
AND TRUSTEES AD LITEM.

Section 601. Appointment; Purpose.—The court may appoint:

(1) Masters. A master to investigate any issue of fact and to report his findings of fact, conclusions of law and recommendations to the court.

(2) Auditors of Accounts of Fiduciaries. Except in the circumstances prohibited by law, an auditor to examine and audit an account and to determine distribution.

(3) Auditors to State Accounts. An auditor to state an account when a proper account cannot be obtained from a fiduciary or other person required to state an account.

(4) Examiners of Assets. By general rule or special order, an examiner or examiners to make periodic or special examination of assets of estates or trusts, and to require all persons in whose custody or control such assets may be held to present them for examination.

(5) Guardians and Trustees Ad Litem. On petition or on its own motion, a guardian or a trustee ad litem to represent the interest, not already represented by a fiduciary, of (i) a person not sui juris, or (ii) an absentee, or (iii) a presumed decedent, or (iv) an unborn or unascertained person.

Section 602. Compensation.—Any person appointed by the court as master, auditor, examiner, guardian ad litem, or trustee ad litem, shall be compensated by reasonable fees fixed by the court and paid from such source as the court shall direct.

Section 603. Subpoenas.—Masters, auditors and examiners shall have the power to issue subpoenas with or without a clause of duces tecum to witnesses to appear before them when necessary for the performance of any of their duties. If any person who has been duly subpoenaed fails to obey the subpoena, the master, auditor or examiner issuing the subpoena may report the neglect or refusal to the court. The court upon receiving such report shall have power to issue an attachment in the same manner as is provided in the case of subpoenas issued by it.

Section 604. Power to Administer Oaths.—Masters, auditors and examiners shall have the power to administer oaths to parties and witnesses.

## ARTICLE VII.

## PROCEDURE.

## A. Institution of Proceedings and Original Process.

Section 701. Petitions.—All applications to the court

shall be by petition in the form prescribed by rules of the Supreme Court.

Section 702. Accounts.—The court may decide or dispose of any question relating to the administration or distribution of an estate or trust and exercise any of its powers in respect thereof upon the filing of an account or in any other appropriate proceeding. The account may be a complete accounting of the estate or trust or of only the transactions which raise the question to be determined.

Section 703. Writs of Habeas Corpus.—In any proceeding for the adoption of a minor or for the appointment of a guardian of his person, the court may award a writ of habeas corpus.

Section 704. Citation.—Jurisdiction of the person shall be obtained by citation to be awarded by the court upon application of any party in interest. The citation shall direct the party named therein to file a complete answer under oath to the averments of the petition on or before a day certain, which shall be not less than ten days after the service thereof, and to show cause as the decree of the court shall provide.

Section 705. Service of Citation.—A citation to obtain jurisdiction of a person may be served by any adult person, or by the sheriff of the county wherein the citation issued, or by deputization of the sheriff of the county where the service may be had in any county of the Commonwealth, in the same manner as a writ of summons in an action of assumpsit in the court of common pleas. When no other time is specially fixed by the court, the order awarding the citation shall be void unless the citation is issued within six months.

Section 706. Proof of Service.—Proof of service shall be by affidavit of the person or the return of the sheriff making service, and shall set forth the same information as a sheriff's return in an action of assumpsit.

#### B. Notice.

Section 711. Manner of Service; Proof.—Notice of any proceeding in the court may be given within or outside the Commonwealth by personal service, by registered mail, by publication, or otherwise, as the court shall direct by general rule or special order. Notice may be in the form of a citation served as provided in this section.

#### C. Action Upon Default of Respondent.

Section 721. Power of Court.—Should the respondent fail to comply with the requirements of any citation or notice, the court, upon proof of service thereof, shall have the power to make such order as may be just and necessary.

## D. Summary Decree; Injunction.

Section 731. Decree Without Prior Hearing—Attachment—Sequestration.—The court, without a prior hearing, may allow the issuing of a writ of attachment of the person or a writ of sequestration, or both, against any one who the court is satisfied is about to leave the Commonwealth or conceals his whereabouts to the prejudice of the complainant or to an estate or trust within the jurisdiction of the court. On the return of the writ the court may proceed as on the return of a citation or make such order as it shall deem appropriate. An attachment or sequestration issued without a prior hearing may be dissolved at any time by the court upon the respondent's giving security, to the satisfaction of the court, for his appearance on a day certain to answer the petition and to abide the orders and decrees of the court in the premises.

Section 732. Injunctions.—The court may issue injunctions for the protection of property within its jurisdiction in the same manner as the court of common pleas of the same county.

## E. Witnesses; Evidence; Hearings; Trials.

Section 741. Subpoenas.—The court may issue subpoenas with or without a clause of duces tecum into any county of the Commonwealth to witnesses to appear before it or any master, auditor, or examiner appointed by it.

Section 742. Depositions and Discovery.—The court, by general rule or special order, may prescribe the practice relating to depositions, discovery, and the production of documents. To the extent not provided for by general rule or special order, the practice relating to such matters shall conform to the practice in the local court of common pleas.

