PENNSYLVANIA DIGEST OF DECISIONS

BEING A DIGEST OF
ALL THE REPORTED DECISIONS OF THE SUPREME,
SUPERIOR AND COUNTY COURTS
FOR THE YEARS
1906 TO 1929 INCLUSIVE

EDITED BY
GEORGE M. HENRY
OF THE PHILADELPHIA BAR

THIS DIGEST CONNECTS WITH THE DECISIONS DIGESTED
IN VALE'S DIGEST VOLUMES 1-10 INCLUSIVE ALSO
PEPPER AND LEWIS' DIGEST OF DECISIONS
23 VOLUMES AND C. R. A. SUPPLEMENT VOLUMES 1 AND 2

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PENNSYLVANIA DIGEST OF DECISIONS

CONSTITUTIONAL LAW:
AMENDMENTS.
APPROPRIATIONS.
CONSTRUCTION.
CORPORATIONS.
DUE PROCESS OF LAW.
ELECTION FRAUDS.
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EQUAL PROTECTION OF LAWS.
EX POST FACTO LAWS.
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Constitutional Law—Amendments.

Advertising, after approval by legislature, Act 1913, Act 1923.—Under Act of April 3, 1923, P. L. 55 (25 PS § 21), amending Act of July 7, 1913, P. L. 693 (25 PS § 21), proposed constitutional amendment, which has been agreed to by legislature twice, may be advertised prior to municipal election, since words "general election" in art. 18, sec. 1, of constitution, have no connection with voting to take place after amendment has been approved by legislature twice. Com. v. King, 278 Pa. 280; 122 A. 279.

Courts, consolidation, Allegheny County, Amendment of 1911.—Effect of constitutional amendment to sec. 6, art. 5, of constitution, adopted November 7, 1911, P. L. 1161, consolidating courts of common pleas of Allegheny county, is to consolidate, as of January 1, 1912, the four separate courts of common pleas theretofore existing into one court of common pleas, of which judge senior in continuous service will be president judge. Judges elected November 7, 1911, should be commissioned as judges of new court, and remaining judges now in commission should be recommissioned, but such commissions need not indicate relative rank or length of continuous service of each. Allegheny County Courts, 21 Dist. 91; 15 Dauph. 14.

Election, ballots:
Elections—Ballots (Preparation).
Municipal elections:
Elections—Voting (Special).
Registration of voters:
Elections—Registration (Purpose).
Special session:
Constitutional Law—Legislative Power (Special).

State highways, construction, bond issue.—Proposed constitutional amendment which would permit issuing of bonds against commonwealth to extent of $50,000,000 for building of new roads requires adoption of such amendment by people as condition precedent to enactment of enabling legislation therein and thereby authorized. State Road Bonds, 40 C. C. 670; 61 Pitts. 534.

Present constitution forbids creation of such bonded indebtedness. Id.

Constitutional Law—Amendments —(Cont'd).

State indebtedness, increase, purpose of bonds, Act 1923.—The amendment to Art. 9, Sec. 4 of Constitution, authorizing state to increase bonded indebtedness, is part of constitution and cannot be disregarded. Hollinger v. King, 282 Pa. 157; 127 A. 462.

Act June 6, 1923, P. L. 494, authorizing issue and sale of bonds by state, is unconstitutional since it does not specify purpose for which bonds were issued. Id.

Submission to electors, interval of five years.—Provision of sec. 1, art. 18, of constitution that no amendment or amendments shall be submitted to electors oftener than once in five years, does not forbid submission of any amendments except at intervals of five years, but only submission of same amendment twice in that time. Long v. Dist., 36 Montg. 253.

Submission to electors, interval of five years, objection, waiver.—Where amendment relating to debt of commonwealth was approved in 1923, no further amendment can be submitted under Constitution until five years thereafter and this is true notwithstanding amendment of 1923 was irregular and premature. Taylor v. King, 284 Pa. 235; 130 A. 407; af. 28 Dauph. 124; 13 Corp. 472.

Amendment authorizing issue of bonds for payment of compensation to persons who served in army, navy or marine corps of United States during world war, cannot be submitted to electors at election in 1925. Id.

Objections to right to amend may be made prior to vote thereon but if no objection is made and amendment is sanctioned it becomes part of Constitution and cannot be attacked thereafter. Id.

Submission to electors, interval of five years, objection, waiver, contemporaneous construction, Acts 1921, 1923.—When claim is made that proposed constitutional amendment has not been adopted by required majority of electors, this fact is open to judicial inquiry after people have voted, but details leading up to submission should not be subject of consideration at that time, even when direct attack is made, unless alleged defects are so serious as to lead to belief that possibly people where not properly advised when they voted for members of second legislature who were to act on proposed amendment, prior legislature having approved it, or that in one or other of general assemblies or at polls fair vote was not obtained. Armstrong v. King, 281 Pa. 207; 126 A. 263.

Where such amendment has been acted on by those charged with administration of it, and public or private rights would be injuriously affected by setting it aside, it is too late to do so, even by direct attack that it was submitted for approval at wrong time, and it cannot be collaterally attacked for any reason. Id.

Under article 18 of constitution, amendments cannot be submitted to electorate oftener than once in five years, and no matter how long this practice has been followed, being antagonistic, it cannot be followed. Id.

Joint resolutions of June 1, 1921, P. L. 1236, and July 11, 1923, P. L. 1023, requiring proposed amendment therein set forth to be submitted to people in November of 1924 is unconstitutional, because another amendment was submitted to them for approval in November of last year. Id.

Although contemporaneous and long continued uniform interpretation should and does assist in construction, in cases where there is doubt regarding actual meaning of provision in constitution, yet courts cannot accept such interpretation if erroneous, and language to be construed is plain and capable of but one meaning. Id.

Submission to electors, irregularity, waiver.—Amendment to state constitution unconstitutionally submitted to electors, is valid when approved by majority of electors, voting thereon. Hollinger v. Retirement Board, 27 Dauph. 294.

Term of office:
Boroughs—Council (Term).
Boroughs — Officers (Assessor) (Burgess).

Constitutional Law — Appropriations.

Boards of viewers, expenses of, public money, private use, Act of 1911.—Act of June 23, 1911, P. L. 1123 (16 PS § 3111 et seq.), establishing in each county a board of viewers is not unconstitutional because by its 5th sec. provision is made for appointment from board of members of boards of view for condemnation of land taken by corporations for private purposes and payment of costs and expenses by county. Such expenses do not amount to payment of public funds raised by taxation for private purposes. Com. v. Cunningham, 60 Pitts. 209; 21 Dist. 219.

Bonds, purpose not specified, Act 1923.—Issue of bonds under Act of June 6, 1923, P. L. 494, is invalid, since act is void in not specifying any purpose for which money raised by bonds is to be used. Hollinger v. Retirement Board, 27 Dauph. 294.

Charities, sectarian, hospitals, Acts 1919, 1921.—Act of July 18, 1919, and May 27, 1921, appropriating money to sectarian hospital, are in violation of constitution. Mercy Hospital v. Lewis, 27 Dauph. 346.

Charities, sectarian hospitals, department of welfare, Act 1925.—Act April 13, 1925, in appropriating fund to department of welfare to pay for treatment of sick or injured in hospitals not owned by Commonwealth, violates art. III, sec. 18 of constitution prohibiting appropriations for charitable, educational or benevolent purposes to any denominational or sectarian institution, insofar as payments out of fund are permitted to be made to hospitals operated by religious denominations. Collins v. Martin, 290 Pa. 388; 139 A. 122.

While Commonwealth may appropriate money for care of sick and infirm, such appropriations are always subject to constitutional prohibition that no money shall be given to sectarian institutions. Id.

While department of welfare is agency of government and appropriation may be properly made to it for care of sick and injured, it cannot pay any money so appropriated to sectarian institutions without violating constitution. Id.

Charities, sectarian, hospitals, St. Agnes Hospital.—St. Agnes Hospital in Philadelphia is sectarian and a payment to it out of moneys appropriated to Department of Welfare is in violation of art. III, sec. 18, of State Constitution. Collins v. Martin, 29 Dauph. 338; 8 D. & C. 239.

Constitution declares against using public funds to aid any sectarian institution, independent of question whether there is or is not consideration furnished in return for funds so appropriated. Id.

Charities, sectarian institution.—Duquesne University of the Holy Ghost is denominational or sectarian institution within contemplation of section 18 of Article III of constitution of state, and appropriation to it is void. Duquesne University v. Lewis, 26 Dauph. 242.

Charities, sectarian institutions, bill of rights, religious worship.—Art. 3, sec. 18, of Constitution, prohibiting appropriations for charitable or benevolent purposes to any denominational or sectarian institution, prevents the state from making appropriations directly or indirectly to a religious sect or denomination, although such denomination may bestow its benefits on others and permit others to take part in its management. Collins v. Kephart, 271 Pa. 428; 117 A. 440.

The criterion is whether institution is under control, domination, or governing influence of any religious sect or denomination. Id.

The fact that for period of many years it had been the custom to appropriate state money to sectarian institutions without objection does not warrant continuance of such course. Id.

The court below also held that the act did not violate art. 1, sec. 3 of the bill of rights, as to religious worship, etc., Id.

Charities, sectarian institution, general hospital.—Appropriation made to hospital is not void on ground that it is a sectarian institution merely because it leased its real estate from a certain denomination, was named after a saint

Constitutional Law — Appropriations—(Cont'd).

not shown to have any denominational significance; and minority of its nurses wore religious garb, if there was no preference given to any denomination or sect in conduct of the institution. Collins v. Lewis, 276 Pa. 435; 120 A. 389.

Charities, sectarian institution, Holy Family Orphan Asylum.—Orphan Asylum of Holy Family, located at Emsworth, Pennsylvania, is denominational or sectarian institution, and appropriation to it out of funds of Commonwealth, violates art. III, sec. 18, of state Constitution. Collins v. Martin, 31 Dauph. 65.

Charities, sectarian institutions, Sisters of Charity, Foundling Asylum and Maternity Hospital, Act 1925.—Act May 12, 1925, App. Acts p. 175, purporting to make appropriation to Roselia Foundling Asylum and Maternity Hospital of Pittsburgh, violates Art. III, Sec. 18, Constitution of Pennsylvania, and is void. Collins v. Martin, 31 Dauph. 400; 17 Corp. 204.

This institution is a denominational or sectarian institution. Id.

The Mother Seton Sisters of Charity is a denominational or sectarian institution affiliated with the Roselia Hospital. Id.

Charities, state hospital, lease from sectarian institutions, maintenance.—Appropriation of money by state hospital which is not affiliated with or under control of any religious sect or denomination does not violate article 3, section 18, of constitution, though premises occupied by such hospital are leased by it from admittedly sectarian institution. Collins v. Lewis, Dauph. 1922, 232.

Such appropriation can be used, however, only for maintenance of hospital, and no part of it can be expended in improvements or betterments to leased property. Id.

Firemen's relief association, Act of 1895.—An ordinance appropriating state moneys received under the Act of June 28, 1895, relating to foreign insurance companies, to a firemen's relief association, does not violate Art. IX, section 7, nor Art. III, section 18, of the state constitution. Firemen's Relief Assn. v. Scranton, 7 Lack. J. 33; 1 Leh. 380.

Hydrophobia, treatment of, Act 1907.—Act May 7, 1907, P. L. 170, providing for medical treatment for "all persons" suffering from hydrophobia "who may apply for aid," without regard to their financial circumstances, is requirement that public money be expended for private purposes, and therefore without constitutional authority. Momeyer v. Directors, 37 C. C. 664. See Constitutional Law—Police Power (Hydrophobia).

Member of legislature, salary of, for full term.—Appropriation for salary, etc., for full term, to member of legislature who was elected to fill unexpired term of deceased member, is not violation of art. 3, sec. 18 of constitution. Com. v. Powell, 17 Dauph. 144.

Municipal work, performance within territorial limit, Act 1917.—Act July 6, 1917, P. L. 752, authorizing municipalities to provide for performance of all public work within their own territorial limits, is not in violation of sec. 7 of art. 9, which forbids appropriation of money for any association or individual. Taylor v. City, 26 Dist. 979.

Old age pension, Act 1923.—Act May 10, 1923, P. L. 189, providing an old age assistance fund, is unconstitutional as being contrary to Art. 3, Sec. 18, which provides that no appropriation except for pensions or gratuities for military services shall be made for charitable, educational or benevolent purposes. Busser v. Snyder, 282 Pa. 440; 128 A. 80.

Words "charitable, educational and benevolent" were intended to include pensions or gratuities of any kind with exceptions mentioned. Id.

Payment without prior appropriation, bank deposits paid to state after thirty years, Act 1872.—Act April 17, 1872, P. L. 62, providing for payment to commonwealth of deposits in saving banks for which no demand has been made for thirty years, does not violate article 3, section 16 of constitution providing that no money shall be paid out of treasury except on appropriation and upon warrants drawn by proper

officers, as such provision does not prevent legislature from providing special fund to be paid out in a designated manner and does not prevent pledging of unappropriated money coming into hands of state. Com. v. Bank, 259 Pa. 138; 102 A. 569.

Public schools, construction of sewer, Act 1915.—Act May 28, 1915, P. L. 599, does not violate sec. 1, art. X of state constitution by diverting money appropriated for school purposes, to other purposes, as payment for construction of sewer in front of school property will be considered appropriation of funds for school facilities. Lower Chichester Twp. v. School Dist. 18 Del. 432; 19 Mun. 247.

Relief, citizens of other state, damage by fire and earthquake.—Under Art. IX, section 7, of the state constitution, a city may not appropriate money for relief of residents of a city of another state which has been devastated by fire and earthquake. Com. v. Brown, 15 Dist. 582; 37 Pitts. 66; 7 Lack. J. 304.

Stenographic reports of trials, public money, private use, Act of 1907.—Portion of Act of May 1, 1907, P. L. 135 (17 PS §§ 1801–1811), which authorizes placing upon county of burden of paying for typewritten copies of stenographic reports of trials furnished to plaintiff and defendant, or their counsel, in litigation between private parties in which public has no direct interest, is not unconstitutional. Clift v. Phila., 41 Super. 638.

Transfer of, administrative board, appointing new board, private counsel, appearance, consent of attorney general, Act 1923.—Where board or commission is abolished by Act June 7, 1923, P. L. 498, and its duties and obligations transferred to another thereby created, all appropriations to original board for specific purpose are necessarily transferred to new one which may proceed with work for which appropriation was made. Piccirilli Bros. v. Lewis, 282 Pa. 328; 127 A. 832.

Legislative methods are not controlled by constitutional provisions and may be altered by legislature from time to time. Id.

Department boards, commissions and officers of state may, at their own expense, employ private counsel to present their views to the court, but such counsel cannot appear of record for such without consent of attorney general. Piccirilli Bros. v. Lewis, 282 Pa. 328; 127 A. 832.

Constitutional Law—Construction

Contemporaneous:
Constitutional Law—Amendments (Submission).

Similar provisions in earlier constitutions.—In construing the constitution the courts will assume the convention had before it similar provisions in earlier constitutions and that any change was made deliberately and was not merely accidental. Com. v. Snyder, 261 Pa. 57; 104 A. 494.

Constitutional Law—Corporations.

Actions against, limitation of, suspension of business, Acts 1713, 1850.—Sec. 7 of Act April 25, 1850, P. L. 570 (12 PS § 31), which suspended statute of limitations of March 27, 1713, 1 Penna. Laws, 76 (12 PS § 31 et seq.), in suits against corporations which have suspended business, is repealed by sec. 21, art. 3 of constitution providing that no act shall prescribe any limitation in suits against corporations different from those fixed by general laws. Gallagher v. Coal Co., 61 Super. 1.

Capital stock, bonds, issue of, consideration, Act 1887.—Railroad corporation, organized after purchase of property and franchises of another railroad corporation, is within provisions of sec. 7, art. 16 of constitution, and Act May 7, 1887, P. L. 94 (67 PS § 121 et seq.), relative to issuing of stocks and bonds. Com. v. Bell, Atty.-Gen., 16 Dauph. 3; 40 C. C. 441; 22 Dist. 811.

Capital stock, bonds, issue of, consideration, pledge as collateral security.—Bonds issued by corporation and pledged by it as collateral security for money borrowed are not invalid as being violation of constitutional provision invalidating all stock and bonds except such as issued for money, labor done or money or property actually

Constitutional Law — Corporations —(Cont'd).

received. Miller v. Hellam Co., 27 York 5.

Charter, amendment, acceptance of constitution, cumulative voting.—Where corporation chartered by legislature prior to adoption of constitution of 1873 amends its charter since that adoption, such amendment is implied acceptance of constitution, including provisions of art. 16, sec. 4, authorizing cumulative voting by stockholders. Com. v. Wolfe, 4 Northum. 405.

Consolidation, telegraph and telephone companies, competing lines, Act 1921.—Act May 20, 1921, P. L. 949 (15 PS §§ 2411–2422), providing for the acquisition of telephone company by telegraph company or vice versa, does not violate article 16, sec. 12 of Constitution forbidding consolidation of competing telegraph lines. Mitchell v. Pub. Ser. Com., 276 Pa. 390; 120 A. 447; af. 80 Super. 120.

Consolidation, telephone companies.—A telephone company is within sec. 12, art. 17 of constitution forbidding consolidation of telegraph companies. Cochranton Tel. Co. v. Pub. Serv. Com., 70 Super. 212.

Consolidation, telephone companies, lines, extension in occupied territory, competition.—Public Service Commission may refuse petition of telephone company to extend lines into district served by another without violating general policy to maintain open and free competition in service indicated by Constitution prohibiting consolidation of telegraph and railroad companies. Perry Co. Tel. Co. v. Pub. Serv. Com., 265 Pa. 274; 108 A. 659.

Foreign, doing business in state, agent for service of process, Act 1911.—Act June 8, 1911, P. L. 710 (15 PS §§ 3141–3145), providing for filing by foreign corporation with secretary of commonwealth of power of attorney containing statement showing title and purpose of corporation, location of its principal place of business in state and its post office address within state, to which process in any suit served on secretary may be sent, meets requirements of sec. 5 of art. 16, of constitution. Locomobile Co. of Am. v. Malone, 63 Pitts. 179; 2 Corp. 570; 43 C. C. 168; 24 Dist. 1058.

Indebtedness, increase of.—Issuing of bonds to pay off outstanding note was only change in form of corporate obligation and was not such unlawful increase of bonds as is forbidden by art. 16, sec. 7. Wrightsville Hardware Co. v. McElroy, 29 York 185.

Investment in, of trust funds:
Guardian and Ward—Rights and Liabilities (Insurance).
Powers:
Banks — Rights and Liabilities (Loan).

Constitutional Law—Due Process of Law.

Accounts, confirmation without exceptions.—Confirming account without giving exceptants opportunity to prove facts alleged, violates due process of law provision. Lambert v. Hog Co., 263 Pa. 354; 106 A. 541.

Banks, capital stock, taxation, Acts 1897, 1925.—Act May 2, 1925, P. L. 495 (24 PS § 421 et seq.), amending Act July 15, 1897, P. L. 292, which takes from all banks the option to elect to pay tax on shares of their stock at rate of 10 mills on their par value, does not violate due process clause of Federal Constitution. Com. v. Bank, 31 Dauph. 80; 16 Corp. 361.

Banks, deposits, escheats, Act 1915.—Act June 7, 1915, P. L. 878, relating to escheats does not violate federal constitution as to taking of private property without due process of law in that it makes ample provision for notice to every depositor and depositary and to every person who has interest in it and affords ample opportunity for every one concerned to assert title. Columbia Nat. Bank v. Powell, 66 Pitts. 689.

Banks, deposits, escheat, obligation of contract, Act 1872.—Act April 17, 1872, P. L. 62, providing that where no demand has been made by depositor in saving fund for amount of his deposits for space of thirty years after last deposit, fund shall be paid to state, and thereafter depositor may recover same from state, does not violate Fourteenth Amendment of Constitution of United States, or Article 1, section 10 of Con-

stitution of Pennsylvania, as depriving depositor of property without due process of law, since his claim against commonwealth is amply protected by taxing power. Com. v. Savings Bank, 259 Pa. 138; 102 A. 569.

In proceedings by commonwealth to recover such deposit it will be presumed, in absence of averment to contrary, that deposits were made subsequent to passage of Act of 1872 and with full knowledge of its provisions, and it is immaterial that act fails to provide for notice to owner by publication or otherwise. Id.

For reasons above stated, act does not impair obligation of any contract. Id.

Building regulations:
Municipalities—Zoning (Building).

Cities, consolidation, Act 1906.—Act Feb. 7, 1906, P. L. 7 (53 PS §§ 151–177), providing for consolidation of cities "contiguous or in close proximity" is not contrary to "due process of law" guaranteed by Federal Constitution, in providing that electors of consolidated territory shall determine question of annexation of lesser city instead of permitting electors of lesser city to decide it. Pittsburg's Pet., 217 Pa. 227; 66 A. 348; affirming 32 Super. 210.

Conveyance from wife to husband, curative act, validating, Act 1911.—Act June 3, 1911, P. L. 631, § 2, which provides that all conveyances of real estate heretofore made by any married woman to her husband, are hereby validated and made good in law, is unconstitutional in that it deprives one of property without due process of law. Howells v. Urry, 40 C. C. 586.

Conveyance from wife to husband, retroactive laws, Act 1911.—The Act of June 3, 1911, P. L. 631, § 2, in so far as it provides that conveyances theretofore made by a married woman to her husband were validated, is unconstitutional as being retroactive in effect, because it would take property belonging to wife and transfer it to husband notwithstanding conveyance by which this was attempted to be done was entirely void. Elder v. Elder, 256 Pa. 139; 100 A. 581.

Corporations, foreign, registration, retroactive law, Act of 1907.—Act of May 23, 1907, P. L. 205 (15 PS § 3142), which permits foreign corporations to enforce contracts for work done in the state, though such contract was made before the corporation had established a place of business or an authorized agent within the state in accordance with Act of April 22, 1874, P. L. 108, is retroactive, but is not unconstitutional as a deprivation of property without due process of law. Pittsburg Const. Co. v. R. R., 232 Pa. 578; 81 A. 884.

Corporations, property, seizure by insurance commissioner, Act 1921.—Sec. 10 of Act of May 10, 1921, P. L. 442, which gives to insurance commissioner power to take assets of corporations named and distribute them without notice of hearing, is unconstitutional in that it violates Pennsylvania Bill of Rights and due process clause of federal constitution. Nat. Auto. Corp. v. Barford, 289 Pa. 307; 137 A. 601; rev. 30 Dauph. 147.

Due process is not necessarily judicial process but applies to administrative as well as judicial proceedings. Id.

Courts, jurisdiction, right to question, federal constitution, Act 1925.—Act March 5, 1925, P. L. 23 (12 PS §§ 672–675), relating to procedure in questioning jurisdiction of courts of first instance over parties or subject matter, does not deprive defendant of due process of law under 14th amendment of federal constitution. Specktor v. Ins. Co., 295 Pa. 390; 145 A. 430.

Damages for building constructed after plotting street on city plan, Acts 1871, 1891.—Act Dec. 27, 1871, P. L. (1872) 1390, providing that it shall not be lawful to erect any building on any street of Philadelphia laid out on confirmed plan, and Act May 16, 1891, P. L. 75 (53 PS § 391 et seq.), providing that no damages shall be recoverable for any buildings or improvements placed on streets after location by councils of any municipality are not in conflict with secs. 1 and 9 of state constitution or with 14th amendment to United States Constitution. Harrison's Est., 23 Dist. 605.

Constitutional Law—Due Process of Law—(Cont'd).

Definition of.—Due process of law means that there can be no proceedings against life, liberty or property which may deprive the person of any of them without observance of general rules established for security of private rights. Com. v. Widovich, 93 Sup. 323.

Eminent domain, damages, right to have court determine.—Due process of law as used in constitution requires that property owners be given opportunity to submit to a judicial tribunal right of municipality to take property and amount of damages to which they are entitled. Pittsburgh v. Bell & Sons, 277 Pa. 135; 121 A. 101.

Eminent domain, damages, security for, taxing power, bridge companies, property of, Act of 1901.—The Act of May 13, 1901, P. L. 191, providing a method for compensating bridge companies for the taking of its property or franchises by the county, is not unconstitutional because there is no express provision for paying or securing damages before taking, the taxing power of the county being sufficient security. Lewisburg Bridge Co. v. County, 232 Pa. 255; 81 A. 324.

Nor is such act defective because it does not provide a proper method for ascertaining and paying damages. Id.

Eminent domain, water company, Acts of 1874, 1887, 1907.—The Act of May 31, 1907, P. L. 355 (53 PS §§ 1241–1247), providing for the acquisition by municipalities, of water plants chartered under the Act of April 29, 1874, P. L. 73 (15 PS § 1 et seq.), without first paying or securing damages, or without providing for a jury trial, is not therein unconstitutional, since it does not apply to charters with exclusive privileges granted prior to Act June 2, 1887, P. L. 310 (15 PS § 1351 et seq.). Manheim Boro. v. Water Co., 229 Pa. 177; 78 A. 93; affirming 27 Lanc. 321.

The Act of 1907 is, however, unconstitutional, under Art. 16, § 10, in providing for the acquisition of the company's works by the valuation of viewers and an appeal to be heard by court, and requiring the company to sell at the valuation within ten days or lose its exclusive right, as under its charter it was guaranteed its net cost, etc. Id.

Escheats:
Constitutional Law — Obligation of Contract (Escheats).
Constitutional Law — Property Rights (Bank).
Declaratory judgment:
Constitutional Law — Legislative Power (Declaratory).

Estate by entireties, sale by trustee, Act 1925.—Act May 13, 1925, P. L. 649, authorizing appointment of trustee to sell property held by entireties after divorce of husband and wife, is unconstitutional because it deprives parties of their right to survivorship without due process of law. Ebersole v. Goodman, 7 D. & C. 605; 74 Pitts. 478, 839; 40 York 110.

Estate by entireties, sale of property after divorce, retroactive law, Act 1925.—Act May 13, 1925, P. L. 649, providing for sale of real estate held by entireties and division of proceeds between husband and wife after their divorce, is in conflict with due process clause of Federal Constitution, in so far as it affects estates created prior to passage of Act. Clements v. Kandler, 9 D. & C. 310; 75 Pitts. 608.

Act is valid as to estates which vest after its passage. Id.

Food, cold storage, police power, privileges and immunities, Act 1913.—Act May 16, 1913, P. L. 216, relating to sale of cold storage food, is valid exercise of police power for protection of public health and does not deprive person of his property without due process of law. Nolan v. Jones, 263 Pa. 124; 106 A. 235.

Neither does above act violate Sec. 7, Art. 3, which prohibits granting of exclusive privileges and immunities to a special class, since it applies to all persons dealing in food articles who may bring themselves within statute and fact that those who do not use cold storage food happen to gain an apparent advantage is merely an incident and not the grant of a special privilege or immunity. Id.

Fuel control:
Constitutional Law — Police Power (Fuel).

Fuel control, price, power to carry on war, right to contract, Act of 1917.—Federal Fuel Control Act, August 10, 1917, 40 Stat. 276, authorizing president to fix maximum price of coal during war, was valid exercise of power to carry on war and not void as infringement on right to contract or as depriving property without due process of law. Highland v. Russell Car Co., 288 Pa. 230; 135 A. 759.

Contract for sale of coal at higher price than fixed by law is void and seller cannot recover excess. Id.

Power to carry on war is subject to due process clause of Fifth Amendment and regulation of price of fuel and food is due process so long as such regulation is not unreasonable, and therefore in action to recover difference between contract price of coal and amount paid under government prices, plaintiff must show that president's order was unreasonable. Id.

Game laws, shooting person in mistake for game, Act 1921.—Act May 20, 1921, P. L. 968 (18 PS §§ 2301–2306), providing that it shall be unlawful for any person to shoot at or wound or killl human being in mistake for either game or wild creature, does not violate constitution of Pennsylvania or United States, as to due process of law. Com. v. Miller, 29 Dauph. 153.

Hearing:
Boroughs — Officers (Tax).

Hotel keepers, defrauding, intent, burden of proof, Act 1913.—Act June 12, 1913, P. L. 481, declaring that proof of certain things should be prima facie evidence of intent to defraud hotel keepers, does not violate provisions of Federal Constitution relating to due process of law, as burden still rests on Commonwealth to prove its case. Com. v. Berryman, 72 Super. 479.

Inheritance tax:
Taxes — Inheritance (Appraisement) (Personalty).

Limitation, statute of, escheats, Act 1889.—Act May 2, 1889, P. L. 66, providing a limitation of three years within which time parties claiming interest in estate must present claims, does not deprive such persons of their property without due process of law. Alton's Est., 220 Pa. 258; 69 A. 902.

Liquor, enforcement act:
Constitutional Law — Obligation of Contract (Liquor).
Constitutional Law — Trial by Jury (Liquor).
Mining, barriers:
Constitutional Law — Property Rights (Taking).

Mining, coal pillars, Act 1891.—Act June 2, 1891, P. L. 176, requiring barrier pillars of unmined coal between adjoining properties, is valid exercise of police power of state and does not violate 14th amendment of federal constitution as depriving owner of property without due process of law, nor Art. 1, § 10 of state constitution providing private property shall not be taken without just compensation. Com. v. Plymouth Coal Co., 232 Pa. 141; 81 A. 148.

Minors, regulating employment of, Act 1915.—Act May 13, 1915, P. L. 286 (43 PS § 41 et seq.), regulating employment of minors under age of sixteen, does not violate bill of rights or Fifth Amendment of Constitution of United States. Com. v. Wormser, 67 Super. 444.

Municipal claims, assessment of benefits, front foot rule.—Due process clause of Federal Constitution is not violated where party who claims to be injured has same opportunity as others to present his claim in due course of law. Phila. v. Crew-Levick Co., 278 Pa. 218; 122 A. 300.

Above constitutional provision cannot be set up to defeat special assessments of damage because of manner in which they were made, unless basis of assessment is arbitrary or plain abuse of discretion and mere fact that assessments were made according to front foot rule and may result in charging against particular property larger sum than actual benefit is no valid objection to method of assessment. Id.

Mere fact that assessment according to frontage may result in charging against particular property sum larger than actual benefit to it is no legal objection to method and is not violation of Fourteenth Amendment to Federal Constitution, so long as complainant

Constitutional Law—Due Process of Law—(Cont'd).

had same opportunity as others to present his claim or defense in due course of law. Phila. v. Lindsay, 285 Pa. 207; 131 A. 926.

Natural gas company, valuation:
Public Service (Natural).

Plumbers:
Constitutional Law—Police Power (Plumbing).

Practice, judgment, entry before return day, Act 1915.—Practice Act May 14, 1915, P. L. 483 (12 PS § 382 et seq.), does not violate art. 14 of amendments to constitution of United States, because entry of judgment may be made before return day and before defendant is required to appear in court. Shipley-Massingham v. Golden, 66 Pitts. 21; 27 Dist. 953.

Process, service, non-resident:
Equity — Jurisdiction (Fraudulent).

Public schools, high schools, scholars, attendance from another district, contract, right of, Act 1905.—Act of March 16, 1905, P. L. 40, relating to tuition of children in high schools outside of districts in which children reside, does not offend against bill of rights as interfering with property or right to contract. Hughesville Boro. Sch. Dist. v. Dist., 40 Super. 311.

Public schools, high schools, scholars, attendance in other districts, obligation of contract, Act 1905.—Act of March 16, 1905, P. L. 40, providing for attendance of high schools in other districts and payment for tuition and books, does not conflict with Art. I, § 9, as it does not involve deprivation of property, nor with Art. I, § 17, as it does not impair obligation of contract. Christiana Boro. School Dist. v. Dist., 25 Lanc. 332; 7 Just. 90.

Public service law:
Constitutional Law—Trial by Jury (Public).

Railroads, rate, regulation, confiscation of property, Act 1907.—Section two of Act of April 5, 1907, P. L. 59 (67 PS §§ 672, 673), contravenes Bill of Rights and fourteenth amendment to the federal constitution; by excessive penalties it operates to deter railroad companies, while maintaining charter rates, or seeking to restore them, from resorting to courts to determine reasonableness of legislative regulation of first section, thus taking property without hearing. Central R. R. of N. J. v. County, 11 North. 342; 18 Dist. 143.

First section is confiscatory and invalid under provision of § 10 of Art. 16 of constitution, in respect to plaintiff, as being an injustice to stockholders. Id.

Amount of capital invested in this state by foreign corporation, holding its railway as lessee, on which percentage of profit will be estimated, is sum settled after appeal as basis of taxation by commonwealth; rentals paid will be charged to operating expenses. Id.

Unremunerative rate of fare may, for business reasons, be adopted by managers, but company cannot be compelled by legislative regulation to accept such rate. Id.

Railroad, rate, regulation, confiscation of property, obligation of contract, Acts 1846, 1907.—Act April 5, 1907, P. L. 59 (67 PS §§ 672, 673), prohibiting railroads from charging over two cents a mile for passengers, is confiscatory in that it establishes a rate so low as to render passenger traffic unremunerative. Penna. R. R. v. Phila. Co., 220 Pa. 100; 68 A. 676; Waynesburg & Wash. R. R. v. Washington Co., 55 Pitts. 341.

In considering question whether rates established do not amount to confiscation of property, it is not error to confine inquiry to proceeds of passenger traffic only. Penna. R. R. v. Phila., supra; contra, Waynesburg & Wash. R. R. v. Wash. Co., supra.

Not decided whether Act of 1907 violates existing contract between state and said railroad under Act April 13, 1846, P. L. 312, incorporating said company, and its supplement of April 13, 1846, P. L. 326. Penna. R. R. v. Phila., supra.

Rates, reasonableness:
Public Service (Property).

Rates, regulation:
Constitutional Law—Obligation of Contract (Railroads).

Rates, water company:
Public Service (Commission).

Spendthrift trust, attachment, support of wife and children, retroactive law, Act 1913.—If Act April 15, 1913, P. L. 72 (18 PS § 1252), is to be regarded as attempting to deal with spendthrift trusts created before its passage, act, so construed, offends against sec. 10, art. 1 of constitution, as it attempts to appropriate property to maintenance of beneficiary's wife or children which never belonged to him. Com. v. Thomas, 25 Dist. 659; 44 C. C. 635.

Spendthrift trust, attachment, support of wife and children, retroactive law, Act 1921.—Act of May 10, 1921, P. L. 434 (48 PS § 136), making spendthrift trust funds, held for husband, subject to awards or decrees of courts for maintenance of deserted wives, whether trust became operative before or after passage of act, is unconstitutional as to trusts operative at time of its passage, and constitutional as to trusts going into operation after its passage. Weightman v. Weightman, 4 D. & C. 252.

Act May 10, 1921, P. L. 434 (48 PS § 136), authorizing execution against money or property, held under spendthrift trust, or otherwise, for support of wife or children of beneficiary, is constitutional and does not violate due process of law clause of Constitution. Moorhead v. Watt, 75 Pitts. 249.

Fact that Act is retroactive, does not make it unconstitutional. Id.

Sutherland v. Paul, 74 Pitts. 558, not followed. Id.

Taxation:
Constitutional Law — Taxation (Uniformity).
Taxes—Assessment (Reduction).
Taxing property outside state:
Taxes — Corporations, Capital Stock (Foreign).

Trade-marks, penalty, Act of 1901.—The Act of June 20, 1901, P. L. 582 (73 PS § 1 et seq.), for the protection of trade-marks, which gives to any person, partnership or corporation "aggrieved in the matter" the penalty provided by section 4 of the act, is not bad as depriving defendant of his property without due process of law. Bergner & Engel Brwg. Co. v. Koenig, 30 Super. 618.

Water course, pollution:
Constitutional Law — Personal Rights (Privileges).

Water rates.—A statute making water rates, legislatively fixed, conclusive would deprive the parties affected of due process of law. Barnes Laundry Co. v. Pittsburgh, 266 Pa. 25; 109 A. 535.

Workmen's compensation, abolishing common law defenses, Act 1915.—Section 201 of art. 2 of Workman's Compensation Act of June 2, 1915, P. L. 736 (77 PS § 41), abolishing fellow servant rule, assumption of risk, and contributory negligence as defenses in negligence cases, does not effect a deprivation of property without due process of law, since no rights of property are taken away, but law itself is charged so far as future rights are concerned, which is within the power of legislature. Anderson v. Steel Co., 255 Pa. 33; 99 A. 215.

Zoning, depreciation of property:
Municipalities — Zoning (Repairs).

Constitutional Law — Election Frauds.

Contest, bond, costs, due course of law, Act 1899.—Act April 28, 1899, P. L. 118 (25 PS § 2525), requiring bond to secure costs to be filed in election contest, does not violate that portion of bill of rights which gives to every man a remedy by due course of law for any injury done him. Patton's Case, 228 Pa. 446; 77 A. 658.

Judges of superior court, limited voting for, Act of 1895.—Section 1 of the Act of June 24, 1895, P. L. 212 (17 PS §§ 111–115), establishing the superior court, providing that no elector may vote for more than six candidates for judges on one ballot, is bad because it violates section 1 of Art. VIII of the constitution providing that qualified citizens "shall be entitled to vote at all elections." Com. v. Reeder, 8 Dauph. 245.

Uniformity, non-partisan ballot, third class cities, Act 1913.—Act June 27, 1913, P. L. 568 (53 PS § 10811 et

Constitutional Law — Election Frauds—(Cont'd).

seq.), providing in its twelfth article for use in third class cities of non-partisan ballot does not violate sec. 7, of art. 8, which requires election laws for holding elections to be uniform throughout state. Com. v. Moore, 61 Pitts. 481; Kessler v. Moore, 16 Luz. 429; 22 Dist. 678; Com. v. Osborn, 61 Pitts. 489; Com. v. Cambria Co. Comm'rs, 22 Dist. 674; Com. v. Corl, 61 Pitts. 513; 41 C. C. 151; Com. v. Dickey, 61 Pitts. 532; contra Com. v. Fayette Co. Comm'rs, 61 Pitts. 465; 22 Dist. 654.

Uniformity, non-partisan nomination and election of judges, changing date of election, Act 1913.—Act July 24, 1913, P. L. 1001, requiring, among other things, non-partisan nomination and election of all judges of record does not violate art. 8, sec. 7 of constitution requiring elections throughout commonwealth to be uniform, nor does it in effect change date of election. Cadwallader v. McAfee, 61 Pitts. 569; 16 Dauph. 216.

Constitutional provisions refer to election at which by vote of electors, persons are actually chosen to office and do not refer to primary election. Id; Van Essen v. Campbell, 61 Pitts. 576; Wasson v. Woods, Dauph. 1919, 216; 67 Pitts. 675; 48 C. C. 157; Com. v. McAfee, 61 Pitts. 574; 16 Dauph. 224.

Act July 24, 1913, P. L. 1001, does not prevent free and equal election, nor free exercise of right of suffrage. Cadwallader v. McAfee, 16 Dauph. 216; 61 Pitts. 569.

Uniformity, primaries, Acts 1913, 1919.—Act July 8, 1919, P. L. 745, amending sec. 13 of Primary Election Law of July 24, 1913, P. L. 1001, is not unconstitutional under sec. 5, art. 1, declaring that election shall be free and equal, nor under sec. 7, art. 8, providing for uniform elections. Wasson v. Woods, 265 Pa. 442; 109 A. 214.

Constitutional Law—Eminent Domain.

Appeal, time, limitation, Act 1903.—Limitation of appeal to common pleas to thirty days from filing report of viewers where land is taken for street by Act of April 2, 1903, P. L. 124 (53 PS § 392 et seq.), is constitutional and mandatory. Brehm v. Boro., 35 C. C. 394; 18 Dist. 727.

Assessments, highways, damages, right of appeal, improvements, Act of 1903.—The Act of April 2, 1903, P. L. 124 (53 PS §§ 392 et seq.), providing that report of viewers shall be conclusive as to assessments for street, sewer or other improvements, does not violate Art. XVI, sec. 8 of the constitution, which prohibits the passage of an act taking away the right to appeal from assessments. Brackney v. Crafton Boro., 31 Super. 413.

The assessment contemplated by the constitution referred to damages sustained by an owner whose property had been taken, injured or destroyed, and not to costs of municipal improvements, which are in the nature of a tax. Id.

Damages, limitation, amount of bond.—Under art. 16, sect. 8, of constitution, damages recoverable in eminent domain proceedings are not restricted to amount of bond filed. Waychoff v. Ry., 67 Pitts. 449.

Damages, security for appropriation, capitol park, Act 1911.—Provisions of Act June 16, 1911, P. L. 1027, making appropriation for payment of value of land taken for extension of capitol park and authorizing issuing of writ of mandamus to compel payment of any judgment recovered for value of land so taken, are sufficient security for just compensation for private property taken for public use, within meaning of sec. 10, art. 1, of constitution. Com. v. Matter, 257 Pa. 322; 101 A. 649.

Damages, security for, taxing power, municipality, public parks.—No surety is required under Art. 16, § 8 of constitution on bond of city in proceedings to take land for public park purposes, the power of taxation being adequate security to owner. Public Parks, 10 Dauph. 174; 34 C. C. 219.

Damages, streets, opening, payment before damage done, Act 1891.—Act May 26, 1891, P. L. 117 (53 PS § 560), providing that damages for opening streets shall include damages due to grade at which street is to be opened in future, does not violate Art.

16, § 8 of constitution merely because it makes payment for property injured before such damage is done. Sedgley Ave., 217 Pa. 313; 66 A. 546.

Fire escapes, public halls, taking property without compensation, Act 1909.—Act May 3, 1909, P. L. 417, requiring exits, fire escapes and other specified safeguards in public buildings and halls where people assemble, does not constitute an injury to property for public benefit or use without compensation, within Art. 16, § 8, of the constitution. Roumfort Co. v. Delaney, 230 Pa. 374; 79 A. 653.

Private use:
Constitutional Law—Police Power (Private).

Private use, party walls, city of second class, Act of 1895.—The Act of June 7, 1895, P. L. 135 (53 PS § 8481 et seq.), regulating the erection of party walls in cities of the second class is not bad as providing for taking of private property for private use and without compensation. Herron v. Houston, 37 Pitts. 38.

Private use, taking property along public parkway and reselling with restrictions, Act 1907.—Act June 8, 1907, P. L. 466 (53 PS §§ 1553–1557), authorizing cities to acquire land for parks and playgrounds and appropriate 200 feet of adjoining property and resell same with proper restrictions, is unconstitutional in that the latter use is not a public one. Penna. Life Ins. Co. v. Phila., 242 Pa. 47; 88 A. 904.

Private use, taking property for private tramways, mining, Act 1911.—Act May 5, 1911, P. L. 167 (36 PS §§ 2841–2844), providing that in certain cases tramways for moving products from mines may be laid on private roads, does not authorize such construction by private corporation having no authority to serve the public. Any other construction would render act unconstitutional as giving right to take private property for private use. Phila. Clay Co. v. York Clay Co., 241 Pa. 305; 88 A. 487.

Riparian rights, non-navigable streams, taking without compensation.—Where stream is not actually navigable, declaration by legislature that it shall be so would be taking private property for public purposes without compensation. Com. v. Foster, 16 Dist. 571.

Sewers, benefits, townships of first class, jury, trial by, Act 1905.—Act Feb. 23, 1905, P. L. 22, relating to construction of sewers in townships of first class, is unconstitutional in so far as it authorizes assessment of benefits where sewer passes through private lands, since such land is taken by right of eminent domain and owner has no right of trial by jury. Anderson v. Lower Merion Twp., 217 Pa. 369; 66 A. 1115.

State highway, relocating, damages, county, Act 1921.—Act April 6, 1921, P. L. 107 (36 PS § 61 et seq.), relating to relocation of roads taken for state highway and assessment and payment of damages, is not unconstitutional, because it imposes liability for such damages upon county and provides no method of raising funds for their payment. Durante's Petition, 3 D. & C. 351.

Turnpike company, securing compensation, appropriation of public funds, Acts 1911, 1913.—Act May 31, 1911, P. L. 468, establishing state highways, as amended by Act April 11, 1913, P. L. 59 (36 PS § 81), is not unconstitutional because it appropriates property of turnpike company for public use without filing bond to secure damages, since act provides for appropriation of state funds as security for damages. State High. Dept. v. Turnpike Co., 242 Pa. 171; 88 A. 938.

Water companies:
Constitutional Law — Statutes, Title (Water).

Constitutional Law—Equal Protection of Laws.

Aliens, forbidding ownership of gun, game laws, equal protection of law, treaty with Italy, police power, Act of 1909.—Act of May 8, 1909, P. L. 466, prohibiting hunting of game in Pennsylvania by unnaturalized foreign-born residents and providing that possession of rifle or shotgun by such person outside of building shall be conclusive proof of violation of act and shall make him liable to summary conviction, and to fine or imprisonment, is

Constitutional Law—Equal Protection of Laws—(Cont'd).

constitutional and conviction for its violation will be sustained, although there is no evidence that defendant was hunting game or that gun found in his possession had been or was intended to be used by him in hunting game. Com. v. Papsone, 231 Pa. 46; 79 A. 928; aff. 44 Super. 128; 57 Pitts. 342; 19 Dist. 311; Com. v. Cosick, 44 Super. 109; reversing 36 C. C. 637; 19 Dist. 309; 57 Pitts. 337.

It is within power of state to regulate or prohibit hunting of game, and Act, in prohibiting alien from hunting, intended to take from him means by which game could be hunted by making possession of shotgun or rifle distinct offense from that of hunting game. Id.

Act does not discriminate against person or property of alien and does not offend against 14th amendment of U. S. constitution by denying to him equal protection of laws. Id.

It does not offend against treaty with Italian government. Id.

Aliens, ownership of firearms: Constitutional Law — Equal Protection of Law (Aliens).

Bankers, private, vendors of steamship tickets, Act 1911.—Exception of persons engaged in sale, as agents or otherwise, of railroad or steamship tickets from exemption in sec. 8 of private banking Act June 19, 1911, P. L. 1060 (7 PS § 725), of persons who have conducted business of private banking for period of seven years prior to approval of act, is not in conflict with 14th amendment of federal constitution guaranteeing to all persons equal protection of laws, as discrimination is not arbitrary. Com. v. Billotto, 24 Dist. 161.

Child labor, classification, Act of 1905.—Sections 5 and 6 of the Child Labor Act of May 2, 1905, P. L. 352, regulating employment of children in industrial establishments, are in conflict with first section of fourteenth amendment of federal constitution, in that they classify minors to whom employment certificates may be issued. Com. v. Hoopes, 15 Dist. 894.

Elections, appointment of registrars, majority and minority parties, Act of 1911.—Section 3 of Act of June 16, 1911, P. L. 993, reducing number of registrars in each election district from four to three, and providing that two of them shall be members of party polling highest vote at last preceding presidential election and that other one shall be member of party polling next highest vote, is constitutional and does not violate 14th amendment of constitution of United States, providing that no state shall deny to any person within its jurisdiction equal protection of laws. Kille v. Woodruff, 21 Dist. 207.

It is duty of legislature to establish standard for ascertainment of majority and minority parties; whether it is wiser to accept more permanent standard of national elections or more changeable standard of state elections is question within its discretion. Id.

Embezzlement by trustees or assignees, limitation, Acts 1860, 1889.—Act April 23, 1889, P. L. 48 (19 PS § 214), enlarging statute of limitation to five years, in case of trustees, etc., but not changing as to assignees, whereas Act March 31, 1860, P. L. 382 (18 PS § 141 et seq.), includes both, is not violation of federal constitution as to equal protection of law, since separation of "trustees" and "assignees" is proper classification. Com. v. Levi, 44 Super. 253.

Escheat, Act 1915.—Act June 7, 1915, P. L. 878, regulating escheat of certain kinds of property, does not violate 14th amendment of constitution of United States, in that it denies equal protection of law. Germantown Trust Co. v. Powell, 20 Dauph. 106; 45 C. C. 209.

Food, labels, analysis, Acts 1901, 1905.—Act April 24, 1905, P. L. 306, amending Act April 25, 1901, P. L. 107, requiring statements of amounts of crude fat and protein contained therein to be affixed to parcels of feedstuffs for domestic animals, offends against fourteenth amendment of Federal Constitution, in that it denies equal protection of law by exempting millers therefrom. Com. v. McKnight, 16 Dist. 869.

Game laws, automatic guns, Act 1907.—Act May 31 1907, P. L. 329, prohibiting use of automatic guns for

killing game and birds, violates both State and Federal Constitutions in that it deprives automatic gun makers of equal protection of law. Com. v. McComb, 34 C. C. 599; 17 Dist. 466; 7 Just. 1.

Liquor, property used for, bailment, chattel mortgage, Act 1923.—Fact that Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), makes distinction between rights of bailor and holder of chattel mortgage does not deny equal protection of law as guaranteed by Federal Constitution. Com. v. White Truck, 85 Super. 92.

Markets, regulation:
Municipalities — Police Powers (Markets).
Motor vehicles, liquor:
Constitutional Law — Special Laws (Lien).
Public service law:
Constitutional Law — Trial by Jury (Public).

Taxes, uniformity, capital stock, Act 1907.—Act of June 13, 1907, P. L. 640 (72 PS § 1991 et seq.), imposing tax on capital stock of title insurance and trust companies is in conflict with fourteenth amendment to constitution of U. S., in that no state shall deny any person within its jurisdiction equal protection of laws. Com. v. Mortgage Trust Co., 12 Dauph. 24.

Constitutional Law—Ex Post Facto Laws.

Bigamy:
Criminal Law — Bigamy (Prior).

Fiduciaries act, retroactive law, obligation of contracts, Act 1917.—Fiduciaries Act June 7, 1917, P. L. 447 (20 PS § 321 et seq.), is not unconstitutional because it is retroactive. Myers v. Lohr, 66 Pitts. 665; 8 Leh. 119; 19 Lack. 287.

Retroactive laws which do not impair obligations of contracts or interfere with vested rights are valid. Id.

Indeterminate sentence:
Constitutional Law — Personal Rights (Ex post).
Liens, regulation of:
Constitutional Law — Obligation of Contract (Decedent).

Loans, licensing of lenders, exclusion of persons convicted of certain offenses, pawnbrokers, Act 1913.—Act June 5, 1913, P. L. 429, making it unlawful for any person to engage in business of loaning money at interest under certain conditions without first obtaining a license, is not unconstitutional as providing ex post facto punishment for persons convicted of certain crimes by denying them right to engage in loan business. Anyway this provision of act could be stricken out and balance be enforceable. Com. v. Young, 57 Super. 521; affirming 62 Pitts. 84.

Municipal claims, Acts 1901, 1915.—Act May 28, 1915, P. L. 610, giving boroughs remedy to collect claims though they had not been filed within six months as provided by Act June 4, 1901, P. L. 364, is constitutional although retrospective in character. Towanda v. Fell, 69 Super. 468.

Prior conviction, photographs and finger prints of persons in custody, Act 1927.—Act April 27, 1927, P. L. 414 (19 PS §§ 1401–1407), authorizing state police prison wardens, etc., to take photographs and finger prints of any person in custody charged with commission of crime, is not an ex post facto law within prohibition of Art. 1, Sec. 17, of Constitution of Pennsylvania, as applied to person twice convicted of misdemeanor before passage of that statute. Bloom v. Clemmens, 21 Berks 8.

Constitutional Law—Executive Power.

Commutation of sentence, condition, board of pardons, Act 1901.—Act May 11, 1901, P. L. 166 (61 PS §§ 271–278), governing commutation of sentences of prisoners, does not interfere with the governor's power of granting pardons and commutations, but, in so far as it directs any conditions to be annexed to commutations, it is merely a request to governor, which he is not bound to heed. Com. v. Allegheny Co., 17 Dist. 134; 55 Pitts. 243.

Constitutionality of act, power to consider.—The governor has no power to consider the constitutionality of a statute. Bellevue & Perrysville St. Ry. Co. v. Ry., 32 C. C. 243; 15 Dist. 510; 8 Dauph. 281.

Constitutional Law — Executive Power—(Cont'd).

Pardoning power, indeterminate sentences, Act 1909.—Act May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), does not deprive governor and board of pardons of any power of administering state's grace. Com. v. McKenty, 21 Dist. 589; 60 Pitts. 521.

Constitutional Laws—Inter-State Commerce.

Express company, license, appeal, failure to take.—A municipality may impose a tax on the domestic business of an express company, notwithstanding the fact that the principal business of the company is inter-state. Titusville v. American Express Co., 32 C. C. 361; 20 York 62; 37 Pitts. 51; 15 Dist. 823.

If the ordinance provides for a board of appeals wherein any errors of assessment may be corrected and if defendant has failed to appeal to such board, it cannot allege that the assessment includes its inter-state business. Id. 365.

Jurisdiction, state courts, railroads, rates.—Regulation of interstate commerce has been placed by congress in hands of interstate commerce commission, and their authority is original and exclusive, and state court has no jurisdiction of interstate railroad fare rates. Bacon v. Penna. Co., 56 Pitts. 63.

Mercantile license tax.—Where goods are sent from one state to another in consequence of sale, they become part of its general property and amenable to its laws, provided that no discrimination be made against them, and that they be not taxed by reason of being from another state, but only taxed in usual way other goods are. Com. v. Banker Bros. Co., 38 Super. 101.

Mercantile license tax, foreign shipments, Act 1899.—Act May 2, 1899, P. L. 184 (72 PS § 2621 et seq.), providing for mercantile license tax on whole volume of business transacted by wholesale dealers, is not unlawful taxing or regulation of commerce, though it includes portion of business represented by foreign shipments. Com. v. Crew Levick Co., 256 Pa. 508; 100 A. 952.

Pipe line companies, gross receipts, taxation, Act 1889.—Act June 1, 1889, P. L. 420, 431, § 23 (72 PS §§ 2181, 2182), taxing gross receipts of transportation, is unconstitutional as an interference with interstate commerce, so far as it applies to pipe line companies conveying oil in its pipes from Pennsylvania to point in another state, without limitation as to amount. Com. v. Pipe Line Co., 25 Dauph. 171; 1 D. & C. 616.

Railroads, car storage charges, demurrage, Act 1907.—Act of May 24, 1907, P. L. 229, providing maximum car service charges, including car storage charges, that railroad companies may impose, is invalid as to goods and cars engaged in interstate commerce. Penna. R. R. v. Coggins Co., 38 Super. 129.

Where goods are shipped from one state to another and on arrival at destination remain in cars placed on public sidings, they continue part of interstate commerce transaction until unloaded. Id.

Railroads, full crew law:
Constitutional Law—Police Power (Railroads).

Salesman, orders for goods, delivery in original packages, license.—Agent who takes and forwards orders for goods, to dealer in another state, and receives goods in original packages and distributes them without breaking packages, collecting money therefor and forwarding it to his employer, cannot be compelled to pay license tax in city in which he takes such orders. Altoona v. Patterson, 33 C. C. 129; 16 Dist. 557.

Steamship tickets, license to sell, agent, Acts 1919, 1921.—Act July 17, 1919, P. L. 1003, as amended by Act May 20, 1921, P. L. 997, requiring license to sell steamship tickets, does not violate commerce clause of Federal constitution since it is not a tax on sale of tickets or any instrumentality of commerce. Com. v. Disanto, 285 Pa. 1; 131 A. 489.

One selling steamship tickets is not an agent of the companies within ex-

ception of above Acts where he merely sold tickets without any obligation to particular companies, was not employed by any of them, and his authority merely included right to sell tickets at schedule prices and remit money, and he received no compensation from the company and no allowance for expense. Id.

Steamship tickets, sale, license, tax on commerce, Act 1921.—Act May 20, 1921, P. L. 997, providing for license to persons selling steamship tickets, is unconstitutional as a tax on interstate commerce. Com. v. Disanto, 85 Super. 149.

Street railway, interstate line.—Street railway in city immediately contiguous to town on border of another state to and through which single fare on Pennsylvania system pays for continuous carriage, is engaged in interstate commerce, and city cannot regulate fares. Easton v. Transit Co., 17 Dist. 711; 11 North. 78; 2 Leh. 306.

Telegraph company, license fees, inspection of poles, cost of, Act 1905.—Under Act of April 17, 1905, P. L. 183 (72 PS §§ 6161–6167), state or municipalities can tax corporation doing interstate business such fee as will pay expense of inspection and regulation of poles. Postal Tel.-Cable Co.'s Petition, 57 Pitts. 49.

Transient merchants, license, Act 1899.—Act May 2, 1899, P. L. 159, authorizing imposition of monthly license tax on transient merchants is not in violation of interstate commerce section of constitution, when applied without discrimination to citizens and products of this and other states, and to goods within state and not sold in original package. Block v. City, 30 Lanc. 275; 5 Mun. 9; 22 Dist. 1056.

Constitutional Law—Judicial Power.

Appeals, special allowance, summary convictions, Acts of 1901, 1905.—Act of April 22, 1905, P. L. 284 (19 PS § 1189), authorizing appeals in summary convictions before magistrates without allowance of court is in contravention of Art. 5, § 14 of constitution. Com. v. Graeff, 28 Lanc. 113.

The purpose of the constitutional provision was not to furnish either by appeal or certiorari opportunity to set aside records, where no oppression or corruption is alleged, no doubtful legal question involved, or after-discovered evidence found. Com. v. Coleman, 5 Just. 11; 20 York 77.

The Act of April 22, 1905, P. L. 284, providing for appeals in summary conviction cases without special allowance by the court is bad, as it violates Art. V., section 14 of the constitution. Com. v. Luckey, 31 Super. 441; Com. v. Doyle, 23 Lanc. 107; 19 York 154; 32 C. C. 109; 15 Dist. 687; Com. v. Light, 4 Just. 121; Com. v. Bamberger, 32 C. C. 145; 36 Pitts. 282; 9 Dauph. 166; Com. v. Weiler, 2 Leh. 49, 52; 5 Just. 21.

Acts of May 2, 1901, P. L. 132 (18 PS § 421), providing for punishment of disorderly conduct, and Act of April 22, 1905, P. L. 284, relating to method of taking appeals from summary conviction, are in conflict with method prescribed by Art. 5, § 14. Com. v. Lissin, 57 Pitts. 27; 3 Leh. 255.

Appeals, special allowance, summary conviction, disorderly conduct, Acts 1895, 1901.—Act May 2, 1901, P. L. 132 (18 PS § 421), providing for appeal in cases of summary conviction for disorderly conduct on public highways without special allowance, is in conflict with art. 5, sec. 14 of constitution, which expressly requires such allocatur. Com. v. Mohrey, 24 Dist. 416; 14 Just. 1.

Part of statute may be unconstitutional and remainder constitutional, where parts are so separable that each can stand alone, and such was legislative intent. Id.

Act May 2, 1901, simply amends Act June 25, 1895, P. L. 271 (18 PS § 421), relating to disorderly conduct, by adding proviso relating to appeals. Omitting this unconstitutional proviso, Act of 1895 stands in complete form. Id.

Appeals, special allowance, summary conviction, dog, ownership by foreign citizen, Act 1915.—Act June 1, 1915, P. L. 644, making it unlawful for any unnaturalized foreign born

Constitutional Law—Judicial Power —(Cont'd).

resident to own or be possessed of dog, is unconstitutional in so far as it attempts to carry case of summary conviction into court of record to obtain trial of case there on its merits by defendant's merely entering "good and sufficient recognizance to answer such complaint on charge of misdemeanor before court of quarter sessions," being in violation of art. 5, sec. 14. Com. v. Preoziki, 46 C. C. 574; 14 Sch. 228.

Appeal, special allowance, summary conviction, fishing, Act 1907.—Section 7 of fish law of May 29, 1907, P. L. 311, violates Art. 5, § 14 of constitution relating to appeals in cases of summary conviction. Com. v. Horner, 36 C. C. 184; 10 Lack. 182; Com. v. Van Horn, 14 Luz. 371.

Appeal, summary conviction, Act of 1876.—Art V, section 4, of the constitution, and the Act of April 17. 1876, P. L. 29, gave defendant the right to appeal within five days after conviction, irrespective of the amount of the fine imposed, and magistrate has no right to deprive him of this right by a threat of immediate imprisonment. Com. v. Smith, 20 York 78.

Assumption by legislature:
Constitutional Law — Legislative Power (Curative).
Foreign judgment, full faith and credit:
Divorce — Alimony (Foreign).
Full faith and credit:
Affidavit of Defense — Required When (Foreign).
Divorce — Alimony (Termination).

Interference with, by legislature, appointment of auditors, selection of, Act of 1909.—Act of April 1, 1909, P. L. 95 (17 PS §§ 1741, 1742), permitting parties in interest, or their counsel, to select auditors in judicial proceedings, is in conflict with Art. 5, § 1 of constitution, vesting all judicial power in courts. Hick's Est., 19 Dist. 410; 12 North. 149; 3 Leh. 361.

Selection of auditor in judicial proceeding is judicial act. Id.

Interference with, by legislature, attorneys, admission to practice, Act 1909.—Act May 8, 1909, P. L. 475 (17 PS §§ 1605, 1668), providing that admission to supreme court shall operate as admission to every other court of commonwealth, is not a legislature interference with judicial power of court in violation of Art. 5, § 1 of constitution. Hoopes v. Bradsham, 231 Pa. 465; 80 A. 1052.

Interference with, by legislature, defining terms in statute, Act 1911.—Declaration in Act June 13, 1911, P. L. 898, of the meaning of words as used in act, is not violation of art. 5, sec. 1, of constitution. Parnassus Boro. v. Church, 43 C. C. 142; 4 West. 155.

Interference with by legislature, indeterminate sentence, discretion, pardoning power, Acts 1909, 1911.—Acts May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), and June 19, 1911, P. L. 1055 (19 PS §§ 1051–1057; 61 PS § 302 et seq.), relating to indeterminate sentences, do not violate sec. 1, art. 10, which vests judicial power in courts, nor does it transfer judicial discretion to a non-judicial board. Commonwealth v. McKenty, 52 Super. 332; Com. v. Kalck, 239 Pa. 533; 87 A. 61.

Fixing a maximum or minimum punishment for crime by legislature does not interfere with judicial discretion. Id.

Above acts do not restrict or interfere with pardoning power of governor, but merely gives prison inspectors power to recommend, without imposing on him duty to adopt such recommendation. Id.

Interference with, by legislature, judicial discretion, indeterminate sentences, Act 1909.—Act May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), does not transfer judicial discretion from court to non-judicial board. It takes from courts power to impose any other valid sentence than maximum punishment provided for offence by statute. It confers on prison inspector right to recommend paroles. To this there is no valid objection on constitutional

grounds. Com. v. McKenty, 21 Dist. 589; 60 Pitts. 521.

Interference with, by legislature, mandamus, bridges, construction, statutes, construction of word "shall," Act 1901.—The Act of May 13, 1901, P. L. 191, providing for the erection of bridges over stream forming the boundary between two counties, is not an interference with judicial powers of the county merely because it provides that, in the event of the refusal of the county commissioners to act in the matter, the common pleas, after proper hearing, "shall issue mandamus" to compel them to proceed under the act. Lewisburg Bridge Co. v. County, 232 Pa. 255; 81 A. 324.

The word "shall," with its context, is to be construed as meaning "may." Id.

Interference with, by legislature, statutes, construction, taxation, exemption, charitable institutions, Act 1911.—Act June 13, 1911, P. L. 898, removing the exemption from taxation of certain lands of charitable institutions is unconstitutional because it violates sec. 1, art. 5, by endeavoring to construe meaning of words already judicially construed, and thus conferring judicial powers on legislature. Williamson Free School, 12 Del. 259; 22 Dist. 824.

Interference with, by legislature, statute, construction, wages, preference, Act 1878.—Act June 12, 1878, P. L. 207 (43 PS § 230), which is supplement to Act April 9, 1872, P. L. 47 (43 PS § 221 et seq.), does not offend against art. 5, sec. 1 of constitution. Brown v. Mehrten, 27 Dist. 919.

Interference with, by legislature, tenant, arson, Act 1881.—Act June 10, 1881, P. L. 117 (18 PS § 3026), providing for conviction of tenant who burns building, is not improper usurpation of judicial power by legislature. Com. v. Levine, 82 Super. 105.

Interference with, by legislative, will, construction, Act 1897.—The Act July 9, 1897, P. L. 213 (21 PS § 9), providing that the words "die without issue" or similar words, when used in will, should be construed to mean want or failure of issue at or before death of such person is not void as an interference with judicial functions by legislature. Dilworth v. Land Co., 37 Pitts. 393.

Interference with, by legislature, will, construction, words "die without issue," Act 1897.—Act July 9, 1897, P. L. 213 (21 PS § 9), providing that words "die without issue," or similar words, when used in deed or will, should mean failure of issue in lifetime or at death of person named, is not unlawful exercise of judicial functions. Dilworth v. Land Co., 219 Pa. 527; 69 A. 47.

Judges, assignment from other districts, murder trial, Act 1911.—Under Act April 27, 1911, P. L. 101 (17 PS § 228), judges who have been summoned from other counties to specially preside in Philadelphia, may preside at murder trials in oyer and terminer, and may sit in banc to pass on motion for new trial. Com. v. Johnson, 236 Pa. 412; 84 A. 824.

A judge called in from another county becomes for the time a judge of the county to which he is called. Id.

Judges, increase in number. Philadelphia county, Act 1913.—Act March 29, 1913, P. L. 20, providing for addition of one judge to each five courts of common pleas in Philadelphia, violates art. 7, § 6 of constitution, providing that when increase in judges shall amount in the whole to three, they shall constitute a distinct and separate court. Com. v. Hyneman, 242 Pa. 244; 88 A. 1015.

Judgment, default, entry by prothonotary, Practice Act 1915.—Practice Act May 14, 1915, P. L. 483 (12 PS § 382 et seq.), does not offend art. 5, sec. 1, of constitution of Pennsylvania because judgment for want of affidavit of defense may be entered by prothonotary without order or rule of court. Prothonotary was not exercising judicial powers. Shipley-Massingham Co. v. Golden, 66 Pitts. 21; 27 Dist. 953.

Judgments, full faith and credit:
Judgments—Conclusiveness (Foreign).

Judicial districts, apportionment, Schedule, Acts 1901, 1915.—Four-

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teenth section of schedule of constitution relating to designation of judicial districts in each decennial period, is substantive part of constitution, and Act May 14, 1915, P. L. 498, which amends general judicial apportionment Act of July 18, 1901, P. L. 669, is unconstitutional. Com. v. Heck, 251 Pa. 39; 95 A. 929.

Judicial districts, apportionment, time of making, Act 1917.—Act April 24, 1917, P. L. 95, designating judicial districts of state and providing for election of judges therein, violates section 14 of Schedule of Constitution which provides that legislature shall designate judicial districts at next succeeding session after each decennial census, since act was not passed at session succeeding decennial census, but at second session thereafter. Noecker v. Woods, 259 Pa. 160; 102 A. 507.

By failing to make apportionment at session succeeding decennial census, it will be presumed legislature intended to adopt existing apportionment for succeeding ten years. Id.

Mortgage, foreclosure, restraining by appointment of receiver, obligation of contracts, impairment.—The court has no power by appointment of receiver for estate of mortgagor, to restrain mortgagee from collecting his debt out of mortgaged estate in accordance with terms of mortgage. Galey v. Guffey, 248 Pa. 523; 94 A. 238.

The courts have no greater power than the legislature to impair obligation of contracts. Id.

Municipal court, judges acting as magistrates, Act 1913.—Section 11 of Act July 12, 1913, P. L. 711, 715 (17 PS § 694), creating municipal court of Philadelphia, is not unconstitutional because it provides that judges of municipal court should be ex-officio justices of peace, since it takes away from judge no right to exercise any power, but merely confers upon other persons same power. Com. v. Persch, 71 Super. 60.

Orphans' court, certifying issue to common pleas, escheats, Act 1889.—Act May 2, 1889, P. L. 66 (27 PS § 1 et seq.), relating to escheats, and requiring orphans' court to certify issue to common pleas, does not unlawfully deprive orphans' court of any of its powers. Alton's Est., 220 Pa. 258; 69 A. 902.

Procedure, costs, sheriff's sale, stay pending payment of costs, Act 1901.—Section 3 of Act July 11, 1901, P. L. 663 (16 PS §§ 2661–2665), relating to sheriffs' sales, is unconstitutional in that it is an invasion of jurisdiction of courts and infringement of right of suitors. Legislature cannot take away inherent power of court to control writs emanating from it, nor authorize denial of justice by imposing on party seeking it condition that he pay costs, fees, or any sum of money, before judicial decree shall become effective. United Security Life Ins. & Tr. Co. v. Kline, 16 Luz. 295; 22 Dist. 976.

Punishment for contempt:
Contempt of Court (Punishment).

Sentence, indeterminate, Act 1923.—Act June 29, 1923, P. L. 975 (19 PS § 1057), does not violate constitutional provision relating to judicial power of courts. Com. v. Sweeney, 281 Pa. 550; 127 A. 226.

Uniformity, public service commission, appeals from, Act 1915.—Act June 3, 1915, P. L. 779, requiring appeals from orders of Public Service Commission to be taken to Superior Court, does not violate Article 5, section 26, requiring laws relating to courts to be uniform. West Va. Paper Co. v. Pub. Serv. Com., 61 Super. 555.

Usurping by legislature:
Criminal Law—Sentence (Indeterminate).

Constitutional Law—Legislative Power.

Adjournments, three days' time, computation of.—Proper interpretation of constitution which provides that "neither house shall, without consent of other adjourn for more than three days" is that when either house without such consent adjourns on Wednesday it may reconvene on Monday following, but it may not adjourn on Friday to reconvene on following Wednesday. Adjournment, 61 Pitts. 551.

If, however, either house adjourns for more than three days and then con-

venes and passes legislation which is approved by executive, such adjournment will not invalidate acts approved by executive. Id.

Affairs of counties, courts, criers, tipstaves salary, Act of 1909.—State possesses absolute authority to direct public affairs of counties and to regulate and dictate respecting all matters touching accessories and equipments of courts and other instrumentalities. Turner v. Chester County, 36 C. C. 620; 19 Dist. 749.

Court criers and tipstaves are entitled to receive salary fixed by Act of April 29, 1909, P. L. 287. Id.

Attorneys, admission to practice:
Attorneys — Admission (Supreme).

Certiorari, appeals, review, Acts 1889, 1919.—Legislature lacks power to deny Supreme Court right of issuing common law certiorari to test jurisdiction of subordinate tribunals, for that would be denial of long existing judicial prerogative expressly recognized by sec. 3, art. 5, of constitution. Twenty-first Sen. Dist. Nom., 281 Pa. 273; 126 A. 566.

Legislature may deny right of appeal by certiorari or otherwise, to review judicial rulings on incidental points arising in course of proceedings, under new statutory remedies. Id.

If legislature states that no appeal shall be permitted, then review, beyond determining questions of jurisdiction, cannot be had; and certiorari for latter purpose cannot be broadened into something more extensive, either by prior rulings on general subject, or by operation of Act of April 18, 1919, P. L. 72 (12 PS § 1165). Id.

Where legislature fails to provide for appeal in statutory proceeding, and because of that omission, action of tribunal involved is generally speaking considered final yet certiorari to inspect record, in broadest sense allowed by cases, may, nevertheless, issue. Id.

Act of May 9, 1889, P. L. 158 (12 PS §§ 1131, 1132, 1163), providing that all appellate proceedings "shall hereafter be taken in proceeding to be called appeal," has effect merely of changing names of writs heretofore used to bring up cases for review, viz., writ of error, appeal, and certiorari, so that all should be called appeals, but the several modes of review remain applicable in same cases, within same limits, and with same effect as before. Id.

Charity, solicitation of money, classification, Act 1925.—Act May 13, 1925, P. L. 644 (10 PS §§ 141–151), regulating collection of money for charitable purposes, and exempting certain charitable groups and classes from its operation, is proper exercise of legislative power and does not involve wrongful classification in violation of art. III, sec. 7, of constitution. Com. v. McDermott, 296 Pa. 299; 145 A. 858.

Charter of corporation, capital stock, increase, bonus, Act 1899.—Corporation having power under its charter, granted before passage of Act May 3, 1899, P. L. 189, to increase its capital stock for specified purposes, is not liable for bonus on increase imposed by that act; if act could be construed as applicable to increase of stock made under charter privilege conferred prior to its passage, it would impair obligation of charter contract and be unconstitutional. Com. v. D., L. & W. R. R., Dauph, 1919, 37; 7 Corp. 143; 47 C. C. 232; 28 Dist. 838.

Compromise of debt owing to commonwealth.—Joint resolution of state legislature authorizing state treasurer to collect specific sum of money owing commonwealth by state depository and limiting interest to certain rates, if paid by those liable within certain time, is legal and hence, binding on state treasurer. Com. v. Caldwell, 58 Pitts. 197.

It is not in violation of Art. 3, § 7, prohibiting legislature from passing any local or special law "fixing rate of interest," or "remitting fines, penalties and forfeitures," or "granting to any corporation any special privilege or immunity," but is attempt by legislature to compromise debt due commonwealth. Id.

Courts, consolidation of, Philadelphia county, Act 1913.—Act June 11, 1913, P. L. 469, consolidating common pleas courts of Philadelphia county, violates art. 5, § 6 of the constitution providing for separate courts com-

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posed of three judges each. Bachman v. McMichael, 242 Pa. 482; 89 A. 573.

Courts, creation, new remedies, highways, opening, review of proceedings, certiorari, Act of 1901.—Act of July 2, 1901, P. L. 607 (53 PS §§ 18861–18863), to provide for reviewing proceedings of township road commissioners in laying out, opening and vacating roads, is constitutional exercise of power of legislature to provide new remedy in road proceedings. Earl v. Ryan, 41 Super. 448.

Legislators may, from time to time, provide new remedies, modify old ones, validate defects in form, provide new tribunals or new process for existing rights, and such enactments are within limits of state and national constitutions. Id.

Courts, creation of, uniformity, Allegheny county courts, Act 1911.—Act May 5, 1911, P. L. 198 (17 PS §§ 621–651), creating county court in Allegheny county, does not violate art. 5, § 26, requiring all laws relating to courts to be of uniform operation, and also prohibiting legislature from creating other courts to exercise powers vested in judges of common pleas and orphans' courts. Com. v. Hopkins, 241 Pa. 213; 88 A. 442; affirming 53 Super. 16.

Power to create new courts and judges includes power to invest them with necessary jurisdiction and to apportion judicial powers so as to adapt them to growth of population. Id.

Courts, creation of, uniformity, Allegheny county court, jurisdiction, Act 1911.—Under art. 5, § 1 of Constitution, providing that judicial power shall be vested in certain courts "and such other courts" as legislature may establish, that body may not only establish courts similar to those enumerated, but also courts of a grade and character different from those expressly set forth. Gottschall v. Campbell, 234 Pa. 347; 83 A. 286.

Act May 5, 1911, P. L. 198 (17 PS §§ 621–651), establishing a county court in Allegheny county, does not violate art. 5, § 26, requiring all legislation relating to courts to be general and of uniform operation and prohibiting legislature from creating other courts to exercise the powers vested by the constitution in the judges of the court of common pleas. Id.

The powers vested in the judges of the common pleas refers to powers of the judges as distinguished from the court; nor does the act divest such judges of any of their powers, but merely creates a new court of concurrent jurisdiction. Id.

Said act does not lack uniformity merely because its procedure differs from that of common pleas. Id.

The limitation of jurisdiction to claims of $600 applies to all actions. Id.

Courts, creation of, uniformity, municipal court, uniformity, Act 1913.—Act July 12, 1913, P. L. 711 (17 PS §§ 681–699), creating municipal court in Philadelphia, does not violate art. 5, § 26 of constitution requiring uniformity in courts of the same class or grade, such court being of a different class or grade than the county court of Allegheny County or the common pleas of Philadelphia. Gerlach v. Moore, 243 Pa. 603; 90 A. 399.

Courts, terms, quarter sessions.—Constitutional designation of court bearing name of quarter sessions as one of courts in which judicial power of commonwealth shall be vested, creates no implication of restriction of power of legislature to establish more than four terms or sessions each year, or to delegate to court itself power to fix number of its terms beyond four, and to establish times for holding same. Com. v. Ramsey, 42 Super. 25.

Courts, uniformity, school code, Act 1911.—Provision in school code for appointment of directors by common pleas judges in districts of first class, does not violate art. 5, § 26, requiring laws relating to courts to be general and of uniform operation. Minsinger v. Rau, 236 Pa. 327; 84 A. 902.

Curative legislation, contractor, extra compensation, payment for work done under act declared unconstitutional, assuming judicial powers, deprivation of property, Act 1917.—Act April 20, 1917, P. L. 90, providing for payment by county for work actually done

in construction of public bridge or tunnel prior to time act under which work was done was declared unconstitutional, does not violate art. 3, sec. 2 of constitution prohibiting legislation giving public officer or contractor extra compensation, since such act does not refer to extra compensation, but merely provides compensation for work done and not paid for, and further relates to claims against county and not against commonwealth. Kennedy v. Meyer, 259 Pa. 306; 103 A. 44.

The legislature may ratify and legalize any act done under prior void legislation which it might have previously authorized, if done in proper form. Id.

Said act is not an assumption by legislature of judicial powers, nor does it deprive of property without compensation, since tax imposed to pay expense is raised by general taxation and paid out of the public treasury. Id.

Curative legislation, paving and grading, Act of 1899.—The act of April 18, 1899, P. L. 57 providing that where a street has been graded, paved or otherwise improved by municipal authority, under the provisions of invalid laws or ordinances "such improvements are made valid and binding," is constitutional. Marshall Ave., 213 Pa. 516; 62 A. 1085.

Declaratory judgment, non-judicial duty, trial by jury, due process of law, practice, res judicata, Act 1923.—Uniform Declaratory Judgment Act of June 18, 1923, P. L. 840 (12 PS §§ 831–846), is not unconstitutional as an improper delegation of non-judicial duty on the courts, even though declaration does not necessarily include right to execution. Kariher's Pet., 284 Pa. 455; 131 A. 265.

Act does not involve unconstitutional denial of trial by jury since it makes provision for such trial in appropriate cases, nor does it deny due process of law. Id.

Court will not decide future rights in anticipation of event which may not happen but it will wait until event actually takes place unless immediate decision is necessary; even then rights will not be determined unless all parties concerned are present so that judgment will completely settle issue. Id.

In order to obtain judgment under Act it is not required that actual wrong should have been done or that there be a present cause of action but a real controversy must exist and judgment is res judicata of points involved. Id.

Delegation of:
Constitutional Law—Special Laws (License).
Municipalities — Police Power (Milk).
Municipalities — Streets (Control).

Delegation of, adulteration of drugs, Act 1909.—Fact that sec. 3 of Act May 8, 1909, P. L. 470 (35 PS § 784), in defining what should be considered an adulteration of drugs, mentioned certain standard works and formulas, does not constitute violation of art. 3, sec. 1, prohibiting delegation of legislative power. Com. v. Sweeney, 61 Super. 367.

Delegation of, boroughs, plumbers, registration, Act of 1895.—The Act of June 24, 1895, P. L. 232 (53 PS §§ 2162–2165), relating to registration of plumbers, involves a wrongful delegation of legislative power to cities and boroughs and is bad. Com. v. Shaffer, 32 C. C. 433; 20 York 73; 2 Leh. 74; 10 North. 292; 37 Pitts. 71.

Delegation of, city planning commissions, special commissions, Act 1913.—Act July 16, 1913, P. L. 752 (53 PS §§ 11411–11416), creating city planning commissions in cities of third class, is not unconstitutional as delegation of power to special commission. Chester v. Wunderlich, 12 Del. 566.

Delegation of, commissioner of health, abatement of nuisance, borough sewage disposal plant, Act of 1905.—Act of April 27, 1905, P. L. 312, conferring on commissioner of health power to abate nuisances, is not unconstitutional because in conflict with art. 3, sec. 20 of constitution providing that general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement. Com. v. East

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Washington, 60 Pitts. 300; 3 Mun. 258.

Delegation of, congress, liquor, Act 1923.—Snyder Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), relating to intoxicating liquors, is not unconstitutional as delegation of power to congress to legislate for this state because act provides that definition of intoxicating liquor shall mean anything determined from time to time to be intoxicating by Act of Congress. Com. v. Gardner, 96 Sup. 450; appeal disallowed, 297 Pa. 498; 147 A. 527.

Delegation of, county commissioners, special commissions, county and city joint building, Act 1913.—Act April 18, 1913, P. L. 96 (53 PS §§ 1341–1345), which provides that in each county where county-seat is within limits of any city county commissioners and corporate authorities of city shall have power to erect joint municipal building and court house, is not in violation of art. 3, sec. 20, which provides against delegation of power to special commission to make, supervise or interfere in any municipal improvements or to perform any municipal function. Stratton v. County, 62 Pitts. 41.

Delegation of, election of county controller, Act of 1909.—Act of May 6, 1909, P. L. 434, relating to election of controller in counties where none have heretofore been elected, is not unconstitutional; method provided in act for carrying it into effect not being delegation of legislative power. Com. v. Moffitt, 57 Pitts. 565; 19 Dist. 811.

Delegation of, food-stuff, labels, Act 1901.—Act April 25, 1901, P. L. 107, requiring labels on parcels of food-stuffs for domestic animals to contain percentages of crude fat and protein determined by methods adopted by the Association of Agricultural Chemists of United States, is not an unlawful delegation of legislative power. Com. v. McKnight, 16 Dist. 869.

Delegation of, highways, construction by taxpayer, road taxes, working out taxes, Act of 1905.—Act of April 12, 1905, P. L. 142, § 2, providing for abolition of working out taxes on roads at election of taxpayers in townships, does not violate art. 2, § 1, of constitution, as being a delegation of legislative power. Foster Twp. Rd. Tax, 32 Super. 51.

Delegation of, indexing deeds and mortgages, Act 1891.—Act of May 26, 1891, P. L. 129 (17 PS §§ 1981–1986), empowering court of common pleas to change, alter and direct mode of preparing and keeping indices in several offices of record, and for preparing, making and substituting new indices or parts thereof, is not delegation of legislative power. Indexing of Deeds, etc., 5 Leh. 107.

Delegation of, Industrial Board, Department of Labor and Industry, Act 1913.—Misdemeanor cannot be created by rule of Industrial Board of Department of Labor and Industry under Act June 2, 1913, P. L. 396. Com. v. Baldwin, 9 Erie 176; 75 Pitts. 727; 41 York 135.

Delegation of, license fees, telegraph poles, settlement of disputes by court, Act 1905.—Act of April 17, 1905, P. L. 183 (72 PS §§ 6161–6167), authorizing courts of common pleas to settle disputes between municipal corporations and telegraph, telephone, power and light companies, as to license fees, is not delegation of legislative power. Pittsburg and Allegheny Tel. Co. v. Boro., 43 Super. 456.

Delegation of, liquor law, Act 1921.—Act May 5, 1921, P. L. 407, known as the Woner Act, passed for purpose of carrying out Eighteenth Amendment to Federal Constitution and the Volstead Act, is not unconstitutional as a delegation of legislative power. Com. v. Alderman, 275 Pa. 483; 118 A. 550; aff. 79 Super. 277; Com. v. Lichter, 2 Wash. 100; 70 Pitts. 443; 1 D. & C. 709.

Delegation of, loaning money, license, banking commissioner, discretion, Act 1915.—Act June 17, 1915, P. L. 1012 (7 PS §§ 751–760), regulating business of loaning money in small sums, is not an improper grant of legislative power to banking commissioner merely because latter is given power to pass upon general character and fitness of applicant for license. Com. v. Puder, 261 Pa. 129; 104 A. 505; Wheeler v. Remedial Loan Co., 261 Pa. 139; 104 A. 508.

Delegation of, moving-picture censors, Act 1911.—Act June 19, 1911, P. L. 1067, providing for examination and approval of moving-pictures by state board of censors, is not unlawful delegation of legislative power. Buffalo Br. Film Corp. v. Censors, 23 Dist. 837.

Delegation of, municipality, debt, current expenses, Act 1919.—Section 8, art. 17, Act June 25, 1919, P. L. 581 (53 PS § 3278), relating to government of cities of first-class and prohibiting borrowing of money or incurring debt for current expenses, is not improper delegation of municipal power within art. 3, sec. 20 of the constitution. Kraus v. Phila., 265 Pa. 425; 109 A. 226.

Delegation of, municipal function, appeal board, Act 1923.—Act of May 1, 1923, P. L. 122 (53 PS §§ 10751–10761), empowering mayor to appoint board of appeals, does not conflict with article III, section 20, of Constitution which forbids delegation to any special commission power to perform municipal function. Junge's App., 89 Super. 548; 6 Adv. 125.

Delegation of municipal function, mothers' pension Acts 1913, 1915.—Acts April 29, 1913, P. L. 118, and June 18, 1915, P. L. 1038, relating to mothers' pensions, do not delegate to any special commission power to supervise or interfere with any municipal money or to perform any municipal function in violation of sec. 20, art. 3, of constitution. Com. v. Schlager, 18 Lack. 16; 14 Del. 256.

Delegation of, municipal function, special commission, bureau of public morals, Act 1913.—Act June 27, 1913, P. L. 638, creating a bureau of public morals in the public safety department in cities of second class, is an improper delegation of municipal functions to a commission under sec. 20, art. 3, of the Constitution. Moll v. Morrow, 253 Pa. 442; 98 A. 650.

Delegation of, municipal function, special commission, county highway, tunnels, Act 1909.—Act May 11, 1909, P. L. 506, authorizing county commissioners to build highway tunnels within limits of municipalities, is not unconstitutional as being in violation of art. 3, sec. 20, prohibiting creation by legislature of any special commission. Public Highway Tunnel, 63 Pitts. 209.

Delegation of, municipal function, special commission or private corporation, highways construction by taxpayer, Acts 1893, 1901.—Act June 12, 1893, P. L. 451, and its supplement of May 24, 1901, P. L. 294, permitting one or more taxpayers of a township to construct roads at their own expense with approval of quarter sessions court, does not violate art. 3, § 20 of constitution forbidding delegation of municipal function to any special commission or private corporation. McKeown's Petition, 237 Pa. 626; 85 A. 1085; affirming 51 Super. 277.

Delegation of, municipal function, special commission, water-works commission, boroughs, etc., Act 1913.—Act June 5, 1913, P. L. 445 (53 PS § 15911 et seq.), providing for establishing of water-works commissions in boroughs, etc., is constitutional. Com. v. Krebs, 43 C. C. 425; 11 Sch. 371.

Delegation of, osteopathy, board of examiners, Act 1909.—Act March 19, 1909, P. L. 46, relating to practice of osteopathy, does not delegate any legislative duty to the governor, who is to appoint board of examiners, or to board of examiners. Com. v. Emerson, 29 York 53.

Delegation of, Park Commission, special commission, Act 1913.—Act April 17, 1913, P. L. 93 (53 PS § 3766), vesting in Park Commission of Philadelphia powers over parks and parkways, other than Fairmount Park, is unconstitutional in that it delegates to special commission power to supervise and interfere with municipal property in violation of art. III, sec. 20, of Constitution of 1874. Philadelphia v. Spangler, 9 D. & C. 577.

Original legislation creating Park Commission of Philadelphia and vesting powers in it is valid, since acts were passed prior to Constitution of 1874, when municipal powers could be delegated to special commissions. Id.

Delegation of, plumbers, registration, board of health, powers, examination, uniformity of regulations, Act 1895.—Act June 24, 1895, P. L. 232 (53 PS §§ 2162–2165), authorizing boards of health to "provide for regis-

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tration of journeymen and master plumbers," is not unlawful delegation of legislative power. Com. v. Shafer, 32 Super. 497.

But such power gives no authority to board to adopt regulation requiring applicant to produce proof that he was bona fide master plumber, and that all persons failing to furnish such proof should be obliged to pass examination before board of health. Id.

Such regulation is also invalid for want of uniformity, in that it did not include journeymen plumbers. Id.

Delegation of, public service commission, fixing water rates to borough.—Public service company law is not an improper delegation of legislative power to a commission to perform a municipal function, and the determination by the commission of the amount to be paid by a borough for water supply is not levying of tax against borough. Lansdowne Boro. v. Pub. Serv. Com., 74 Super. 203; Norwood Boro. v. Pub. Serv. Com., 74 Super. 216.

Delegation of, school laws, directors, appointment, taxation without representation, Republican form of government, Act 1911.—School code of May 18, 1911, P. L. 309 (24 PS § 1 et seq.; 72 PS §§ 3511–3521), does not violate provision in Federal constitution guaranteeing to every state a republican form of government. Minsinger v. Rau, 236 Pa. 327; 84 A. 902.

Maintenance of common school system being under legislative control, the employment of agencies to accomplish that object is within its discretion; and it may provide that school directors shall be appointed by judges of common pleas and when so appointed they may levy taxes for the support of the schools. Id.

This is an assertion and not a delegation of power. Id.

Nor does said act offend against the principle that taxation and representation must go hand in hand. Id.

Delegation of, state live stock sanitary board, Act 1913.—Act July 22, 1913, P. L. 928, relating to domestic animals, is not unconstitutional as conferring legislative powers upon State Live Stock Sanitary Board. Com. v. Falk, 59 Super. 217.

Delegation of, tuberculosis hospital, Acts 1921, 1923, 1925.—Acts May 20, 1921, P. L. 944, and April 3, 1923, P. L. 52, providing for acquiring, equipping and management of hospital for tubercular patients, attempt to delegate municipal functions to special commissions and are unconstitutional. Tuberculosis Hosp., 22 Sch. 152.

Act March 23, 1925, P. L. 65, providing for appointment of advisory board for tuberculosis hospital is not unconstitutional, as being in conflict with art. 3, sec. 20, of constitution. Tuberculosis Hospital, 20 North. 199; Com. v. Commissioners, 20 North. 222; 7 D. & C. 725; contra, Advisory Board, Appointment of, 22 Sch. 259.

Sec. 12 of act validates prior proceedings, held under Act 1921, submitting question of establishment of hospital to people of county. Id.

Delegation of, tuberculosis hospital, advisory board, not county officers, Act 1925.—Act of March 23, 1925, P. L. 65, providing for establishment of tuberculosis hospitals, is not an improper delegation of legislative power to special commission, since powers of board provided for are purely advisory. Com. v. Woodring et al., 289 Pa. 437; 137 A. 635; af. 43 Montg. 107.

Members of such advisory board are not county officers. Id.

County commissioners must act before court can appoint commission. Id. rev. 43 Montg. 107.

Delegation of, tuberculosis hospitals, curative legislation, Acts 1921, 1925.—Act of March 23, 1925, P. L. 65, is not unconstitutional insofar as it validates all proceedings and elections held under prior Act of May 20, 1921, P. L. 944 authorizing establishment of tuberculosis hospitals. Com. v. Woodring et al., 289 Pa. 437; 137 A. 635; af. 43 Montg. 107.

Legislature may validate acts done under unconstitutional statutes so long as validating Act is not in itself unconstitutional. Id.

Under sec. 12 of the Act of 1925 validating proceedings under unconstitutional Act of May 20, 1921, P. L. 944, and providing that hospitals and

proceedings begun thereunder may be completed, word "may" is to be construed as permissive and not mandatory, and commissioners are given authority in their discretion to proceed to erect and complete hospital. Id.

Election districts, division, Act 1876.—Power conferred on court of quarter sessions to form election districts by Art. 8, § 11 of constitution cannot be abridged by legislature, and Act of May 18, 1876, P. L. 178 (25 PS §§ 1652–1657), relating to procedure in such matters, is not binding on court. Fell Twp. Polling Place, 39 Super. 319; Brownsville Boro's Election, 69 Pitts. 798; 35 York 132.

Elections, nomination of candidates, petition, signatures, Act 1913.—Act of July 12, 1913, P. L. 719 (25 PS § 1041 et seq.), and amendments, requiring nomination petitions of candidates for office of representative to be signed by at least one hundred qualified electors, does not violate constitution, since power to regulate elections is vested in legislature, and cannot be reviewed in absence of abuse of that power. Com. v. King, 27 Dauph. 96.

Elections, right of absent elector to vote, Act 1923.—Act of May 22, 1923, P. L. 309, which permits persons absent from their regular polling places on election day to vote outside their election districts, is unconstitutional under art. 8, secs. 1 and 4, of constitution, and votes so cast cannot be counted. Bare's Case, 39 Lanc. 13; Lancaster City's Fifth Ward Elect., 281 Pa. 131; 126 A. 199.

Enabling legislation before adoption of amendment to constitution.—Until constitution has been actually amended by adoption at election, legislature cannot enact enabling legislation intended to carry into effect proposed amendment after its adoption. Legislation before Its Adoption, 61 Pitts. 534; 40 C. C. 670.

Enactment by reference, liquor, sale, Act 1921.—Act May 5, 1921, P. L. 407, regulating sale of liquors, does not violate art. 3, sec. 6, of constitution because it undertakes to extend prohibition enforcement acts of United States Congress by mere reference, without re-enactment at length. Liquor Licenses, 21 Luz. 447; 2 D. & C. 281; Com. v. Lichter, 2 Wash. 100; 70 Pitts. 443; 1 D. & C. 709; contra, Susquehanna Co. v. Liquor License, 1 D. & C. 357.

Enactment by reference, pure drugs, Act of 1897.—Pure drugs Act of May 25, 1897, P. L. 85, prohibiting manufacture and sale of adulterated drugs, and providing that drug shall be deemed to be adulterated if so altered that it will not correspond to recognized formulæ or tests of latest addition of National Formulary, or of Pharmacopœia of United States, or American Homœopathic Pharmacopœia, regarding quality or purity, is not enactment by reference without legal certainty nor delegation of legislative power. Com. v. Costello, 18 Dist. 1067.

Act refers to editions of works referred to in existence at time of its passage and not to such as may be published in future. Id.

Freedom of speech and press:
Constitutional Law — Personal Rights (Freedom).
Full faith and credit:
Statutes — Foreign (Penal).

Impeachment, judges, power of house committee to continue sessions after adjournment of legislature.—Committee, appointed by House of Representatives to investigate charges against certain judges, for purpose of advising House whether sufficient grounds exist to justify impeachment, has power to continue its hearings and compel attendance of witnesses after adjournment of both Houses sine die. Wisdom or practicability of continuing such hearings after adjournment must be determined by committee. Impeachment, 22 Dist. 833; 61 Pitts. 597; 41 C. C. 414.

Joint resolution of both house and senate is not necessary to empower committee of house to make investigations regarding impeachment proceedings after legislature has adjourned. Id.

Judicial function:
Criminal Law — Sentence (Indeterminate).

Lien, creating, attack upon.—Constitutionality of statute creating municipal lien is open to attack at any stage of proceeding to enforce it. Greensburg

Constitutional Law — Legislative Power—(Cont'd).

Boro. v. Land Co., 14 West. 73; 17 Mun. 173.

Liquor, federal constitution, Act 1933.—Snyder Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), is not attempt to exercise power conferred on state by sec. 2 of 18th amendment, but exercise of power originally belonging to states, preserved to them by 10th amendment of federal constitution and now relieved from restriction heretofore arising out of federal constitution. Com. v. Gardner, 297 Pa. 498; 147 A. 527; 96 Sup. 450.

Motor vehicles, regulating operation of, Act 1913.—Act July 7, 1913, P. L. 672, making it offense to operate motor vehicle recklessly or at rate of speed greater than is reasonable and proper, is within power of legislature. Com. v. Rieker, 35 Lanc. 74; 27 Dist. 621; Com. v. Druschell, 35 Lanc. 271; 8 Leh. 29; 66 Pitts. 520; 14 Del. 571; 27 Dist. 791.

Municipal contracts, loan of credit to corporation, stockholder in street railways, franchises, acquisition by city, investment of trust funds, Act 1907.—Act of April 15, 1907, P. L. 80 (67 PS § 1256), authorizing contracts between cities, boroughs or townships and street railway companies, permitting the municipalities a voice in the management of such companies and contemplating the ultimate acquisition of such franchises by the municipalities, does not violate Art. 9, § 7, of the constitution, forbidding the legislature authorizing a municipality to become a stockholder in, or loan its credit to any corporation or association. Brode v. Phila., 230 Pa. 434; 79 A. 659.

Contract between Philadelphia and the Rapid Transit Company, made under provisions of Act of 1907 is not unconstitutional because it fixes a sum to be paid city in lieu of license fees, etc., and permits city to select certain number of directors of railway. Id.

Contract does not exceed powers granted by Act of 1907, merely because railway company operates more lines beyond city limits. Id.

Nor does said contract violate Art. 3, § 22, of constitution, prohibiting the investment of trust funds in bonds or stocks of private corporation, or Art. 3, § 20, providing that no power shall be delegated to a special commission to supervise money belonging to a municipality. Id.

Officers, removal:
Constitutional Law — Public Officers (Public).

Railroad crossings, municipalities, Public Service Company Act 1913.—Public service company Act July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), is not unconstitutional in that it contemplates exercise of control over railroad crossings. Municipalities have no vested and indefeasible right to control of such crossings, except as conferred by legislature. It was within legislative power to place such control in Public Service Commission. Pittsburgh Rys. Co. v. City, 66 Pitts. 73.

Realty, sale of, orphans' court, jurisdiction, Revised Price Act 1917.—Legislature has power by general law to authorize orphans' court to decree sale of realty, as by Revised Price Act June 7, 1917, P. L. 388 (20 PS § 1561 et seq.), even though all persons owning interests in same are sui juris and some of them object to sale. Jefferies' Est., 37 Lanc. 435.

Remedial legislation, municipal lien.—Commonwealth has authority to enact remedial legislation authorizing filing of lien four years after completion of improvement. Ligonier Bor. v. Deeds, 13 West. 156; 16 Mun. 170.

Retrospective laws.—There is no clause, either in constitution of United States or of this state, which prohibits retrospective laws, unless ex post facto or impairing obligation of contracts. Miller v. Twp., 62 Pitts. 669.

Road commission, creation, dissolution, Acts 1872, 1907.—Act of March 15, 1872, P. L. 491, and supplements creating Fort Hunter Road Commission as agency for constructing and maintaining important public highway with power to lay annual assessment of road tax on properties and trades along and carried on over the road, are not bad as unconstitutional delegation of taxing power. Fort Hunter Road, 35 C. C. 257; 11 Dauph. 160.

Act of June 1, 1907, P. L. 374 (12 PS §§ 118–120), authorizing courts of

common pleas to decree dissolution of such commission and determine manner in which its affairs shall be wound up, is likewise constitutional. Id.

Sedition, federal government, Act 1919.—Act June 26, 1919, P. L. 639 (18 PS §§ 121, 122), defining crime of sedition against governments of state and United States making same felony and prescribing punishment therefor, was valid exercise of power of legislature. Com. v. Sergeyenho, Same v. Chesnink, 1 Wash. 37.

Special session, legislation within purpose of call, cities, consolidation, power of governor, Act 1906.—Act Feb. 7, 1906, P. L. 7 (53 PS §§ 151–177), providing for consolidation of cities "contiguous or in close proximity," is within scope of one of reasons stated by governor in calling extra session of legislature pursuant to art. 4, § 12, viz: "To enable cities that are now or may hereafter be contiguous, or in close proximity, to be united in order that the people may avoid unnecessary burden of maintaining separate municipal governments." Pittsburg's Pet., 217 Pa. 227; 66 A. 348. affirming 32 Super. 210.

Governor may, after calling special session of legislature to meet on certain day to consider legislation on designated subject, issue another proclamation before date of meeting, setting forth additional subjects for legislation. Id.

Special session, legislation within purpose of call, county bridges, Act of 1906.—Act of March 5, 1906, P. L. 74, providing that contracts for building of county bridges shall be approved by court of quarter sessions, is unconstitutional, because passed at special session of legislature convened under proclamation of governor which contained no reference to subject of county bridges. French Creek Bridge, 39 C. C. 67; Schuylkill Co. Bridges, 48 C. C. 167; Stewart Contract. Co. v. County, 5 Leh. 190; 22 Dist. 690; Fayette Co. v. Com., 35 C. C. 401.

Special session, legislation within purpose of call, elections, expenses, accounts, corrupt practices, Act 1906.—Act of March 5, 1906, P. L. 78 (25 PS §§ 1001–1020), known as corrupt practices act, and entitled "An act to regulate nomination and election expenses, and to require accounts of nomination and election expenses to be filed," etc., does not violate § 25 of Art. 3 of constitution as not being within scope of subjects designated by governor in calling special session. Likins's Petition, 223 Pa. 456; 72 A. 858; affirming 37 Super. 625; Bechtel's Account, 39 Super. 292.

Supplemental proclamation of governor is broad enough to cover portions of Act which provides that candidates as well as managing committees and managers of political parties shall file statements of moneys collected and expended in political campaigns for nominations and elections. Likins's Petition (No. 2), 223 Pa. 468; 72 A. 862; affirming 37 Super. 636.

Special session, legislation within purpose of call, municipal officers and civil services, participation in politics, Act of 1906.—Act of Feb. 15, 1906, P. L. 19, providing for manner of appointment, suspension and removal of officers, clerks and employees of cities of first class and prohibiting them from taking active part in political movements, is within proclamation of governor convening general assembly in extraordinary session, and not in conflict with art. 3, sec. 25, of constitution, restricting legislature, at special session, to those subjects which have been designated in governor's proclamation. Com. v. Hasskarl, 21 Dist. 119; Duffy v. Cooke, 21 Dist. 613.

Special session, legislation within purpose of call, proposing constitutional amendment.—Resolution proposing constitutional amendment may be presented at special session of legislature even though intention to present it was not referred to in proclamation calling special session, such proposal not being legislation within inhibition of art. 3, sec. 25 of the Constitution, which provides that at special session there shall be no legislation on subjects other than those designated in the call. Sweeney v. King, 289 Pa. 92; 137 A. 178.

State highways, bonds, improvement, amendment, construction.—The constitutional amendment of 1918, giving legislature authority to issue bonds to extent of $50,000,000 for purpose of improving state highways, together

Constitutional Law — Legislative Power—(Cont'd).

with amendment of 1923 authorizing issuing of such bonds to extent of $100,000,000, must be construed together, and amount named in second amendment is total of highway bonds, past and future, which commonwealth can issue, and when they are so issued to that amount it cannot subsequently issue additional bonds in place of any that have in meantime been paid off. Montgomery v. Martin, 294 Pa. 25; 143 A. 505.

State offices, inspection or measuring of merchandise, concentrated commercial feeding-stuffs, Act 1909.—Act May 3, 1909, P. L. 395 (3 PS §§ 51–56), regulating sale of concentrated commercial feeding-stuffs, etc., is not in conflict with art. 3, sec. 27 of state constitution, as creating state office for inspection of merchandise or commodities. Com. v. Haines, 27 Dist. 586, 587.

Duties imposed by act upon secretary of agriculture and his deputies, agents and assistants are not in conflict with constitutional prohibition, and even if these provisions were unconstitutional, remaining portions are good. Id.

Statute, construction, uncertainty, Sunday laws, worldly employment, Act of 1794.—Act of April 22, 1794, 3 Sm. L. 177, forbidding worldly employment on Sunday, is not unconstitutional because of uncertainty. Com. v. American Baseball Club, 290 Pa. 136; 138 A. 497.

Surety company, approval, discretion of court, attempt to control, Acts 1885, 1895.—Courts have discretionary power, as judicial function, to accept or reject any particular company or individual offered as surety in matter pending before them and this discretion cannot be controlled by legislation. Moore v. Davis, 38 Lanc. 7.

Acts June 25, 1885, P. L. 181 (40 PS § 831), and June 26, 1895, P. L. 343, so far as they may be construed as controlling or interfering with discretion of court to approve sureties, are unconstitutional. Id.

Trial by judge without jury:
Constitutional Law — Trial by Jury (Waiver).

Constitutional Law—Municipalities.

Borough, incorporation, election district, division.—Fact that small piece of ground will be cut off from rest of township by incorporation of borough does not violate sec. 2, art. 7 of Constitution, providing that townships shall form election district of contiguous territory, in absence of proof that division resulted in disfranchisement of voters. Forest Hills Boro. Corp., 72 Super. 419.

Cemeteries, boroughs, U. S. 14th amendment, Act 1915.—Ch. 11, art. 1, sec. 1, of Act May 14, 1915, P. L. 312, authorizing boroughs to prohibit burial of dead within their limits, or any portion thereof, does not violate art. 3, secs. 7–8 of constitution of Pennsylvania or 14th amendment to U. S. constitution. St. Joseph's L. R. C. Cong. v. Boro., 22 Luz. 49; 14 Mun. 84.

Claims, exemption of church property, Act of 1901.—That part of Act of June 4, 1901, P. L. 364, which exempts places of actual religious worship from municipal claims for paving of cartways, is not unconstitutional. Reynoldsville v. Church, 57 Pitts. 345; 19 Dist. 400.

Claims, liens, Act 1905.—Act of April 20, 1905, P. L. 232, is not unconstitutional as violative of declaration of rights in that it makes borough judge of its own case. Ligonier Boro. v. Triece, 2 West. 283.

Credit, loan of:
Common Schools—Property (Insurance).

Credit, loan of, contract with corporation for care of pauper.—Action of county poor directors in placing pauper child in incorporated home merely creates contractual relation between them and the home and does not violate Sec. 7, Art. 9 of the Constitution prohibiting municipality to become stockholders or lend credit to any corporation. Colored Children's Home v. Poor Directors, 72 Super. 106.

Credit, loan of, insurance, school district, mutual company, stockholder, Act 1925.—Act April 27, 1925, P. L. 305 (53 PS § 1761), authorizing school district to make contracts of insurance with mutual company, vio-

lates Art. 9, Sec. 7 of constitution which denies authority of municipality to become a stockholder or to loan its credit to any corporation or association. Downing v. School Dist., 10 Erie 47; 42 York 31.

Credit, loan of, to another county, bridge, construction, Act 1923.—Bonds issued under Act June 28, 1923, P. L. 875 (16 PS § 715 et seq.), for purpose of constructing inter-county bridge, do not violate article 9, section 7 of constitution forbidding one county to lend its credit to another, where contemplated bridge in fact extends over territory of both counties. Ruler v. York Co., 290 Pa. 427; 139 A. 136.

It is immaterial that boundary line between counties is not center of river but is along low water line of one side of river. Id.

Credit, loan to corporation, subway, construction by city, payment by corporation lessee.—Contract between city and transit company providing for leasing of a subway to be constructed by city does not violate Art. 9, Sec. 7 of constitution forbidding loan of credit of city to corporation, although it appears subway is constructed on plans approved by company which is to pay rent, taxes and sinking fund sufficient to repay cost of construction within term of lease and though city was able to borrow money at lower rate of interest than company could procure it. City Club v. Pub. Serv. Com., 92 Sup. 219.

Incorporation, vote of people, special election, Act 1913.—Act July 7th, 1913, P. L. 694 (53 PS §§ 10814–10816), providing that a borough may become incorporated into a city by vote of electors held at special election, violates Art. 15, Sec. 1 of constitution, requiring vote to be taken at general election. Com. v. So. Bethlehem, 248 Pa. 586; 94 A. 274.

A municipal election held in odd numbered years is a general election within meaning of above act. Id.

Indebtedness:

Boroughs — Indebtedness (Amount).

Common Schools—Indebtedness (Adjustment).

Municipalities—Indebtedness (Increase).

Indebtedness, increase, election, retroactive law, validating Act of 1911.—Act June 19, 1911, P. L. 1044, validating municipal elections for increasing indebtedness, which were not held in accordance with statute, does not violate § 8 of art. 9, forbidding increase of indebtedness to amount of two per cent. without assent of public. Swartz v. Boro., 237 Pa. 473; 85 A. 847.

Fact that some of requirements for increasing indebtedness were not complied with, is immaterial, since constitution gave to legislature right to regulate details of election and it may cure by subsequent retroactive law what it could have dispensed with originally. Id.

Liquor, regulating sale, summary conviction, trial by jury.—Borough ordinance making it unlawful for person to make, transport or have in possession intoxicating liquor, contrary to law of state and United States is invalid as unconstitutional exercise of power. Roy Tea v. Boro., 71 Pitts. 669; 15 Mun. 38.

Such ordinance, providing for punishment by fine or penalty upon summary conviction violates right of trial by jury and is, therefore, void. Id.

School districts, creation, state board of education, taxpayers, right to vote, Acts 1911, 1921.—Where disapproval by state board of education of creation of fourth class school district, coextensive with lines of new borough created from parts of two contiguous townships, would disenfranchise taxpayers of borough as to election of school directors to administer school property within borough, Act May 20, 1921, P. L. 1023 (24 PS § 21 et seq.), amending Act May 18, 1911, P. L. 309, requiring such approval, is unconstitutional, as infringing upon rights of citizens to vote for school directors. New Britain Boro. Sch. Dist., 295 Pa. 478; 145 A. 597.

Soliciting trade on streets, police powers.—Ordinance prohibiting solicitation on streets of borough of tourists, travelers, etc., to patronize hotels, boarding houses, garages, is reason-

Constitutional Law—Municipalities —(Cont'd).

able exercise of police powers and constitutional. Chambersburg v. Porter, 82 Super. 421.

Street railways, consent to use of street, county highway tunnel, Act 1909.—Act May 11, 1909, P. L. 506, authorizing county commissioners to build tunnels within limits of municipalities is not unconstitutional because in violation of sec. 9, art. 17, which provides that no street passenger railway tracks shall be constructed within limits of any city, borough or township without consent of its local authorities. Public Highway Tunnel, 63 Pitts. 209.

Street railways, municipal consent.—Section 9, Art. 17, of constitution, does not deprive municipalities of right to require street railway companies to secure municipal consent, not only for construction but also for operation. Erie v. Traction Co., 222 Pa. 43; 70 A. 904.

Traffic regulations, autos, parking, discrimination, unreasonable regulation.—Ordinance which permits automobiles not used for hire to park on designated street, and prohibits automobiles used for hire to park on the same streets, is discriminatory, an unreasonable regulation, and unconstitutional. Com. v. Rinker, 4 D. & C. 357; 16 Del. 542; 15 Mun. 218.

Constitutional Law—Obligation of Contracts.

Adjustment of debt:
Municipalities — Annexation (Adjacent).

Beneficial society, rates, increase, Act 1921.—Act May 20, 1921, P. L. 916 (40 PS § 1011 et seq.), dealing with fraternal societies and authorizing increased rates against members, does not destroy vested rights or violate obligation of contract and is constitutional. Kreider's Pet., 30 Dauph. 218.

Bonus, increase:
Corporations — Capital Stock (Bonus).
Charter:
Corporations — Charter, Second Class (Contract).

Charter, rights granted by, eminent domain, opening street, Act 1854.—A city will not be enjoined from opening street through hospital property on ground that it impairs obligation of contract imposed by Act April 17, 1854, P. L. 385, providing that no street should be opened through property of such hospital without its consent, since constitutional prohibition was not intended as limitation on power of eminent domain and contract entered into is subject to right of appropriation for public use. Penna. Hospital v. Phila., 254 Pa. 392; 98 A. 1077.

Decedent's debts, lien, limitation of, retrospective law, ex post facto, Act 1917.—Act June 7, 1917, P. L. 447 (20 PS § 321 et seq.), providing debts of decedent shall not remain lien on estate longer than one year unless action for recovery thereof be brought, is not a retroactive law impairing obligation of contract as it affects procedure only. Myers v. Lohr, 72 Super. 472.

Neither is said act ex post facto law since such laws are limited to penal statutes. Id.

Easement, impairment:
Municipalities—Streets (Vacating).
Escheat:
Constitutional Law—Due Process of Law (Banks).
Constitutional Law — Property Rights (Bank).

Escheats, bank deposits, due process of law, Act 1915.—Act June 7, 1915, P. L. 878, relating to escheat of deposit of money received for storage or safe keeping, does not violate sections 10 or 17 of art. 1 of Constitution by impairing obligation of contract between owner and depositary. Germantown Trust Co. v. Powell, 265 Pa. 71; 108 A. 441.

Said act does not deprive owner of his property without due process of law merely because fact of death of owner is established only presumptively by his failure to appear. Germantown Trust Co. v. Powell, 265 Pa. 71; 108 A. 441; affirming Dauph. 1919, 7.

Escheat, bank deposits, taking property without compensation, Act 1915.—Act June 7, 1915, P. L. 878, is constitutional. It does not violate consti-

tutional provisions as to impairment of contracts and taking of private property without compensation, when it provides for escheat of abandoned bank deposits or property held for safe keeping in commonwealth. Columbia Nat. Bank v. Powell, 66 Pitts. 689.

Execution, restraining issue of, suspension of remedy.—Decree of court appointing receivers and restraining creditors from issuing executions on judgments obtained on promissory notes, without leave of court, is not impairment of obligation of contracts. It is but suspension of remedy, and time during which suspension may continue is matter within legal discretion of court under equities of case. Thompson's Case, 25 Dist. 757; 44 C. C. 518.

Exemption, waiver:
Insolvency—Distribution (Preference).
Highway, vacation:
Highways—Dedication (Plan).
Insurance, proceeds:
Insolvency—Distribution (Life).
License fees:
Constitutional Law — Special Laws (License).

License fee, poles and wires, police power, Act 1905.—Act April 17, 1905, P. L. 183 (72 PS §§ 6161–6167), relating to license fees for poles and wires, being an exercise of police power, is not unconstitutional as impairing the obligation of a contract entered into between city and telephone company. Curwensville Boro. v. Tel. Co., 5 Just. 210; 33 C. C. 435; 16 Dist. 602.

Liquor enforcement act, lease, forfeiture, due process of law, police power.—Provision of liquor law which forfeits lease where premises are used in violation of law does not impair obligation of contract or involve taking of property without due process of law, since control and sale of liquor is within police powers of state and contracts must be presumed to be made in recognition of such power. Burke v. Bryant, 283 Pa. 114; 128 A. 821.

Mortgage:
Constitutional Law — Judicial Power (Mortgage).

Mortgage, bond issue, lien, divesting by receiver's sale, corporations, merger, Act 1909.—Where street railway companies issued bonds secured by mortgages on their various properties and subsequently were merged in one so as to form continuous line under provisions of Act May 3, 1909, P. L. 408 (15 PS §§ 421–425), and consolidated company then issued bonds secured by mortgage on consolidated lines, a court appointing receivers for consolidated company has no authority to order sale of property as a whole free from liens of mortgages on individual systems, as such mortgages are contracts which can no more be impaired by court than by legislature. Phila. Tr. Co. v. Traction Co., 258 Pa. 152; 101 A. 970.

Fact that foreclosure of underlying mortgage would be detrimental to interests of holders of bonds of consolidated company and result in inconvenience to traveling public, and that road would sell for better price as a whole, are not sufficient reasons for depriving original bond holders of their contractual rights under their mortgage. Id.

Indebtedness incurred by receivers of consolidated company is not prior to rights of bond holders of original mortgages, where it appears such indebtedness can be paid out of funds arising from operation of road by receivers. Id.

Mortgage, bond issue, lien, divesting by receiver's sale, corporations, merger, Acts 1901, 1909.—Where two railway companies had issued bonds secured by mortgages on their respective properties and subsequently consolidated, a receiver appointed for consolidated company has no right to sell property of consolidated company divested of lien of underlying mortgages, nor to prevent foreclosure of such mortgages pursuant to terms and conditions thereof, on ground that foreclosure would result in loss to bond holders covering property of consolidated company or loss to general creditors or inconvenience to public, such mortgage constituting contract which cannot be impaired by court or legislature. Columbia & Montour Elec. Co. v. Transit Co., 258 Pa. 447; 102 A. 214.

Constitutional Law—Obligation of Contracts—(Cont'd).

Acts May 3, 1909, P. L. 408 (15 PS §§ 421–425), and May 29, 1901, P. L. 349, preserve liens against constituent corporations after merger. Id.

Mortgage, priority of taxes:
Taxes—Lien (Priority).
Municipal contract, franchise:
Telegraph and Telephone Companies (Highways).

Municipal liens, validating, new remedy, Act 1919.—Act May 8, 1919, P. L. 137, validating municipal liens is not unconstitutional as violating contracts since charge for municipal improvements is in nature of a tax and legislature may provide new remedy without violating any constitutional rights. Huntingdon Boro. v. Dorris, 78 Super. 470.

The Act of 1919 covers liens for paving and curbing which are void because not properly recorded in ordinance book. Id.

Municipalities, consolidation, effect on debt, Act 1915.—Act May 6, 1915, P. L. 260 (53 PS § 178), providing that indebtedness of municipalities annexed to a contiguous city shall become obligations of consolidated city, does not impair obligations of contracts under article 1, section 17, of the constitution. Moore v. Pittsburgh, 254 Pa. 185; 98 A. 1037; Troop v. Pittsburgh, 254 Pa. 172; 98 A. 1034.

Municipalities, current expenses, borrowing money, Act 1919.—Section 8, art. 17, Act June 25, 1919, P. L. 581 (53 PS § 3278), relating to government of cities of first-class and prohibiting borrowing of money or incurring debt for current expenses, does not violate obligation of contracts. Krause v. Phila., 265 Pa. 425; 109 A. 226.

Note, collateral, enjoining sale of, insolvent estate, receiver.—Where creditor holds promissory note of his debtor secured by stocks and bonds as collateral court in appointing receiver of insolvent estate of debtor, cannot enjoin holder of note from selling collateral on default where such sale is provided for in note. Injunction in such case would be impairment of contract within constitutional inhibition which applies not only to legislature but also to courts. Provident Life & Trust Co. v. Seamans, 43 C. C. 648; 64 Pitts. 62.

Public schools, attendance:
Constitutional Law—Due Process of Law (Public).
Public service:
Constitutional Law—Police Power (Public).

Public service, rates, change of, by commission.—Contract between public service company and customer concerning rates is subject to change and establishment of new rates by authority of Public Service Commission is not an impairment of obligation of contract. St. Clair Coal Co. v. Pub. Ser. Com., 79 Super. 528.

Railroads, rates, regulation, reasonableness, due process of law, leased lines, Acts 1846, 1855, 1901, 1907.—The Act April 5, 1907, P. L. 59 (67 PS §§ 672, 673), prohibiting charge of over two cents a mile for passengers, in so far as it applies to Pennsylvania Railroad lines constructed under Act April 13, 1846, P. L. 312, violates an existing contract between railroad company and state and contravenes Art. 1, § 10, of United States constitution. Penna. R. R. v. Phila. County, 16 Dist. 723.

The fact that company accepted benefit of Act May 3, 1855, P. L. 423, does not affect its immunity from interference by state. Id.

Nor has such immunity been impaired by acceptance of the constitution of 1874. Id.

But it does not extend to lines leased or organized under Act March 22, 1901, P. L. 53 (67 PS §§ 554–560). Id.

The act also violates Art. 16, § 10, of constitution of Pennsylvania by establishing so low a rate of fare as to render carrying of passengers unremunerative, without providing compensation for loss sustained. Id.

As a regulation of said railroad's passenger business, it is unreasonable and confiscatory, and deprives plaintiff of its property without due process of law. Id.

Rates, regulation:
Constitutional Law—Due Process of Law (Railroads).
Constitutional Law—Police Power (Street).

Remedy, change of.—Statutes affecting remedy alone, without increasing liability of party, are not open to objection of impairing obligation of contracts. Receivers v. Deardorff, 25 York 115.

Retroactive law:
Constitutional Law—Ex Post Facto Laws (Fiduciaries).
Husband and Wife—Rights and Liabilities (Conveyance).

Retroactive law, lien of debts, limitation, Act 1917.—Retroactive statute is not unconstitutional unless it clearly violates obligation of a contract; hence Sec. 15 of Fiduciaries Act of June 7, 1917, P. L. 447 (20 PS §§ 521–532), making retroactive its provisions as to lien of decedents' debts and shortening limitation period, but giving reasonable time for commencement of suit, does not impair any contract, and is therefore constitutional. Cassady's Est. 28 Dist. 37; 32 York 155.

Retroactive laws, sewers, townships of first class, benefits, Act 1905.—Act Feb. 23, 1905, P. L. 22, relating to construction of sewers and assessment of costs thereof in townships of first class, is not unconstitutional because retroactive in character as to townships which had already paid for sewer improvements. Anderson v. Lower Merion Twp., 217 Pa. 369; 66 A. 1115.

Security, impairment:
Municipal Claims — Lien (Discharge).

Spendthrift trust, retroactive law, Act 1913.—If Act April 15, 1913, P. L. 72 (18 PS § 1252), applies to trusts created before its passage, it offends against sec. 1, art. 1, of constitution and sec. 10, art. 1, of constitution of United States, as impairing obligation of contract. Com. v. Thomas, 25 Dist. 659.

Street railways, rates:
Constitutional Law—Police Power (Street).

Streets, use of:
Constitutional Law—Police Power (Public).

Taxes, lien, priority over mortgage, retroactive legislation, Act 1907.—State has power to tax land and to exact full payment of tax without regard to manner in which private interests may thereby be affected, and Act May 28, 1907, P. L. 280, providing that lien of taxes shall not be divested by judicial sale as respects so much thereof as proceeds of such sale may be insufficient to discharge, is therefore constitutional. Clinton County v. Trust Co., 39 C. C. 498; 21 Dist. 760.

That security of mortgage may be diminished because land is lawfully subjected to tax for public purposes which may not be divested except by full payment thereof does not impair obligation of contract within meaning of constitution. Id.

Turnpike companies, maintenance:
Turnpikes (Repair).

Constitutional Law — Personal Rights.

Accusation of crime, right to be heard, opportunity to prepare defense, trial without notice to counsel.—A defendant arrested on charge of felony and placed on trial two days after bill was found against him, which was four days subsequent to his arrest, is not afforded opportunity to properly present defense or to be heard by himself or counsel, where trial took place while counsel was actually engaged elsewhere in entering bail for his release from custody and no notice was given him or counsel as to date of trial, though latter's name was endorsed on indictment. Com. v. Jester, 256 Pa. 441; 100 A. 993.

It was duty of district attorney to call court's attention to fact that defendant had retained counsel and court should have sent for him or appointed another to act in his stead. Id.

Fact that defendant immediately before trial made no request for counsel is immaterial if it appears he was ignorant of his rights. Id.

Actions:
Actions—Survival of (Personal).

Constitutional Law — Personal Rights—(Cont'd).

Aliens:

Constitutional Law — Treaties (Construction).

Arrest, probable cause, information, sufficiency, indictment, quashing, waiver, bill of particulars.—An information sworn to by constable, averring that he made it officially, because directed to do so, on knowledge imparted by others, without alleging charges to be true or that affiant believes or expects to be able to prove them true, is insufficient under Art. 1, § 8 of constitution, providing that no warrant shall issue without probable cause supported by oath or affirmation. Com. v. Barnett, 16 Dist. 321.

Right to have indictment quashed for such cause is not waived by demanding bill of particulars. Id.

Assault and battery, justice's hearing, Act 1919.—Sec. 2 of act May 27, 1919, P. L. 306 (19 PS § 22), relating to hearings by justice, of assault and battery cases, having been declared unconstitutional, purpose of legislature is thereby frustrated and entire act, including Sec. 1, is void. Com. v. Lowry, 10 Leh. 76; 3 D. & C. 118.

Assembly, right of, likely to result in riot.—Constitutional right to assemble in peaceable manner does not give right to assemble for purpose that may precipitate riot or to exploit ideas of those who would destroy constitution if they could. Com. v. Benjamin, 10 D. & C. 775.

Bail, excessive, contempt proceedings.—While art. 1, sec. 13 of constitution, which forbids requiring excessive bail or imposing excessive fines or cruel punishment, relates only to criminal proceedings, the principles apply also in civil cases as in proceedings for attachment for contempt of court. Scranton v. Coal Co., 264 Pa. 63; 107 A. 389; S. C. 23 Lack. 17.

An order in contempt proceedings is not excessive where it only requires party to make good expenses which others will necessarily incur because of violation of an injunction. Id.

Bearing arms, concealed weapons.—Art. 1, sec. 21 of constitution (bill of rights) prohibiting legislation questioning right of citizens to bear arms, is not violated by acts making it misdemeanor to carry pistol or other concealed deadly weapon. Com. v. Kreps, Dauph. 1922, 335.

Second amendment to constitution of United States limits power of congress and national government only, and does not apply to state legislation. Id.

Bill of rights:

Constitutional Law—Police Power (Optometry).

Constitutional Law—Searches and Seizures (Liquor).

Confronting by witnesses:

Evidence — Documentary (Receipt).

Contract:

Constitutional Law—Due Process of Law (Fuel) (Public).

Constitutional Law—Police Power (Fuel).

Constitutional Law — Property Rights (Contract).

Contract, right of, labor, eight hour day, public works, Act 1897.—Act of July 26, 1897, P. L. 418, making eight hours legal day's work for laborers in employ of state or municipal corporations or on public works, such as filtration plant, is not violation of bill of rights. Com. v. Casey, 43 Super. 494.

Contract, right to make, workmen's compensation, Act 1915.—Section 204 of art. 2 of Workman's Compensation Act of June 2, 1915, P. L. 736 (77 PS § 71), providing that release of damages, except as therein specified, would be void, is merely a statutory extension of the principle that a contract limiting or releasing damages for future negligence is against public policy, and is not invalid as an unreasonable interference with right to contract. Anderson v. Steel Co., 255 Pa. 33; 99 A. 215.

Corporations, actions against, viewers, reports, filing time.—Act March 18, 1903, P. L. 28 (26 PS § 21), giving courts power to extend time for filing of reports by road juries, does not violate Art. 3, § 21 of constitution, forbidding limitation of time for bringing suits against corporations, different from those fixed by general laws regulating actions against natural persons. Umbria Street, 32 Super. 333.

Said act applies to vacation proceedings brought under Act April 21, 1858, P. L. 385. Id.

Discrimination:
Carriers—Goods, Freight (Rates).

Discrimination as to color, inns and innkeepers, refusal of drink at bar.—Negro who is refused drink at bar of licensed inn on account of his color is entitled to maintain against innkeeper action for violation of his civil rights; but if act of innkeeper involves nothing more than refusal of drink, nominal damages only can be recovered. Woodrow v. Duffy, 42 C. C. 641.

Discrimination as to color, places of amusement, Act 1887.—Owner, lessee or manager of place of public amusement is subject to Act May 19, 1887, P. L. 130 (18 PS § 1211), and cannot discriminate in seating of his patrons on account of race or color. Com. v. George, 18 Dauph. 40; 42 C. C. 587.

Act May 19, 1887, P. L. 130 (18 PS § 1211), to provide civil rights to all persons regardless of race or color, is constitutional. Com. v. George, 42 C. C. 587; 18 Dauph. 40.

Elections, free and equal, primaries, non-partisan ballot law of 1913.—Act July 24, 1913, P. L. 1001, known as the non-partisan Ballot Law, does not violate provision of bill of rights which declares "elections shall be free and equal." Winston v. Moore, 244 Pa. 447; 91 A. 520.

Legislature has full power to regulate elections, and errors of judgment or questions as to wisdom of regulations do not furnish ground for courts to declare law invalid. Id.

Not decided whether primary election is an election within meaning of above mentioned clause of constitution. Id.

Equal protection of law:
Municipalities — Indebtedness (Payment).

Excessive fines, cruel punishment, summary conviction, fish laws, Act 1901.—Defendant having been convicted before an alderman of illegal fishing under Act of May 29, 1901, P. L. 302, appealed to quarter sessions, which appeal was allowed; prosecutor, who was fish warden of commonwealth, filed petition alleging act unconstitutional, being in contravention of state and United States constitutions, in that excessive fines shall not be imposed or cruel punishment inflicted, and case was certified to argument court for determination. Com. v. Baker, 22 York 135.

Ex post facto laws, indeterminate sentence, decrease in punishment, Act of 1911.—Act June 19, 1911, P. L. 1055 (19 PS §§ 1051–1057; 61 PS §§ 302 et seq.), relating to indeterminate sentences in punishment for crime, is not an ex post facto law as to crimes committed before its passage for which sentence was imposed under the act, since it does not increase the term of imprisonment but tends to mitigate the severity of punishment. Com. v. Kalck, 239 Pa. 533; 87 A. 61.

Freedom of press, libel, anonymous communications, Act 1897.—Act May 25, 1897, P. L. 85 (18 PS § 534), prohibiting sending of anonymous communications of a libelous nature, does not violate art. 1, sec. 7 of constitution relating to freedom of press and providing that no conviction may be had in prosecution for publication of papers relating to public officers in their official capacity where such writings were not maliciously or negligently made, since it is within power of legislature to declare that anonymous communications are so far malicious or negligent as to be impossible of justification or excuse by jury on any ground. Com. v. Foley, 292 Pa. 277; 141 A. 50; Com. v. Wilhelm, 292 Pa. 283; 141 A. 52.

Freedom of religious worship, compulsory attendance at services by prisoners.—Freedom of conscience guaranteed by sec. 3, art. 1, of constitution of state is not violated by warden of jail in compelling prisoner to attend Sunday religious exercises held in jail, and such compulsion gives no right of action in trespass against jailor. Merrick v. Lewis, 60 Pitts. 727.

Freedom of speech:
Boroughs—Powers (License).
Courts (Jurisdiction).
Criminal Law—Sedition (Revolution).

Constitutional Law — Personal Rights—(Cont'd).
Injunctions—Lie When (Freedom).
Municipalities — Police Power (Public).

Freedom of speech, alien.—One not a citizen of Pennsylvania or of United States, cannot take advantage of protection afforded by § 7, Art. 1, of constitution of state, providing that "every citizen may freely speak, write and print on any subject, being responsible for abuse of that liberty." Goldman v. Reyburn, 18 Dist. 883; 36 C. C. 581.

Freedom of speech, evangelistic address, reference to pending murder trial, injunction.—District attorney may maintain bill for injunction to restrain person styled "evangelist," engaged in conducting revival meetings, from delivering address, purporting to be on subject of who killed certain person named, where prisoner indicted for killing is awaiting trial. Injunction in such case is not interference with freedom of speech within meaning of bill of rights. Adams v. Stough, 43 C. C. 617; 14 Just. 113.

Freedom of speech, freedom of press, limitations, courts, legislature, sedition, Acts 1919, 1921.—Sedition Act June 26, 1919, P. L. 639 (18 PS §§ 121, 122), as amended by Act May 10, 1921, P. L. 435 (18 PS § 121), does not violate secs. 2, 7, 9, 10, 13 and 26 of art. 1 of state Constitution or art. 14 of federal Constitution, which relate to alteration of government and liberty of press and speech. Com. v. Widovich, 295 Pa. 311; 143 A. 295; aff. 93 Super. 323.

Control or restraint of freedom of press and speech is for legislature and not for courts. Id.

Freedom of speech, police power.—Rights of free speech and assembly, guaranteed by constitution, must be exercised in subordination to rules and regulations adopted by proper municipal authorities in regard to use of public streets and buildings. Com. v. Stearn, 25 Dist. 861; 44 C. C. 583.

Freedom of speech, political activity of municipal officers and employees, cities of first class, Act of 1906.—Legislature may prohibit city employees from doing acts forbidden without violating art. 1, sec. 7 of constitution, relating to free communication of thoughts and opinions and of right of citizens to freely speak, write and print on any subject; Act of Feb. 15, 1906, P. L. 19, refers to employees taking active part, i. e., a managing part, in political affairs, and does not in any way conflict with constitutional provision. Com. v. Hasskarl, 21 Dist. 119.

Freedom of speech, public meetings in street, permit, failure to secure.—A citizen has no constitutional right, either under 14th amendment of Federal Constitution or under bill of rights of State Constitution, to hold public meetings on streets without obtaining permit as provided by ordinance. Duquesne v. Fincke, 269 Pa. 112; 112 A. 130.

Freedom of speech, public meeting, peaceable assemblage, municipal ordinance, permit, discretion of mayor, assemblage on private property.—Municipal ordinance forbidding street parades, processions, street assemblages and public meetings without permit from mayor does not abridge rights of free speech and peaceable assembly guaranteed by Art. 1, Secs. 7 and 20 of constitution, and it is within sound discretion of mayor, which will not be controlled unless it has been abused, to grant or refuse permit and to impose penalties, as provided in ordinance, for its violation. Com. v. Jones, 67 Pitts. 625; Com. v. Danich, 68 Pitts. 534; 12 Mun. 54.

Where persons are charged with holding public meeting without permit from mayor, in violation of ordinance, it is no defense that meeting was held on private property and that its object was lawful, if its effect was to obstruct traffic on streets. Id.

Habeas corpus, suspension of, identity, extradition, Act 1878.—Provision of Act May 24, 1878, P. L. 134, limiting inquiry in habeas corpus cases arising from extradition proceedings to question of identity, violates art. 1, sec. 14, of United States constitution forbidding suspension of writ of habeas corpus. Com. v. Abbott (No. 2), 3 Wash. 60; 71 Pitts. 191; 36 York 165.

Hearing, denial of, board of viewers, assessment, benefits, sewer.—Assessment of benefits for cost of sewer is in nature of tax, and no constitutional rights of owners thus assessed for benefits are violated when they are denied right to offer testimony before viewers. Ross Twp. Sewer, 76 Pitts. 461.

Owners could appeal under Act May 16, 1921, P. L. 641 (53 PS §§ 17919–17929), and they also had right to be heard on exceptions before board of viewers. Id.

Hearing, waiver, violation of motor vehicle laws, summary conviction, appeal, Act 1923.—Conviction of justice of peace for misdemeanor in office will be sustained where he refused to permit one arrested for violation of motor vehicle act to waive summary hearing and enter bail for court as provided by Act June 14, 1923, P. L. 718. Com. v. Yerkes, 86 Super. 5; affirmed 285 Pa. 39; 131 A. 650.

Said act does not violate section 14 of Art. 5 of Constitution, giving right of appeal from summary convictions as said provision does not prevent legislature from creating new minor offense and conferring upon party charged right to waive a hearing. Id.

Imprisonment, costs, non-payment: Justice's Court — Jurisdiction (Imprisonment).

Information, proceeding by, plea of guilty on indictment, due process of law, Act 1907.—Act April 15, 1907, P. L. 62 (19 PS § 241), permitting entry of plea of guilty on indictment prior to its submission to grand jury and providing for imposing sentence thereon, does not violate article 1, section 10 of Constitution prohibiting criminal proceedings by information. Com. v. Francies, 250 Pa. 496; 95 A. 527; aff. 58 Super. 266, 270.

Neither does above act violate 14th amendment of Constitution of United States providing that no person shall be deprived of life, liberty or property without due process of law. Id.

Injury to plaintiff, failure to allege.—One who alleges no special damage or injury to him, in person or property, has no standing to question constitutionality of act. Cameron v. Fishman, 29 Dauph. 74.

Liberty and property, cocaine, possession of, Act 1909.—Act May 8, 1909, P. L. 487 (35 PS §§ 821–826), making it misdemeanor for any person other than practicing physician, etc., to have cocaine in his possession, except upon prescription, is constitutional. Com. v. Gosnell, 12 Just. 260; 42 C. C. 125; 62 Pitts. 370.

Liberty, peonage, assignment of wages, Act 1913.—Act June 4, 1913, P. L. 405 (43 PS §§ 273, 274), relating to assignments of wages or salaries to be earned in future to secure loans is in violation of sec. 1 of bill of rights, because pledge of wages to be earned in future creates form of peonage. Foster's Case, 23 Dist. 558.

Miners, examination of, Act 1897.—Act July 15, 1897, P. L. 287 (52 PS § 251 et seq.), providing for examination of miners in anthracite coal regions, is constitutional. Com. v. Wyoda, 44 Super. 552.

Mines and mining, anthracite coal miners, examination, etc., Act of 1897.—The portion of section 5 of the Act of July 15, 1897, P. L. 287 (52 PS §§ 217, 234–237), relating to the examination, etc., of a miner who has had "not less than two years' practical experience as a miner or mine laborer in the mines of this commonwealth," does not violate Art. IV, section 2, clause 1 and section 1 of the 14th amendment of the federal constitution. Com. v. Shaleen, 215 Pa. 595; 64 A. 797; reversing 30 Super. 1.

The words "mines of this commonwealth" will be construed to apply only to anthracite mines; and the act does not discriminate against citizens of other states. Id.

If a miner coming from another state fails to apply for an examination or certificate he is liable to the penalty provided by section 6 of the act (52 P S § 252). Id.

New offense:

Constitutional Law — Trial by Jury (Cruelty) (Liquor) (New).

Petition, right of, delegation of.—The constitutional right to petition does not prevent a person from committing the exercise of such right to an association of which he is a mem-

Constitutional Law — Personal Rights—(Cont'd).

ber. Spoyd v. Ringing Rocks, 74 Super. 139.

Powers or privileges, public halls, fire escapes, Act 1909.—Act May 3, 1909, P. L. 417, requiring exits, fire escapes and other specific safeguards in buildings and halls where people assemble, is not a grant of powers and privileges within meaning of Art. 3, § 7 of the constitution. Roumfort Co. v. Delaney, 230 Pa. 374; 79 A. 653.

Premiums for return of caps and corks, brewing company, class legislation, Act 1913.—Act June 12, 1913, P. L. 490 (47 PS §§ 621–623), prohibiting offering of premiums by liquor dealers for return of caps, corks or labels is not unconstitutional as class legislation, nor as invasion of personal rights. Com. v. Brewing Co., 252 Pa. 168; 97 A. 206.

Privileges and immunities:
Constitutional Law — Due Process of Law (Food).
Constitutional Law — Special Laws (Descent).
Municipalities — Ordinances (Law).

Privileges and immunities, cold storage of food, Act 1913.—Act May 16, 1913, P. L. 216, regulating storage and sale of food, does not violate rights and privileges of citizens under article 1, section of Pa. Constitution or 14th amendment of U. S. Constitution. Nolan v. Jones, 67 Super. 430.

Privileges and immunities, corporations, by-laws, validity.—Plaintiff, partnership, was engaged in conducting business of selling on commission, cattle, sheep, etc., at union stock yards; defendant was corporation, not for profit, with object of fostering business interests of its members who were dealers in live stock at union stock yards; for many years partnership had been member of defendant corporation and in 1914 A, resident of Ohio, became member of partnership, retaining his residence in Ohio; afterwards A sold cattle at stockyards for and as member of partnership; in April, 1913, defendant passed by-law providing that "A fine of $100 shall be imposed on any firm, or member of this exchange doing commission business at stock yards, who shall employ or allow any one who is not resident of Allegheny County to sell stock other than his own or bill in other than his own name on this market," held that by-law was contrary to constitution of United States which provides that citizens of each state shall be entitled to the privileges and immunities of citizens of the several states. Such by-law is also void because in violation of individual rights of members. Jefferis v. Stock Exchange, 62 Pitts. 545; 2 Corp. 303.

By-law was not applicable to A, he not being employee. Id.

Privileges and immunities, equal protection of law, due process of law, sewage, pollution of streams, Act 1905.—Act April 22, 1905, P. L. 260 (35 PS § 711), relating to protection of public health by preserving purity of waters of state, does not violate fourteenth amendment of federal constitution relating to privileges and immunities because it permits water from coal mines and sewage from municipal systems to continue to be discharged if they were in operation before passage of act, while forbidding such privilege to individuals or private corporations. Com. v. Emmers, 221 Pa. 298; 70 A. 762; aff. 33 Super. 151.

Nor does it, for said reason, deprive any person of equal protection of laws. Id.

Nor does it deprive of property without due process of law, since it specifically provides for appeal to common pleas. Id.

Privileges and immunities, free speech, moving-picture censorship, Act 1911.—Act June 19, 1911, P. L. 1067, does not violate art. xiv. of constitution of United States by abridging rights of owners of films in transaction of business with citizens of states other than Pennsylvania, nor as arbitrary tax or restraint upon right of free speech. Buffalo Branch Mut. Film Corp. v. Censors, 23 Dist. 837.

Privileges and immunities, hawking and peddling, exemptions, Act 1873.—Act March 14, 1873, P. L. 297, prohibiting hawking and peddling without license, is not unconstitutional as violating privileges and immunities of citizens given by federal constitution and

if proviso of act exempting certain persons is unconstitutional, this would not destroy entire statute. Com. v. DeSarto, 62 Super. 184.

Privileges and immunities, municipal work, Act 1917.—Act July 6, 1917, P. L. 752, authorizing municipalities to provide for performance of all public work within their territorial limits, is not in violation of 14th amendment of federal constitution, which forbids abridging privileges and immunities of citizens of United States. Taylor v. City, 26 Dist. 979.

Privileges and immunities, solicitation of funds for charity, police power, classification, Act 1925.—Act of May 13, 1925, P. L. 644 (10 PS §§ 141–151), regulating the solicitation of money for charitable purposes, but exempting from its operation fraternal and religious organizations, schools, colleges, labor unions, municipalities and community organizations, does not violate Art. 3, Sec. 7 of constitution forbidding passage of law granting any special privilege or immunity. Com. v. McDermont, 94 Sup. 470.

Act of 1925 is police measure and exemptions mentioned therein are not arbitrary but based on substantial distinctions which are proper subject-matter of classification. Id.

Process, service, non-resident, Act 1859.—Act of April 6, 1859, P. L. 387 (12 PS §§ 1254–1256), authorizing service on non-resident is constitutional. Holman v. Witmer, 25 Lanc. 388.

Qualified electors:
Elections — Nomination (Nomination).

Religious dress, public school, teachers, Act 1895.—Act June 27, 1895, P. L. 395 (24 PS §§ 1129–1130), to prevent wearing in public schools by teachers, any dress or insignia, indicating that teacher is member of any religious sect, does not violate §§ 3 and 4 of article one of constitution relating to freedom of religious worship and belief. Com. v. Herr, 229 Pa. 132; 78 A. 68; affirming 39 Super. 454.

Act does not violate fifth and fourteenth amendment of U. S. constitution, in that it subjects individual school director to fines or deprivation of directors of their office or their disqualification for office. Id.

Statement in title, that fine is to be imposed on board of directors, whereas, penal provision contained in body of act is directed against director or directors who offend, does not render act unconstitutional. Id.

Religious freedom:
Public Service (Taxicab).

Right to be heard by counsel, argument of counsel, charge.—It is reversible error for judge, in murder trial, to charge jury without any saving words, not to consider evidence in light of argument of counsel, as § 9, art. 1, of the constitution gives accused, in all criminal prosecutions, right to be heard by himself and counsel. Com. v. Polichinus, 229 Pa. 311; 78 A. 382.

Right to be heard by counsel carries with it right to have argument considered. Id.

Sedition, right to assemble and petition, Acts 1919, 1921.—Acts June 26, 1919, P. L. 639 (18 PS §§ 121, 122), amended by Act May 10, 1921, P. L. 435 (18 PS § 121), known as the Sedition Act, do not violate Constitutional right to assemble for common good or to petition for redress of grievances. Com. v. Blankenstein, 81 Super. 340.

Self-incrimination, calling as witness for joint defendant, objection of counsel.—One indicted for murder jointly with two others, separate trials having been granted, cannot prior to his own trial be compelled against his will to take witness stand as witness for defendant on trial jointly indicted with him, and objection to his being sworn properly comes from his counsel. Com. v. Bland, 26 Dauph. 388.

Self-incrimination, evidence against self, submitting to physical examination, waiver of constitutional right.—Constitutional provision that in criminal prosecutions accused cannot be compelled to give evidence against himself protects person only from any disclosure sought by legal process against him as a witness, but does not include his body as evidence when that is material. Com. v. Cox, 10 D. & C. 678.

The constitutional provision is a limitation only on officer of state, or some person acting by authority of a state

Constitutional Law — Personal Rights—(Cont'd).

officer and under his direction or of person acting under color of authority from commonwealth, and does not apply to action of private individual, although a practicing physician or a petty officer like a township constable proceeding without, above and beyond state authority and possessed of no color of state right. Id.

Constitutional provision may be waived by consent of person accused. Id.

Self-incrimination, evidence given under compulsion, bribery, immunity from prosecution, subpœna, service, effect.—Provisions of Art. 3 of constitution, providing that any person may be compelled to testify in proceeding against another on charge of bribery, etc., and shall not be permitted to withhold his testimony on ground that it may incriminate him, but that testimony given by him shall not afterwards be used against him, except for perjury, has no application to case where defendant was witness in another proceeding and testified without compulsion. Com. v. Cameron, 229 Pa. 592; 79 A. 169; Com. v. Richardson, 229 Pa. 609; 79 A. 222.

Above provision does not grant to witness immunity from prosecution for an offense as to which he has been compelled to testify in other proceeding, but provides only that such evidence shall not be used against him. Id.

There is no such compulsion where record fails to show that he was subpoenaed or that he was required to answer, or that he demurred to answer any question on ground that it might incriminate him. Com. v. Richardson, supra.

Mere service of subpoena and summoning before lawful tribunal does not infringe witness's constitutional rights; they can be asserted only when called on to testify. Com. v. Bolger, 229 Pa. 597; 79 A. 113.

Self-incrimination, evidence given under compulsion, examination of judgment debtor, Act 1913.—Act May 9, 1913, P. L. 197 (12 PS §§ 2242–2244), for oral examination of judgment debtor for purpose of discovering whether he had property subject to execution, is not unconstitutional as in contravention of defendant's constitutional protection against being compelled to testify against himself. Pennock v. West, 23 Dist. 1062.

Self-incrimination, finger prints.—Sec. 9, art. 1, of Declaration of Rights, does not prohibit taking of finger prints of accused without his consent nor use of them at trial for comparison with finger prints found at scene of crime. Com. v. Rocci, 18 Berks 274; 74 Pitts. 789.

Self-incrimination, liquor seized.—Liquor illegally seized cannot be used in evidence by the commonwealth. Com. v. Mihavetz, 16 Del. 267; 3 D. & C. 829; Com. v. Kekic, 26 Dauph. 147; 71 Pitts. 353; 37 York 17; 16 Del. 318; 3 D. & C. 273; Com. v. Polwich, 19 North. 48; 71 Pitts. 537; Contra, Com. v. Unger, 22 Luz. 295; 71 Pitts. 445; see also Com. v. O'Malley, 81 Super. 100; Com. v. Grasse, 80 Super. 480.

Self-incrimination, statements given to fire marshal, Act 1919.—Under Art. 1, Sec. 9, Federal Constitution, providing that one cannot be compelled to give evidence against himself, state police, acting as fire marshals, under Act July 1, 1919, P. L. 710, sec. 4, are not permitted to summon anyone and compel their attendance and use testimony thus secured thereafter in prosecution of person so summoned. Com. v. Viachos, 16 West. 33.

Self-incrimination, voluntary testimony.—Art. 3 § 32, does not apply where evidence is given voluntarily. Com. v. Ensign, 228 Pa. 400; 77 A. 657; Com. v. Bolger, 43 Super. 115; Com. v. Richardson, 42 Super. 337.

Sole effect of provision is to prevent compulsory testimony given by witness from afterwards being used against him. Com. v. Cameron, 42 Super. 347.

Special privileges:
Boroughs — Powers (Garbage) (Water).

Summary conviction, Act 1905.—Act of April 22, 1905, P. L. 284 (19 PS § 1189), allowing appeal by defendant in case of summary conviction, does not offend against Art. 5, § 14, of con-

stitution. Com. v. Adams, 4 Schuyl. 46.

Trial before particular judge.—One indicted for libel has no constitutional right to be tried by any particular judge, and cannot object to trial by one specially presiding pursuant to statute. Com. v. Graffius, 67 Super. 281.

Twice in jeopardy, capital offense, lower grades of homicide.—Constitutional right of person not to be put in jeopardy twice for same offense extends only to capital offenses and not to lesser grades of homicide which are not punished capitally. Com. v. Commander, 10 D. & C. 275.

Twice in jeopardy, election law, conspiracy, false returns, Acts 1913, 1919.—Election officers who have been acquitted of charge of making false returns, brought under Act July 12, 1913, P. L. 719 (25 PS § 1041 et seq.), may be indicted and convicted of conspiracy to violate Act July 9, 1919, P. L. 839 (25 PS § 1106 et seq.), prescribing manner of conducting election; latter prosecution does not place them twice in jeopardy for same offense and plea of autrefois acquit will be overruled. Com. v. Gormley, 16 Sch. 194.

Twice in jeopardy, illness of juror.—Defendant was not twice in jeopardy because at first trial one of jurors became violently ill and jury was discharged. Com. v. Whittaker, 12 West. 156.

Twice in jeopardy, minor offenses, fornication and bastardy.—Provision that no person should be twice put in jeopardy for the same offense does not apply to minor offenses, such as fornication and bastardy. Com. v. Markowitz, 74 Super. 231.

Twice in jeopardy, murder of two persons, separate prosecutions, verdicts.—Murder of two persons by two separate blows at same time, or, under some authorities, even by same act, constitutes two offences, for each of which a separate prosecution will lie, and conviction or acquittal in one case does not bar prosecution in other. Com. v. Weeks, 10 D. & C. 568.

Twice in jeopardy, prior conviction for crime growing out of same acts.—Judgment on verdict of guilty on trial of indictment for rape cannot be sustained, where it appears that defendant had been previously convicted on indictment for indecent exposure, and that both charges grew out of same facts. Com. v. Erb, 44 C. C. 179.

Vaccination, compulsory, Acts 1895, 1903, 1919.—Acts June 18, 1895, P. L. 203, and April 22, 1903, P. L. 244 (53 PS § 2182), and June 5, 1919, P. L. 399 (53 PS §§ 2181, 2182), relating to vaccination of school children are constitutional. Com. v. Wilkins, 271 Pa. 523; 115 A. 887.

Venereal disease, treatment of:
Constitutional Law—Police Power (Venereal).

Voting:
Elections — Contest (Petition).

Voting, residence, public service, county jail.—Provisions of art. 8, sec. 1, of constitution, relating to voting residence of persons in public service of state or United States, do not apply to deputy warden of county jail or matron of detention house, who are employees of county. Com. v. Hoke, 2 D. & C. 766; 19 Sch. 210.

Workmen's compensation, aliens, treaty with Italy, negligence, right of action for, Acts 1911, 1915.—Section 310 of Act June 2, 1915, P. L. 736 (77 PS § 563), providing that relatives of aliens not residing in United States should not be entitled to compensation under Act, is not unconstitutional as being in conflict with treaty between United States and Italy, or of Act June 7, 1911, P. L. 678 (12 PS § 1602), which gives to widow or parents or relatives right of action to recover damages for death resulting from negligence, regardless of whether they are citizens or residents of Pennsylvania or of foreign country, since treaty guarantees equal rights of protection to subjects of both countries and therefore action for negligence may be brought no matter where plaintiff may reside. Liberato v. Royer, 281 Pa. 227; 126 A. 257; aff. 81 Super. 403.

Workmen's Compensation Act did not take from any person right to recover damages for negligence, but, on contrary, made that right more secure by taking away certain defenses which theretofore were available to employers. Id.

Constitutional Law — Personal — Rights—(Cont'd).

Where employer and employee accept provisions of Act, their relations become contractual and one of covenants of agreement is that non-resident aliens shall not be entitled to compensation. Id.

Constitutional Law—Police Power.

Alcohol permit board, Act 1926.—Act Feb. 19, 1926, P. L. 16 (47 PS § 121 et seq.), creating state alcohol permit board, is proper exercise of police power. Premier Cereal Co. v. Pa. Permit Board, 292 Pa. 127; 140 A. 858.

Business, trade, administrative boards, discretion.—Conferring discretionary powers on administrative boards to grant or withhold permission to carry on trade or business, which is proper subject of regulation, is within police power of state. Premier Cereal & Beverage Co. v. Permit Board, 9 D. & C. 554; 75 Pitts. 681.

Cemeteries, location:
Constitutional Laws — Special Laws (Cemeteries).

Cold storage of food:
Constitutional Law — Due Process of Law (Food).

Cold storage of food, forbidding sale after certain time, Act 1913.—Section 16, of Act May 16, 1913, P. L. 216, requiring that certain articles of food shall not be sold for food if kept in storage for longer than stipulated time is void and unconstitutional, in that it violates article 1, section 1, entitled, "Declaration of Rights" of constitution of Pennsylvania, as well as 14th amendment to constitution of United States. Nolan v. Jones, 64 Pitts. 521.

Dog license, taxation, uniformity, right to question validity, Act 1921.—Act May 11, 1921, P. L. 522 (3 PS §§ 461–500), providing for licensing of dogs except in cities of first and second classes, does not violate sec. 1, art. 9 of constitution relating to uniformity of taxation, since the charge is not tax but license fee levied under police power of the state. Com. v. Haldeman, 288 Pa. 81; 135 A. 651; aff. 88 Super. 284.

In such case one who has paid his license tax but has failed to put tag on his dogs is not in position to question constitutionality of act so far as application of fund is concerned, since he is not affected thereby. Id.

Drugs, poisons, regulating sale of, vagueness of law, Act 1860.—Act March 31, 1860, P. L. 382 (18 PS § 141 et seq.), prohibiting sale by apothecaries of certain drugs, except on prescription of physicians or on personal application of some respectable inhabitant of full age, after marking word "poison" on package and making note of sale in register, is not unconstitutional on ground that acts prohibited are vague and indefinite. Com. v. Yealy, 21 Dist. 543.

Power of mercy exercised by courts before passage of act was conferred on them by legislature. It is not inherent in judicial power itself, nor is it protected by constitutional provision. Legislature may totally withdraw administration of state's mercy from courts without violating any constitutional provision. Id.

Employment agencies, license:
Constitutional Law — Special Laws (Employment).

Extent of, public welfare, sovereign power.—Police power is chief attribute of sovereign power and if in its exercise it conflicts with part of constitution, police power in exercise of its objects will prevail. White's App., 287 Pa. 259; 134 A. 409; af. 85 Super. 502.

Fire arms:
Criminal Law—Fire Arms (Discharge).

Fire-escapes, construction, Act 1913.—Act May 20, 1913, P. L. 272, regulating construction and material of fire-escapes, is not so vague and indefinite as to be void and repugnant to constitution, but is reasonable exercise of police power. Com. v. Strickler, 5 Northum. 197.

Fire escapes, public halls, Act 1909.—Act May 3, 1909, P. L. 417, requiring exits, fire escapes and other safeguards in buildings and halls, where people assemble, is a reasonable and valid exercise of the police power of

the state. Roumfort Co. v. Delaney, 230 Pa. 374; 79 A. 653.

Fire protection:
Constitutional Law — Special Laws (Fires).

Fuel control, power to carry on war, right to contract, due process of law.—Federal Fuel Control Act of August 10, 1917, 40 Stat. 276, authorizing President to fix maximum price of coal during war, was valid exercise of power to carry on war and not void as infringement on right to contract or deprivation of property without due process of law. Highland v. Car Co., 87 Super. 235.

Contract for sale of coal at higher price than fixed by law is void and seller cannot recover excess. Id.

Game laws:
Constitutional Law — Property Rights (Protection).

Game law, automatic guns, Act of 1907.—Act of May 31, 1907, P. L. 329, prohibiting use of automatic guns for killing of game or wild birds within this commonwealth, is constitutional; it is not unreasonable exercise of police power for arbitrary discrimination against maker of certain kind of gun. Com. v. McComb, 227 Pa. 377; 76 A. 100; aff. 39 Super. 411.

Game laws, failure to report killing of deer, property, right to protect, Act 1925.—Section 720, Act May 14, 1925, P. L. 752 (34 PS § 720), providing penalty for failure to report killing of deer for prevention of destruction of property, is reasonable exercise of police power and does not violate constitutional right of citizen to protect own property. Com. v. Haugh, 12 D. & C. 795.

Grade crossing, abolition, procedure, appeal, party, liability of township for share of expense, Act 1913.—Public Service Commission Act July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), conferred on public service commission authority, under police power to abolish grade crossings and to compel township to pay its share of expense. Com. v. Washington, 21 North. 113.

Suits should be brought against township, not its supervisors. Id.

Any party affected may intervene, apply for re-hearing or repeal. Id.

Health regulations, sewer, discontinuance:
Realty (Appurtenances).

Hydrophobia, treatment of, by poor district, Acts 1905, 1907.—Act May 7, 1907, P. L. 170, amending Act March 31, 1905, P. L. 192 and providing for medical treatment of hydrophobia by poor districts, is proper exercise of police power. Lupp v. Adams County House of Employment, 57 Super. 394.

Ice cream, adulteration, Act 1909.—Act March 24, 1909, P. L. 63, relating to sale of adulterated ice cream, is proper exercise of police power of state. Com. v. Crowl, 245 Pa. 554; 91 A. 922; aff. 52 Super. 539.

Jurisdiction:
Commonwealth (Attorney).

License fees:
Constitutional Law — Special Laws (License).

Liquor, enforcement act, health measure, Act 1923.—State liquor enforcement acts are properly classed as health measures, especially as there can be no governmental inspection of liquor for the protection of the public. Com. v. Dietz, 285 Pa. 511; 132 A. 572; Com. v. Artz, 285 Pa. 521; 132 A. 575.

It is primarily for the legislature to decide what constitutes a menace to health and to provide a proper remedy, and where it determines that a certain thing is a nuisance and prejudicial to public health it may be prohibited by the same remedies applied in cases of a nuisance at common law. Id.

Although sec. 1, of Act of March 27, 1923, P. L. 34 (47 PS § 1), relating to manufacture and sale of liquor, misrecites that it derives its powers from 18th Amendment to federal constitution, it is nevertheless constitutional, inasmuch as Commonwealth always had power to restrain manufacture and sale of liquor. Com. v. Karwoski, 25 Lack. 25.

Sec. 2, of Act of 1923, supra, is not unconstitutional, because it declares "intoxicating liquors" shall mean anything that Congress from

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time to time may declare to be such. Id.

Liquor, enforcement, nuisance, injunction, due process of law, trial by jury, Act 1923.—Sections 6 and 7 of prohibition enforcement act March 27, 1923, P. L. 34 (47 PS §§ 21, 22), declaring any place where intoxicating liquors are manufactured, sold or possessed to be public nuisance, and authorizing court of equity to restrain occupancy or use of such building for one year are not unconstitutional. Com. v. Ditez, 73 Pitts. 193.

Courts of equity may take whatever means are reasonably necessary to abate constitutionally declared public nuisance, even to extent of taking or destroying property of innocent owner. This is not taking property without due process of law, nor is it denial of right of trial by jury in its application to enforcement of laws relating to intoxicating liquors. Id.

Liquor law, Act 1887.—Act of May 13, 1887, P. L. 108, does not violate preamble to constitution of United States, nor § 2 of Art. I of constitution of state. Gregg's License, 36 Super. 633.

Liquor license laws.—The license laws are constitutional, and manufacture and sale of intoxicating drinks are not crimes at common law. Washington County Licenses, 35 C. C. 66; Gregg's License, 36 Super. 633.

Liquor license laws, brewers, Act 1897.—The Act of July 30, 1897, P. L. 464 (47 PS § 341 et seq.), is constitutional. Washington Co. Licenses, 35 C. C. 66.

Loans, licensing of lenders, Act 1913.—Act June 5, 1913, P. L. 429, regulating money loan offices is proper exercise of police power. Com. v. Young, 57 Super. 521.

Liquor, possession and sale:
Liquor (Jurisdiction).

Liquor, sale of:
Constitutional Law — Obligation of Contract (Liquor).

Loans:
Constitutional Law — Statutes, Title (Loans).

Mercantile tax:
Constitutional Law — Taxation (Uniformity).

Mining, surface support, statute, construction, preamble, Act 1921.—Act May 27, 1921, P. L. 1198 (52 P S §§ 661–671), which prohibits interference with surface under certain structures by mining operations regardless of question of contractual duty to support surface, is proper exercise of police power. Mahon v. Coal Co., 274 Pa. 489; 118 A. 491.

In such case courts may take into consideration facts recited in preamble of act to effect that anthracite mining industry has been conducted so as to endanger life and property by the sinking of the surface notwithstanding Act of June 3, 1911, P. L. 664, directing that no preamble shall be printed when a bill becomes a law and is printed for general use. Id.

Minors, employment of, Act 1915.—Act May 13, 1915, P. L. 286 (43 PS § 41 et seq.), providing that children under age of sixteen shall not be employed in factories at night, is reasonable exercise of police power and does not violate bill of rights of State Constitution, nor Fifth Amendment of United States Constitution. Com. v. Wormser, 260 Pa. 44; 103 A. 500.

Act May 13, 1915, P. L. 286 (43 PS § 41 et seq.), relating to employment of minors under age of sixteen years without certificates, is not unconstitutional, but is valid exercise of police power. Wormser v. Com., 66 Pitts. 143.

Minors, employment of females, Act 1913.—Sections 3 and 5 of Act July 25, 1913, P. L. 1024 (43 PS §§ 103, 105), relating to employment of female minors, is valid exercise of police power. Com. v. Co-operative Co., 60 Super. 314.

Motion pictures, board of censors, Act 1911.—Act June 19, 1911, P. L. 1067, appointing State Board of censors to regulate exhibition of moving picture films, is a constitutional exercise of police power. Buffalo Branch Film Co. v. Breitinger, 250 Pa. 225; 95 A. 433.

Newspapers, publication of names of proprietors, Act 1907.—Act of May

2, 1907, P. L. 157 (54 PS §§ 61–63), requiring publication of names of owners, etc., of newspapers, is valid exercise of state police power and refers to weekly papers as well as others. Com. v. Short, 228 Pa. 279; 77 A. 449.

Publication of name of editor instead of owner is not sufficient. Id.

Oleomargarine, sales, Act 1901.—Act of May 29, 1901, P. L. 327 (31 PS § 801 et seq.), prohibiting manufacture and sale of oleomargarine, butterine and other similar products when colored in imitation of yellow butter, is constitutional. Com. v. McDermott, 224 Pa. 362; 73 A. 427.

Optometry:

Optometry (License).

Optometry, license, revocation, peddling, declaration of rights, 14th Amendment, Acts 1917, 1923, 1925.—Revocation of optometrist's license was sustained where it was found that he peddled from house to house and outside his place of business. Harris v. Examiners, 29 Dauph. 415.

Act March 30, 1917, P. L. 21, amended by Acts May 19, 1923, P. L. 260, and May 13, 1925, P. L. 659 (63 PS § 231 et seq.; 71 PS §§ 1131, 1132), does not violate declaration of rights of State Constitution or 14th Amendment to federal Constitution. Id.

Test of valid exercise of police power by State is that regulation shall be reasonable and have some relation to subject-matter. Id.

Osteopathy:

Osteopathy (Regulation).

Party walls, building on own land, deeds, covenants, construction, Act 1895.—Act of June 7, 1895, P. L. 135 (53 PS § 8481 et seq.), relating to erection of party walls, is based on police power of state. Heron v. Houston (No. 1), 217 Pa. 1; 66 A. 108.

Its operation cannot be defeated by adjoining owner building exclusively on his own land, either to line or short distance therefrom. Id.

Nor will fact that owner of both adjoining lots deeded same to separate parties, with covenants in each deed to effect that in case wall of building erected on one lot should extend over line of other it should be held as party wall and owner of building should not be compelled to take it down except at his own pleasure, cause such covenants to be construed as agreement between respective vendees that existing wall should remain as party wall, so as to defeat proceedings under Act of 1895. Heron v. Houston (No. 2), 217 Pa. 4; 66 A. 109.

Party wall, removing, consequential damage to adjoining owner.—Party wall system of Pennsylvania is valid exercise of police power and does not constitute taking of property without compensation, even though there is no liability imposed upon party constructing a new wall for consequential damage to adjoining building. Jackman v. Rosenbaum, 263 Pa. 158; 106 A. 238.

Article 1, Section 2 of constitution giving remedy by due course of law for injury done to land, etc., does not include right to consequential damages resulting from act authorized by police power of the state. Id.

Neither does Art. 16, Sec. 8, giving damages for property injured but not appropriated apply to incidental losses occasioned by exercise of police power. Id.

Article 3, Sec. 21, prohibiting limitation of amount to be recovered for injuries to property does not confer right of recovery where none otherwise exists. Id.

Physicians, license, Act 1893.—Act May 18, 1893, P. L. 94, providing for licensing of physicians is proper exercise of police power within state and federal constitutions. Com. v. Densten, 217 Pa. 423; 66 A. 653.

The Act of May 18, 1893, P. L. 94, providing for the licensing of physicians is a valid exercise of the police power. Com. v. Densten, 30 Super. 631.

Plumbing, due process of law, Act 1901.—Act of June 7, 1901, P. L. 493 (53 PS §§ 2551–2630), relating to plumbing, is proper exercise of police power and does not violate 14th amendment of federal constitution relating to due process of law. New Castle City v. Withers, 291 Pa. 216; 139 A. 860.

Private property, taking for private use, coal companies, Act 1911.—Sections 1 and 4 of art. 12 of Act June 9,

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1911, P. L. 756 (52 PS §§ 1371, 1374), giving one coal company right to condemn land of another to construct tramway or enter its property, are not proper exercise of police power in that it permits taking of property for private use. Poland Coal Company's Case, 58 Super. 312.

Public health:
Constitutional Law — Special Laws (Public).

Public Service Commission, due process, obligation of contract, municipal consent to use of street, Act 1913.—Public Service Commission Act of July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), is valid exercise of police power. Relief Elec. Co.'s Petition, 63 Super. 1.

Fact that company has secured borough's consent to use of streets does not relieve it from necessity of securing certificate of public convenience from commissioner, and if such certificate is refused on proper grounds, it cannot complain it is deprived of property without due process of law or that act of commission has impaired obligation of contract. Id.

Public service corporations, due process, obligation of contract.—All rights secured under agreements made by public service corporations between themselves are subordinate to exercise of police power of state in respect to public safety, and if interests in such contracts be diminished by such exercise there is no impairment thereof against constitutional inhibition, nor taking of property without due process of law. Lehigh & New England R. R. v. R. R., 13 North. 241.

Public service, regulation:
Public Service (Contract).

Railroads, full crew law, interstate commerce, Act 1911.—Act June 19, 1911, P. L. 1053, requiring railroads to properly man their trains, is within police power of state, and it is immaterial that compliance with act requires additional expenditures in operation of trains. Pennsylvania R. R. v. Ewing, 241 Pa. 581; 88 A. 775; aff. 67 Super. 575.

Such act does not violate commerce clause of federal constitution in absence of federal regulations on the subject. Id.

Rates, federal control:
Telegraph and Telephone Companies (Rates).
Rates for public service:
Public Service (Rates).
Rates, regulation:
Public Service (Water).
Securities, dealers:
Securities (Police).

Securities, dealing in, impairment of contract, Act 1923.—Securities Act June 14, 1923, P. L. 779, is valid exercise of police power and does not impair obligation of contracts. Com. v. Moore, 5 D. & C. 738.

Sewers, private:
Public Service (Sewers).
Small loans:
Constitutional Law — Special Laws (Loaning).
Soliciting funds for charity:
Constitutional Law — Personal Rights (Privileges).

Street railways, rates, regulation, obligation of contracts.—Section 9, art. 17 of Constitution providing that no street railway should be constructed within municipality without consent of local authorities, must be considered in connection with sec. 3, art. 16, providing that police power of state should not be abridged or construed to permit corporations to conduct their business so as to infringe equal rights of individuals, and does not deprive state of authority to subsequently regulate rates of street railway and any contract entered into with respect to rates is presumed to have been made with knowledge of right of state to exercise this power in future and therefore does not violate or impair obligation of contract. Wilkinsburg Bor. v. Pub. Serv. Com., 72 Super. 423; McKeesport v. Pitts. Rys. Co., 72 Super. 435.

Theatre, discrimination against negroes, segregation in audience, Act 1887.—Act of May 19, 1887, P. L. 130 (18 PS § 1211), forbidding owners of places of amusement to refuse to accommodate any person on account of race or color, is proper exercise of po-

lice power. Com. v. George, 61 Super. 412.

Proprietor of theatre who sets aside portion for exclusive accommodation of colored people cannot be convicted of violating Act of 1887, unless it be shown accommodations thus given are not equal to that afforded by other parts of theatre. Id.

Transient merchants, licenses, Act 1899.—Act May 2, 1899, P. L. 159, providing for licensing of transient retail merchants in cities, boroughs and townships, being general in its application to "every person," is constitutional. Mahanoy City v. Olkin, 5 Just. 146.

Vaccination:

Mandamus — Parties (Attorney).

Vaccination, public schools, Acts 1895, 1919.—Acts June 18, 1895, P. L. 203, and June 5, 1919, P. L. 399 (53 PS §§ 2181, 2182), requiring production of vaccination certificates by scholars in public schools, are valid exercise of police power and constitutional. Com. v. Wilkins, 75 Super. 305; Stull v. Reber, 215 Pa. 156; 64 A. 419; Com. v. Rowe, 31 C. C. 1.

Venereal disease, advertising treatment of, bill of rights, Act 1919.—Act July 21, 1919, P. L. 1084 (18 PS §§ 771, 772), making it misdemeanor to advertise treatment of diseases of generative organs, does not violate art. 1, sec. 1, of constitution (bill of rights) and is valid exercise of police power. Com. v. Redmond, 13 Berks 64; 2 Erie 207; 30 Dist. 470.

Veterinarians, license, Acts of 1895, 1905, 1909.—Acts of May 16, 1895, P. L. 79, April 18, 1905, P. L. 209, and April 29, 1909, P. L. 277, requiring registration and licensing of veterinarians are valid exercise of police power. Com. v. Keemer, 28 Lanc. 227; 20 Dist. 983.

Act May 5, 1915, P. L. 248, regulating practice of veterinary medicine is a valid exercise of police power. Com. v. Heller, 277 Pa. 539; 121 A. 558.

Zoning, billboards, signs.—Ordinance which permits billboards and signs in some zone districts and prohibits them in others is not for that reason unconstitutional. Liggett's App., 75 Pitts. 129.

Zoning, cities of second class, Acts 1919, 1921.—Act of May 11, 1921, P. L. 503, amending Act of June 21, 1919, P. L. 570 (53 PS §§ 10726-10729), authorizing zoning in cities of second class, is constitutional exercise of police powers. Pittsburgh Zoning Ordinance, No. 1, 72 Pitts. 321; 15 Mun. 182.

Zoning, dwellings, construction, side yards.—Zoning ordinance which prescribes minimum width of side yards is reasonable and has a substantial relation to public health, safety or welfare and is, therefore, constitutional. Junge's Appeal, 89 Super. 548.

Constitutional Law — Property Rights.

Bank deposit, unclaimed, payment to state treasury, escheat, interest, obligation of contracts, due process of law, Acts 1919, 1921.—Act May 16, 1919, P. L. 177, and its supplement, Act April 21, 1921, P. L. 211 (27 PS §§ 431–433), are constitutional and on petition of attorney general, moneys deposited with trust company will be ordered paid into state treasury, without escheat, with interest, where deposits had neither been increased nor decreased and interest had not been credited in pass book or on certificate of depositor at his request for fourteen years. Com. v. Trust Co., 75 Pitts. 824; 16 Corp. 371.

Acts supra, do not impair obligations of contracts nor conflict with due process. Id.

Acts May 16, 1919, P. L. 177 (27 PS §§ 431–433), and July 12, 1919, P. L. 926, extending provisions of acts authorizing payment by banks and trust companies of unclaimed moneys into state treasury to national banks, do not violate either constitution of United States or constitution of Pennsylvania. Com. v. Bank, 1 D. & C. 535.

By laws:

Beneficial Societies — By-Laws (Reasonableness).

Compensation for improvements on unopened street bed, Acts 1871, 1891, 1915.—Acts December 27, 1871, P. L. (1872) 1390, and May 16, 1891, P. L. 75 (53 PS § 391 et seq.), providing that property owners cannot recover

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damages for improvements made on unopened streets after they are placed on city plan, are constitutional and do not violate bill of rights nor Fourteenth Amendment of United States Constitution. Harrison's Est., 250 Pa. 129; 95 A. 406.

Act June 7, 1915, P. L. 894 (53 PS §§ 3763–3765), which postpones right for five years of property owner to damages for plotting of street, is not unconstitutional as taking of property, even tho owner is prevented from making full use of it or does so at his own risk. Phila. Parkway Opening, 295 Pa. 538; 145 A. 600.

Contract, right of, certificate of engineer or architect, condition precedent to recovery, Act of 1907.—Act of June 1, 1907, P. L. 381, forbidding contracts making award of architect or engineer final, or his certificate condition precedent to recovery, is unconstitutional in that it violates property right to contract. Miller v. Kenyon, 58 Pitts. 113; Cuthbert Bros. v. Lodge, 2 West. 185; Adinolfi v. Hazlett, 242 Pa. 25; 88 A. 869.

Damages, personal injuries, limitation of amount, workmen's compensation act 1915.—Article 3 of Workman's Compensation Act of June 2, 1915, P. L. 736 (77 PS § 411 et seq.), is not a violation of provision of section 21, article 3 of Constitution prohibiting limitation on amount to be recovered for personal injuries, since amount to be recovered is limited only when parties so agree, as provided in act. Anderson v. Steel Co., 255 Pa. 33; 99 A. 215.

Fraudulent conversion, Act 1917.—Sec. 3 of Fraudulent conversion Act May 18, 1917, P. L. 241 (18 PS § 2488), is not unconstitutional and does not vitiate remainder of act. Com. v. Ebersole, 38 Lanc. 88; 70 Pitts. 205; 1 D. & C. 733.

Merchandise in bulk, sale, notice to creditors, Act 1905.—Act March 28, 1905, P. L. 62, requiring notice to creditors of sales in bulk of stock of merchandise and fixtures, does not infringe right to acquire and dispose of property guaranteed by bill of rights in state and federal constitution. Wilson v. Edwards, 32 Super. 295; Feingold v. Sternberg, 33 Super. 39.

Motor vehicles, seizure, identification marks, obliteration of, Act 1919.—Act June 30, 1919, P. L. 702, authorizing seizure of motor vehicles on which manufacturer's number or identification mark has been defaced, altered or obliterated does not violate secs. 8, 9, or 10 of bill of rights (art. 1 of constitution). Knepper v. Wilhelm, 49 C. C. 5.

Privileges and immunities, corporations, foreign attachment, Act 1911.—Act June 21, 1911, P. L. 1097 (12 PS § 2891), authorizing foreign attachment against foreign corporation, though registered in Pennsylvania, does not violate 14th amendment to U. S. constitution, for that amendment has no application to corporations. Brenner & Co. v. I. & M. Co., 67 Pitts. 357; 28 Dist. 927.

Protection of, from wild animals:
Game Laws (Deer).

Protection of, from wild game, police power, Act 1915.—In so far as Act April 21, 1915, P. L. 146, undertakes to prevent citizen from protecting his own property when killing wild deer, it is unconstitutional. Com. v. Carbaugh, 45 C. C. 65; 15 Just. 134.

Public works, property injured by, damages, measure.—Where city builds viaduct to remove dangerous grade crossing, and access to mill by means of grade crossing is cut off in one direction so as to compel patrons from that side to make detour of two squares, but no land is taken from mill owners, in estimating damages under Art. 16, § 8, allowing compensation for property injured by public works, jury should compare situation after completion of entire scheme of improvements with that which existed beforehand, in determining whether or not substitution of safe way, even though a little further, does not fully compensate taking away of nearer approach. Robbins v. Scranton, 217 Pa. 578; 66 A. 977.

Taking for private use:
Constitutional Law—Police Power (Private).

Taking without compensation:
Highways—Damages (County).

Taking without compensation, due process of law, mining, barriers, Act of 1891.—Sec. 10 of Art. 3, of Act of June 2, 1891, P. L. 176 (52 PS § 264), providing for barrier pillar of unmined coal between adjacent mine workings, and for ascertainment of width thereof, is not violative either of § 10 of art. 1 of state constitution, which provides that private property shall not be taken for public use, etc., nor of fourth amendment to the federal constitution, which provides that no state shall deprive any person of life, liberty or property without due process of law. Com. v. Coal Co., 15 Luz. 91; Sterrick Creek Coal Co. v. Coal Co., 11 Lack. 219.

Taking without compensation, protection from fire, Act of 1909.—Act of May 3, 1909, P. L. 417, for safety of persons from fire in panic in certain buildings, is not unconstitutional as taking of property within meaning of Art. 16, § 8 of constitution, although act compels owners of buildings to expend money to make alterations and diminishes income from such buildings. Roumfort Co. v. Factory Inspector, 13 Dauph. 53.

Taking without compensation, water rates, fixed by legislature.—A statute making water rates, legislatively fixed, conclusive, would deprive the parties affected of property rights. Barnes Laundry Co. v. Pittsburgh, 266 Pa. 25; 109 A. 535.

Transfer of:

Common Schools — Property (Academy).

Constitutional Law—Public Officers.

Attorney for county registration, commissioners, salary, increase, Act 1913.—Counsel for county registration commissioners appointed under Act July 24, 1913, P. L. 977 (25 PS § 641 et seq.), is not a public officer within constitutional provision prohibiting salary being increased during term of office. Alworth v. County, 85 Super. 349.

Public officer is one chosen by electorate or one appointed for definite time in manner provided by law to an office, the duties of which are of important character and involve some functions of government and are to be exercised for benefit of public for compensation paid out of treasury. Id.

Attorney general, duties, advice of.—Only matters which department board is required to submit to attorney general for advice are, first, administrative questions of legal nature affecting relations between executive departments; second, doubtful legal questions not passed upon by attorney general, which affect state officer's performance of his duties, and, third, proceedings which have or are likely to result in litigation in which commonwealth is interested. Commonwealth v. Lewis, 282 Pa. 306; 127 A. 828.

Where department officer seeks legal advice from attorney general he must follow advice so obtained unless doing so would require him to give effect to statute which he believes to be unconstitutional. Id.

Attorney-general, opinion of.—It has been rule of attorney-general's office to give opinions to departments of state government only on concrete state of facts, and to refuse to give opinion on supposititious or hypothetical case propounded. State Road Bonds, 40 C. C. 670.

Attorney-general's office should not give opinion to legislature on some possible bill not yet introduced into legislature nor even drafted. Id.

After act of assembly has been duly passed and approved attorney-general's department has no jurisdiction or authority to pronounce it unconstitutional; that power is exclusively in judiciary. Mothers' Pension, 41 C. C. 216.

Expression of opinion by attorney-general's department on constitutionality of act could serve no good purpose; such opinion would not be binding on any individual or any department of state government. Id.

Auditor general, state treasurer, duties, prescribing, mandamus, Act 1913.—Act July 7, 1913, P. L. 672, regulating motor vehicles and imposing certain duties on auditor general and state treasurer, is not unconstitutional on theory that duties of these officers were defined prior to adoption of Constitution, since such duties may be changed

Constitutional Law—Public Officers —(Cont'd).

by the legislature. Com. v. Powell, 249 Pa. 144; 94 A. 746.

While the auditor general should satisfy himself that all bills presented are for debts lawfully created, he cannot arbitrarily refuse to perform his duty, and if he does so, he may be compelled by mandamus to act, if it appears the law is constitutional. Id.

Board of assessment and revision, of taxes, county officers, appointment, judicial duty, Act of 1905.—Members of the board for the assessment and revision of taxes, created by the Act of March 24, 1905, P. L. 47 (72 PS § 5271 et seq.), for certain counties, are not county officers, and the direction of the act that they shall be appointed by the common pleas of the proper county, is constitutional. Com. v. Collier, 213 Pa. 138; 62 A. 567.

Section 2 of Art. XIV., relating to county officers, does not apply. Id.

Nor does Section 21 of Art. V., that judges shall be exempt from imposition of non-judicial duties, apply, inasmuch as it relates only to judges of the supreme court. Id.

Borough solicitor, removal, Act 1907.—Office of borough solicitor is an appointive office within art. 6, § 4, of the constitution, providing that such officers shall be removed at pleasure of power appointing them, and such officer, though appointed for three-year term under Act April 25, 1907, P. L. 103, may be removed. Ulrich v. Boro., 53 Super. 246.

Burgess:
Boroughs—Officers (Burgess).

Burgess, removal.—Burgess of borough is legislative and not constitutional officer and is not removable from office by governor on address by senate under Art. 6, Sec. 4, of constitution. Com. v. Reid, 20 Lack. 60.

Burgess, salary, increase, ordinance.—A borough ordinance passed under authority of Act of April 23, 1909, P. L. 154, authorizing borough councils to fix the salary of the burgess, is not a law within meaning of Art. 3, § 13, forbidding the passage of a law changing the salary of a public officer after his election. Davis v. Boro., 47 Super. 444.

Nor is a burgess a public officer within said section. Id.

Chief of bureau of city property, appointed officer, removal, director of public safety, cities of first class, Act 1919.—Chief of bureau of city property of city of first class is appointed officer within meaning of Art. 6, sec. 4, which provides that appointed officers may be removed at pleasure of power appointing them, and therefore may be removed by director of public safety at will and is not within protection of Act June 25, 1919, P. L. 581 (53 PS § 2901 et seq.). Arthur v. Phila. 30 Dist. 676; 13 Mun. 133.

Foreman of elevator operators in city hall is not appointed officer within meaning of constitution. Sailer v. Phila., 30 Dist. 565.

Nor police captain. McCoach v. Phila. 30 Dist. 597.

Nor chief engineer of pumping station of water bureau. Com. v. Phila., 30 Dist. 619.

Nor manager of electrical bureau. Patton v. Phila., 30 Dist. 649.

City clerk, city of third class, removal, Act 1913.—Under § 3, art ix, of Act June 27, 1913, P. L. 568 (53 PS § 11251), authorizing councils of cities of third class to elect a city clerk, such clerk is an appointed and not an elected officer and may be removed under art. xi, § 4, of the constitution, by the body which appointed him. Com. v. Likeley, 267 Pa. 310; 110 A. 167; Com. v. Kelly, 21 Lack. 34; 11 Mun. 216; 48 C. C. 630; 29 Dist. 808.

City controller, salary, change of, school district accounts, audit.—City controller is legislative and not constitutional officer, and legislature may, in its discretion, add to duties of his office without providing extra compensation therefor, and to require controller of city of third class to audit account of school district without extra pay. Com. v. Tice, 282 Pa. 595; 128 A. 506.

City engineer, removal, Act 1917.—City engineer is public officer, removable at pleasure of appointing power, and Act July 16, 1917, P. L. 1002 (53 PS § 12021 et seq.), does not apply to him.

If act applies to him it is unconstitutional. Com. v. Strauch, 14 Sch. 125; 32 York 58.

Clerk of courts, county officers.—A clerk of courts is a county officer under Art. XIV., Section 1 of the constitution. Com. v. Shoener, 3 Schuyl. 66, 73, 199.

Compensation, diminishing during term:
Courts (Judges).
Compensation, increase:
Highways—Viewers (Compensation).

Congressman, eligibility, residence at hotel, automobile, registration, giving address in other state.—Person who lives at hotel in state, in district of which he has been nominated as representative in Congress, is inhabitant of that state and eligible to such nomination under art. 1, sec. 2, of constitution United States, though he has summer home in another state, where he and his family spend large part of year. Graham's Petition, Dauph. 1922, 370; 2 D. & C. 205.

Fact that such person, in applying for registration of automobile, stated his residence to be town located in another state is not evidence of intention to make that town his permanent residence. Id.

Constables:
Townships—Officers (Constable).

Constables, fees, increase, Act 1913.—Office of constable is public office, and emoluments may not be increased. Gessner v. Co., 6 Leh. 129.

Constable appointed after passage of Act May 14, 1913, P. L. 203 (13 PS §§ 68, 69), to fill vacancy caused by death of one elected prior thereto cannot receive benefits of act, allowing fee to visit, at least once in each month, all places within his jurisdiction where liquors are sold. Hoffman v. County, 6 Leh. 134.

Constable elected before Act May 14, 1913, P. L. 203 (13 PS §§ 68, 69), which provides for fee of 25 cents for each visit constable make to saloon, is not entitled to such fees. Thompson v. County, 23 Dist. 957.

Councilmen:
Boroughs—Council (Constitutional).

County commissioners, salary, increase, increase of population after election.—Salary of county commissioner is fixed at date of his election and fact that subsequent to election but before beginning of term of office, a certificate of new census taken shows increased population which placed county in different class, does not warrant increase of salary in accordance with increased population. Com. v. Walter, 274 Pa. 553; 118 A. 510.

County commissioner, removal from county, forfeiture of office, Acts 1834, 1874.—Acts April 15, 1834, P. L. 537, and May 15, 1874, P. L. 186 (65 PS § 1 et seq.), under which removal of county commissioner from county works forfeiture of his office, are not in conflict with provisions of art. 14 of constitution as to county officers. Brazee v. County, 30 Dist. 635.

County commissioners, vacancy, successor, refusal to qualify, appointment, Act 1834.—Art. 14, § 2, of constitution, to effect that county officer shall continue in office until his successor shall be qualified, does not apply where one of county commissioners elected under § 7, art. 14, declines to accept office. Com. v. Wise, 216 Pa. 152; 65 A. 535.

Such refusal gives rise to "casual vacancy" under latter section, to be filled by appointment by court. Id.

Sec. 2 applies to cases where single individual filled county office. Id.

Provision in § 16 of Act April 15, 1834, P. L. 537, for filling vacancies, is not adequate to carry out § 7, art. 14, of constitution, there being no provision for minority representation. Id.

County controller, salary, increase, counties of fifth class, Act 1921.—Where Act May 20, 1921, P. L. 1006 (16 PS § 2341 et seq.), which expressly provides that it shall take effect on first Monday of January, 1922, increases salary of controller of county of fifth class, who was commissioned July 25, 1921, such increase is not forbidden by art. 3, sec. 13 of constitution, which provides that no law shall increase or diminish salary or emoluments of public officer after his election or appointment. Thompson v. County, 2 D. & C. 619.

Constitutional Law—Public Officers —(Cont'd).

County controller, term of office, Act 1913.—Act March 27, 1913, P. L. 10 (16 PS § 1391), fixing two year term for office of county controller in certain counties, violates ninth amendment providing that county officers were to hold term for four years. Com. v. Young, 253 Pa. 356; 98 A. 606; affirming 15 North. 140.

County officers, deputies, clerks, salaries, increase, Act 1915.—Deputies to county officers and chief clerk to commissioners are public officers within meaning of art. 3, sec. 13, of constitution, forbidding change of salaries during their terms, and hence Act June 8, 1915, P. L. 915 (16 PS § 2295), which increases salaries of such officers in certain counties, does not apply to those whose terms, whether fixed or indefinite, began before date of act. Dewey v. County, 21 Luz. 83.

County solicitor, salary, increase, resolution of county commissioners.—County solicitor is not public officer within meaning of constitution prohibiting increasing or diminishing of his salary after election or appointment. Thomas v. Leslie, 13 Just. 149.

Resolution passed by board of county commissioners is not a law against which said constitutional provision is directed. Id.

County treasurer, fees, hunters' licenses, agent for commonwealth, Acts 1913, 1921, 1923.—Act May 10, 1921, P. L. 432, appointing county treasurer agent for commonwealth to collect hunters' license fees and allowing him fee for each license issued, does not violate art. 14, sec. 5, of constitution which requires payment of all fees to county, since he is acting for commonwealth in the premises, and not for county. Schuylkill Co. v. Gruhler, 82 Super. 392.

Constitutional prohibition against increase of salary or emoluments of public officer during his term does not prevent county treasurer from retaining from each resident hunter's license fee collected by him sum of 10 cents allowed him by Act April 17, 1913, P. L. 85, which provides for taking out of such license. Allegheny Co. v. Harris, 62 Pitts. 409.

Act of April 12, 1923, P. L. 62 (16 PS §§ 2371-2376), fixing compensation of county treasurers and providing salary shall be in lieu of all fees except where treasurer is acting as agent for commonwealth, does not violate Art. 14, sec. 5, of constitution providing that fees received by salaried offiers shall be paid into the county treasury. York County v. Fry, 290 Pa. 310; 138 A. 858.

County treasurer, salary, decrease, Act 1907.—Act of May 28, 1907, P. L. 273, relating to collection of state and county taxes in townships of first-class, does not diminish emoluments of county treasurer or constable after he was elected. Corman v. Hagginbotham, 25 Montg. 193.

Crime, conviction of, right to hold office, salary, forfeiture.—Under art. 2, sec. 7, of constitution providing that no person convicted of crime should be capable of holding office, county commissioner who has been convicted of embezzlement of public money and perjury while exercising office of sheriff, cannot recover his salary, though his right to hold office of commissioner has not been declared forfeited in quo warranto proceedings. Shields v. County, 253 Pa. 271; 98 A. 572.

Dairy and food commissioner, Act 1895.—Office of dairy and food commissioner is valid constitutional office, and act of commissioner in instituting proceeding for restraining order under Act of March 13, 1895, P. L. 17, cannot be attacked on ground that there is no such office. Com. v. Hanley, 38 Super. 430.

De jure, de facto, usurper.—Officer who is performing duties under act of assembly does so either as officer de jure, de facto or as usurper. Cameron v. Fishman, 29 Dauph. 74.

Officer acting under unconstitutional act of assembly is officer de facto. Id.

Officer de jure is one who in all respects is legally appointed or elected and qualifies to exercise office. Id.

Officer de facto is one who exercises duties under color of appointment or election. Id.

Usurper is one who acts without any color or right. Id.

Directors of poor, salary, increase, Acts 1909, 1911, 1917.—County commissioners who are also directors of poor are, as to latter office, public officers within constitutional provision which prohibits increase of salary during their term of office, and are not entitled to compensation under Act June 7, 1917, P. L. 570 (16 PS §§ 2543–2545), if elected prior to its passage. Tucker's Ap., 271 Pa. 462; 114 A. 626.

Section 13, Art. 3 of constitution, applies to constitutional officers only and not to legislative officers and does not apply to directors of poor of Fayette county. Poor Directors v. Fayette County, 18 Dist. 53; 35 C. C. 498.

Poor directors of Washington county are public officers within meaning of art. 3, § 13 of constitution and those who held office prior to Act June 15, 1911, P. L. 986 (62 PS § 1525), are not entitled to increase of salary provided by that act. Com. v. Moffitt, 238 Pa. 255; 86 A. 75.

Directors of poor are not public officers within Art. 3, § 13, their office being purely statutory, and Act of May 3, 1909, P. L. 382 (62 PS § 1523), fixing compensation of directors, applies to those in office at time of its passage, though their salaries are increased thereby. Dixon v. Hitchman, 10 Just. 26.

Director of poor of Washington county is public officer within meaning of art. 3, sec. 13, of constitution, and where he held office prior to Act June 15, 1911, P. L. 986 (62 PS § 1525), he is not entitled to increase of salary provided by that act. Com. v. Moffitt, 39 C. C. 617; 10 Just. 237.

So also are poor directors of Allegheny County Home. Cunningham v. Osche, 60 Pitts. 633; 10 Just. 249.

District Attorney:

County Officers (District).

District attorney, assistant, fees, Acts 1876, 1919.—An assistant district attorney is not a clerk within art. 14, sec. 5 of constitution and Act of March 31, 1876, P. L. 13 (16 PS §§ 1182, 2231 et seq.), providing that in counties containing over 150,000 inhabitants amount paid to county officer and his clerks shall not exceed aggregate amount of fees collected. Maginnis v. Schlottman, 271 Pa. 305; 114 A. 782; aff. 76 Super. 124; Matten v. Bachman, 13 Berks 84; 30 Dist. 452; Renninger v. Com'rs, 37 Montg. 71.

An assistant district attorney is a public officer within Act July 17, 1919, P. L. 995 (16 PS § 3492). Id.

District attorney, assistant, salary, increase.—The position of assistant district attorney is not a public office within prohibition as to increase of salary. Com. v. Booth, 38 Pitts. 95; 16 Dist. 929.

District attorney, compensation, additional, Act 1887.—District attorney in county over 150,000 is salaried officer and not entitled to compensation, under Act May 19, 1887, P. L. 138 (19 PS § 1225 et seq.), in addition to salary, for services rendered in criminal case. Slattery v. Hendershot, 267 Pa. 402; 110 A. 147.

In so for as said act provides additional compensation, it is unconstitutional. Id.

District-attorney, salary, increase, Act 1907.—Act of April 25, 1907, P. L. 121, increasing salaries of district-attorneys, does not affect persons appointed or elected to office prior to its passage, district-attorneys being public officers within meaning of constitution, § 13 of Art. 3. