

this act, shall be paid into the State Treasury, through the Department of Revenue, and credited to the [Fish Fund] *Boating Fund of the Fish Commission with the exception of such sums resulting from application of the provisions of subsection (h) of section 11 of this act. All moneys received under the provisions of this act shall be expended for the purposes of the act and shall be shown in detail by the respective commissions receiving such funds in every annual report or annual statement rendered by them.*

Section 15. Any person violating any provision of this act, or any rule or regulation prescribed by the [board] *commission* under this act, shall, upon conviction thereof in a summary proceeding before a justice of the peace, alderman or magistrate, be sentenced to pay a fine of not less than five dollars and costs, nor more than one hundred dollars and costs, or, in default of payment thereof, thirty days in jail; and, in addition, the Department of Revenue may revoke the [license] *registration* issued for the motor boat used by such person.

Section 17. The act is amended by adding, after section 15, two new sections to read:

Act amended by adding two new sections 15.1 and 15.2.

Section 15.1. Any person who shall by threat, menace or force or in any manner attempt to deter or prevent any person authorized to make arrests for violation of the motor boat laws or regulations from enforcing or carrying into effect any provisions of this act, or who shall resist the inspection of his registration card or boat, or seizure of boats illegally used, shall, on conviction thereof as provided in the motor boat laws be sentenced to pay a fine of one hundred dollars (\$100) and costs of prosecution, or to undergo imprisonment for one hundred (100) days, or both.

Section 15.2. This act shall be known and may be cited as the "Motor Boat Law."

Section 18. This act shall take effect February 1, 1964.

Effective date.

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 401

AN ACT

Amending the act of June 24, 1895 (P. L. 212), entitled "An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its rela-

tion to the Supreme Court and other courts; providing for the reports of its decisions, the compensation of the judges and other officers, and the practice and costs on appeals from its judgments," changing the jurisdiction of the courts and adding provisions and making changes to the act to conform to existing law.

Superior Court.

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

Section 7, act of June 24, 1895, P. L. 212, as affected by act of May 19, 1897, P. L. 67, and amended May 8, 1956, P. L. 1540, further amended.

Section 1. Section 7, act of June 24, 1895 (P. L. 212), entitled "An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its relation to the Supreme Court and other courts; providing for the reports of its decisions, the compensation of the judges and other officers, and the practice and costs on appeals from its judgments," as affected by the act of May 19, 1897 (P. L. 67) and amended May 8, 1956 (P. L. 1540), is amended to read:

Superior shall have no original jurisdiction.

Section 7. The Superior Court shall have no original jurisdiction, except in actions of mandamus and prohibition to courts of inferior jurisdiction where such actions are ancillary to proceedings within its appellate jurisdiction, and except that it, or any judge thereof, shall have full power and authority when and as often as there may be occasion; to issue writs of habeas corpus under like conditions returnable to the said court, but, *except as hereinafter provided in this act*, it shall have exclusive and final appellate jurisdiction of all appeals *by or in the nature of appeal, certiorari or writ of error* in the following classes of cases:

Final appellate jurisdiction in following cases with certain exceptions.

Proceedings of any kind in court of quarter sessions of peace, oyer and terminer and general jail delivery except right to a public office and cases of felonious homicide.

Appeal shall be of right but not as supersedeas unless specially allowed.

(a) All proceedings of any kind in the court of quarter sessions of the peace, *oyer and terminer and general jail delivery*, or before any judge thereof, except cases involving the right to a public office, *and in case of felonious homicide*, in which cases the remedy by appeal to the Supreme Court shall not be affected by this act. [But no appeal from a sentence upon an indictment in said court may be taken unless it has been specially allowed by a judge of the Superior Court, who shall, thereupon, have power to admit to bail and to make an order of supersedeas or any other order which justice may require.] *An appeal to the Superior Court from said court shall be of right but it shall not operate as a supersedeas unless it has been specially allowed by a judge of the said court or of the Superior Court, who shall, thereupon, have power to admit to bail and to make an order of supersedeas or any other order which justice may require.*

[(b) All proceedings of any kind in the court of oyer and terminer and general jail delivery, except cases of felonious homicide, which shall be appealed directly to

the Supreme Court. An appeal to the Superior Court from the oyer and terminer shall be of right, but it shall not be a supersedeas unless it has been specially allowed by a judge of the said court, who shall thereupon have to admit to bail and to make an order of supersedeas or any other order which justice may require.]