Section 743. Perpetuation of Testimony and Court Records.—The court, by general rule or special order, may prescribe the practice relating to the perpetuation of testimony and to the perpetuation of lost or destroyed court records. When proved, such court records shall have the same legal effect as original records would have had. Notice of proceedings for the perpetuation of testimony and for the perpetuation of lost or destroyed court records shall be given in such manner as the court shall direct.

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, 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.

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.

(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 by a jury.

(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.

(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.

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 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 of common pleas 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.

(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 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.

#### F. Enforcement of Orders and Decrees.

Section 751. Methods of Enforcement.—Compliance with an order or decree of the court may be enforced by—

- (1) attachment of the person;
- (2) sequestration of real or personal property;
- (3) execution on personal property;
- (4) attachment execution; or
- (5) execution on real estate.

Section 752. Procedure on Attachment of the Person.—

(a) Direction of Writs. A writ of attachment of the person shall be directed to and executed by the sheriff of the county in which the court is located or of any county where the person to be attached is located.

(b) Discharge of Person Attached for Contempt. Any person attached for contempt may be discharged from custody by the court upon purging himself of contempt to the satisfaction of the court by whose order he was attached.

Section 753. Procedure on Sequestration of Real or Personal Property.—A writ of sequestration of real or personal property of an estate or trust, or of the respondent, to enforce an order or decree of the court in the administration of the estate or trust shall be allowed by the court as fully as in any court of equity, and shall be directed to and executed by the sheriff of the county in which the court is located or of any county where property to be sequestered is located. The court, by general rule or special order, may prescribe the practice relating to sequestration of real and personal property. To the extent not provided for by general rule or special order, the practice relating to sequestration shall conform to the practice in the local court of common pleas.

Section 754. Procedure on Execution on Personal Property.—Writs of execution on personal property shall be allowed by the court and directed to and executed by the sheriff of the proper county. The proceedings thereon shall be the same as on execution on personal property issued out of the court of common pleas of the same county.

Section 755. Procedure on Attachment Execution.—Writs of attachment execution shall be allowed by the court and directed to and executed by the sheriff of the proper county. The proceedings thereon shall be the same as attachment executions issued out of the court of common pleas of the same county.



Section 756. Procedure on Execution on Real Estate.—

(a) Filing in Common Pleas. The prothonotary of any court of common pleas shall, on demand of the fiduciary or of any party in interest, file and docket a certified transcript or extract from the record showing that an orphans' court has adjudged an amount to be due by any person, and such transcript or extract shall constitute a judgment against such person from the time of its filing with the same effect as if it had been obtained in an action in the court of common pleas. If the amount adjudged to be due shall be increased or decreased on appeal, the prothonotary shall, if the decree of the appellate court is certified to him, change his records accordingly, and if the appellate court has increased the amount, the excess shall constitute a judgment from the time when the records are so changed.

(b) Satisfaction and Discharge. If the orphans' court shall order such person to be relieved from any such judgment, the prothonotary shall, on demand of any party in interest, enter on his records a certified copy of such order, which shall operate as a satisfaction of the judgment.

(c) Executions. Execution may be issued on the judgment out of the court of common pleas against the real estate of such respondent by any interested party for the recovery of so much as may be due to him, in the same manner as upon a judgment rendered by the court of common pleas.

#### G. Costs.

Section 761. Allowance and Allocation.—The allowance and allocation of costs incident to proceedings before the court or to the administration of estates or trusts within the jurisdiction of the court shall be as now or hereafter provided by law, and in the absence thereof, as fixed by the court by general rule or special order.

#### H. Appeals.

Section 771. Right of Appeal.—Any party in interest who is aggrieved by a final order or decree of the orphans' court, or a fiduciary whose estate or trust is so aggrieved, may appeal therefrom to the proper appellate court. An appeal in like manner may be taken from a decree of distribution of the orphans' court which is not final within the meaning of this section, provided the orphans' court shall certify that the decree is sufficiently definite to determine the substantial issues between the parties.

Section 772. Effect of Appeal.—No appeal from an order or decree of an orphans' court concerning the

validity of a will or the right to administer shall suspend the powers or prejudice the acts of a personal representative acting thereunder. The reversal or modification of any decree of an orphans' court in a proceeding in which the court has jurisdiction of the sale, mortgage, exchange or conveyance of real or personal estate shall not divest any estate or interest acquired thereunder by a person not a party to the appeal.

Section 773. Disposition of Cases on Appeal.—The Supreme and Superior Courts of the Commonwealth shall, in all cases of appeal from a decree of the orphans' court, hear, try and determine the same as to right and justice may belong, and decree according to the equity thereof, and may place or allocate the record costs, including printing costs, upon an appellant or appellee or upon the estate or trust.

