

evidence upon which such reports are based; and also all reports of distributions or appropriations made by the various sheriffs of the commonwealth, and filed in their offices respectively; for which services the said prothonotaries shall be allowed one-half the fees now allowed by law for similar services. *The provisions of this section shall not apply to the prothonotary in counties of the first class.*

Fees.

Provisions not applicable to Philadelphia.

APPROVED—The 14th day of July, A. D. 1961.

DAVID L. LAWRENCE

No. 307

AN ACT

Amending the act of August 10, 1951 (P. L. 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, absentees' estates and 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," clarifying provisions relating to verdicts.

Orphans' Court Act of 1951.

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

Section 745, act of August 10, 1951, P. L. 1163, amended February 10, 1956, P. L. 1022, further amended.

Section 1. Section 745, act of August 10, 1951 (P. L. 1163), known as the "Orphans' Court Act of 1951," amended February 10, 1956 (P. L. 1022), is amended to read:

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 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 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 provided 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, 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.] *(a) 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 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) 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) Will Contest and Other Matters.* *When a contest shall arise concerning the validity of a writing alleged to be testamentary or concerning any matter other than as provided in subsection (a) and (b) of this section, the court, in its discretion at any stage of the proceedings, may impanel a jury to decide any question of fact but the verdict of the jury shall be advisory only.*

*(d) Waiver of Right.* *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 provided 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.*

APPROVED—The 14th day of July, A. D. 1961.

DAVID L. LAWRENCE