(c) [Any action, claim, distribution, or dispute of any kind in the common pleas, at law or in equity,] *All actions and proceedings at law in the courts of common pleas and in the County Courts of Allegheny County and Philadelphia County and all similar courts*, whether originating therein or reaching that court by appeal or certiorari from some other court or tribunal, if the subject of the controversy be either money, chattels, real or personal, or the possession of or title to real property, and if also the amount or value thereof [really] in controversy be not greater than [five] *ten* thousand dollars, exclusive of costs. [, and if also the action be not brought, authorized, or defended by the Attorney General in his official capacity.]

Certain actions and proceedings in common pleas and county courts providing the value does not exceed \$10,000.

(c.1) *All actions arising from proceedings and orders of any commission or administrative agency, except as otherwise provided by statute and except as hereinafter provided, and all orders of the court of common pleas or the court of quarter sessions of the peace and oyer and terminer which involve summary proceedings before aldermen, magistrates, or justices of the peace.*

All actions and proceedings of commissions and administrative agencies and common pleas and court of quarter sessions involving summary proceeding before magistrates, etc.

(e) [Any case whatever, civil or criminal, at law or in equity or in the orphans' court, except felonious homicide, in which the parties or their attorneys file a stipulation in the proper court below at any stage of the proceedings agreeing that the case may be heard and decided by the Superior Court, although the case would otherwise have been appealable directly to the Supreme Court.] Nevertheless in any action or proceeding whatever above committed to the final and exclusive decision of the said court, there may still be an appeal from its judgment or order to the Supreme Court,

[First. If the jurisdiction of the Superior Court is in issue; or

Second. If the case involves the construction or application of the Constitution of the United States or of any statute or treaty of the United States; or

Third. If the case involves the construction or application of the Constitution of Pennsylvania; or

Fourth. If the] *if an* appeal to the Supreme Court be specially allowed by the Superior Court itself or by any one justice of the Supreme Court.

[But in any case whatever in the said Superior Court without regard to the questions or the amount which

may be involved, if the parties or their attorneys file a stipulation at any stage of the proceedings, either below or in the Superior Court, that the decision of the said court shall be final, no appeal therefrom shall be taken or allowed upon any ground, either by the Superior Court or by any justice of the Supreme Court.]

Act amended by adding six new sections 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6.

Determination of amount in controversy.

Possession or title to real or personal property.

Tort or breach of contract.

Judgment in excess of \$10,000 in damage actions involving wife or child.

Divorce and labor claimant appeals.

Superior Court lacks jurisdiction in certain cases.

Section 2. The act is amended by adding, after section 7, six new sections to read:

Section 7.1. The amount or value in controversy shall be determined as follows:

In actions of ejectment, and in all other actions or proceedings in the common pleas court or in any county court that involve the possession of or the title to real property, or chattels, real or personal, the judge hearing the case shall certify whether the value of the land or of the interest or of the property in controversy is greater than ten thousand dollars, exclusive of costs, and his certificate, unless the record shows it to be erroneous, shall be conclusive proof of such value for the purposes of this act.

In any action or proceeding in the court of common pleas or in any county court, if the plaintiff or any claimant in such action or proceeding, or a defendant who shall have filed a counterclaim, recovers damages either for a tort or for a breach of contract, the amount of the judgment, order, decree or award shall be conclusive proof of the amount in controversy, but if no amount is recovered, the amount in controversy shall be determined by the amount of damages claimed in the complaint or counterclaim, whichever is greater.

Section 7.2. Where an action is brought by husband and wife for damages by reason of an injury suffered by the wife, or is brought by parent and child for damages by reason of an injury suffered by the child, and more than one judgment is entered, if any is greater than ten thousand dollars, exclusive of costs, appeals from all judgments shall be taken to the Supreme Court and not to the Superior Court.

Section 7.3. Appeals in proceedings for divorce, and joint appeals by labor claimants, under the act of June 15, 1897 (P. L. 154), entitled "An act to authorize labor claimants in certain cases to take joint appeals," shall be taken to the Superior Court.

Section 7.4. In the following classes of cases, the Superior Court shall have no jurisdiction thereof, but the appeal from the judgment, order or decree of the lower court shall be taken directly to the Supreme Court:

- (1) Felonious homicide;
- (2) The right to public office;

(3) *Petitions, orders and decrees arising out of or within the jurisdiction of the orphans' court;*

(4) *Actions and proceedings in equity;*

(5) *Civil actions arising under the provisions of the act of May 15, 1933 (P. L. 624), known as the "Banking Code," and under the provisions of the act of May 15, 1933 (P. L. 565), known as the "Department of Banking Code," and under the provisions of the act of May 5, 1933 (P. L. 457), known as the "Building and Loan Code," and all amendments to said acts;*

(6) *Matters relating to actions and orders of the Department of Revenue arising under the provisions of the act of April 9, 1929 (P. L. 343), known as "The Fiscal Code," as amended;*

(7) *Appeals from orders of the courts of common pleas and courts of quarter sessions of the peace involving or arising out of acts, ordinances, regulations or orders relating to zoning;*

(8) *Direct criminal contempt in lower courts, and other contempt proceedings in lower courts relating to orders, judgments, decisions and decrees which are appealable directly to the Supreme Court;*

(9) *Disbarment from the practice of law;*

(10) *Suspension from the practice of law;*

(11) *Supersession of a district attorney by an Attorney General or by a court.*

*Section 7.5. Where it shall be made to appear to the Superior Court that the same questions, and those only, are raised on an appeal to that court as are raised on an appeal pending in the Supreme Court, the Superior Court may stay all *proceedings before them until the decision by the Supreme Court of the appeal there pending, or may certify said cause to the Supreme Court, with the same effect as if originally properly taken thereto.*

Appeal to Superior Court on same question on appeal in Supreme Court may be treated as a stay or may be certified to Supreme Court.

Section 7.6. Whenever an appeal is taken to the Superior Court, the appellee shall be held to have waived objection to the jurisdiction of that court, unless he files with the prothonotary thereof an objection on this ground, on or prior to the hearing of the appeal by the Superior Court. If the objection is made, the Superior Court shall hear and decide it speedily, and if it is sustained and the appeal is certified to the Supreme Court, the prothonotary of the Superior Court shall, in addition to the appeal costs already paid, be paid by the appellant the sum of three dollars as further costs in the cause.

Appellee waives jurisdiction unless he files objections prior to hearing with prothonotary.

* "proceedings" in original.

Specific repeal. Section 3. Sections 1, 2, 3, 4, 5, 6, 7, 10 and 11 of the act of May 5, 1899 (P. L. 248), entitled "An act supplementing and amending an act, entitled 'An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its relation to the Supreme Court and other courts; providing for the reports of its decisions, the compensation of the judges and other officers, and the practice and costs on appeals from its judgments,' approved June twenty-four, one thousand eight hundred and ninety-five," and their amendments, are repealed.

General repeal. Section 4. All other acts and parts of acts inconsistent with this act are repealed.

Effective date and application. Section 5. This act shall take effect December 1, 1963, and shall apply to all appeals, *writs of certiorari and writs of error taken on or after that date.

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 402

AN ACT

Relating to preparations, devices and procedures represented to have diagnostic or therapeutic value in the treatment or diagnosis of cancer; conferring certain powers upon the Pennsylvania Department of Health and the Pennsylvania Advisory Health Board; and prescribing certain penalties and civil remedies.

**The Pennsylvania
Cancer Law.**

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 Pennsylvania Cancer Law."

Section 2. Definitions.—As used in this act:

(1) "Cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma and leukemia.

(2) "Preparation" means any article intended for internal use or consumption or for external use or application by human beings.

(3) "Person" means any individual, partnership, corporation or association.

(4) "Department" means the Pennsylvania Department of Health.

* "certioraris" in original.