#### ARTICLE VIII.

##### REPEALER.

Section 801. (a) Specific Repeals.—The following acts and parts of acts and all amendments of each are hereby repealed as respectively indicated:

(1) Section four of the act, approved the eleventh day of April, one thousand eight hundred forty-eight (Pamphlet Laws 506), entitled "An act to establish a uniform line along the river Delaware, in front of the incorporated districts of the Northern Liberties and Kensington, in reference to county bridges, changing the name of Andrew Jackson Glarfke, to Andrew G. Jackson, to issuing subpoenas for witnesses by auditors, exempting the real estate of the Pennsylvania society for promoting the abolition of slavery, from taxation, in reference to fees of constables in Schuylkill county, in reference to the removal of the barn of Amos George, in the township of Blockley, county of Philadelphia, and to change the name of Dallas township, Lehigh county, to Washington, and relative to the commissioners of Kensington and Richmond, in Philadelphia county," insofar as it applies to auditors appointed by orphans' courts.

(2) Section six of the act, approved the second day of April, one thousand eight hundred sixty-eight (Pamphlet Laws 3), entitled "An act to ascertain and appoint the fees to be received by the several officers of this Commonwealth," absolutely.

(3) The act, approved the twenty-seventh day of March, one thousand eight hundred seventy-three (Pamphlet Laws 49), entitled "An act to further provide for the enforcement of decrees in the orphans' courts," absolutely.

(4) The act, approved the twenty-fifth day of May, one thousand eight hundred seventy-eight (Pamphlet Laws 156), entitled "An act to authorize the investment of money paid into court pendente lite," insofar as it applies to monies paid into the orphans' court.

(5) The act, approved the seventh day of June, one thousand nine hundred seventeen (Pamphlet Laws 363), entitled "An act relating to the organization, jurisdiction, and procedure of the orphans' courts; the powers and duties of the judges thereof; and appeals therefrom," absolutely, except the part of the last paragraph of section nine thereof which was added by the act, approved the second day of July, one thousand nine hundred forty-one (Pamphlet Laws 227), entitled "An act to further amend section nine of the act, approved the seventh day of June, one thousand nine hundred and seventeen (Pamphlet Laws, three hundred sixty-three), entitled 'An act relating to the organization, jurisdiction, and procedure of the orphans' courts; the powers and duties of the judges thereof; and appeals therefrom,' by imposing liability on executors, administrators or trustees for real estate broker's commissions in certain cases," which is not repealed hereby.

(6) Section twenty-four of the act, approved the seventh day of June, one thousand nine hundred seventeen (Pamphlet Laws 447), entitled, as amended "An act relating to the administration and distribution of the estates of decedents and of minors, and of trust estates; including the appointment, bonds, rights, powers, duties, liabilities, accounts, discharge and removal of executors, administrators, guardians, and trustees, herein designated as fiduciaries; the administration and distribution of the estates of presumed decedents; widow's and children's exemptions; debts of decedents, rents of real estate as assets for payment thereof, the lien thereof, sales and mortgages of real estate for the payment thereof, judgments and executions therefor, and the discharge of real estate from the lien thereof; contracts of decedents for the sale or purchase of real estate; legacies, including legacies charged on land; the discharge of residuary estates and of real estate from the lien of legacies and other charges; the appraisal of real estate devised at a valuation; the ascertainment of the curtilage of dwelling houses or other buildings devised; the abatement and survival of actions, and the substitution of executors and administrators therein, the survival of causes of action and suits thereupon by or against fiduciaries; investments by fiduciaries; the organization of corporations to carry on the business of decedents; the audit and review of accounts of fiduciaries; refunding bonds; transcripts to

the court of common pleas of balances due by fiduciaries; the rights, powers, and liabilities of nonresident and foreign fiduciaries; the appointment, bonds, rights, powers, duties, and liabilities of trustees durante absentia; the recording and registration of decrees, reports and other proceedings, and the fees therefor; appeals in certain cases; and, also, generally dealing with the jurisdiction, powers, and procedure of the orphans' court in all matters relating to fiduciaries concerned with the estates of decedents," except insofar as it saves the jurisdiction of other courts in actions which were pending at the time of the approval of said act, and subsections (b), (d), (g) and (i) of section forty-six and subsection (a) of section forty-seven thereof, absolutely.

(b) General Repeal. All other acts and parts of acts inconsistent herewith are hereby repealed.

(c) Saving Clause. This act shall not repeal or modify any of the provisions of the act, approved the twenty-fifth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 963), entitled "An act prescribing the fees to be received by the clerks of orphans' courts of counties of the fifth, sixth, seventh and eighth class," or its amendment.

APPROVED—The 10th day of August, A. D. 1951.

JOHN S. FINE

No. 264

AN ACT

Relating to and defining chiropractic and the right to practice chiropractic; requiring licensure; conferring powers and imposing duties upon the State Board of Chiropractic Examiners and the Department of Public Instruction; providing for the granting, suspension and revocation of licenses issued by the board; preserving the rights of existing licensees and giving them certain personal choice as to jurisdiction; conferring jurisdiction upon the court of common pleas of Dauphin County; and prescribing penalties.

"Chiropractic  
Registration  
Act of 1951."

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

Section 1. Short Title.—This act shall be known and may be cited as the "Chiropractic Registration Act of 1951."

Section 2. Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the \*meanings ascribed to them in this section:

(a) "Chiropractor" shall mean a practitioner of chiropractic.

\* "meaning" in original.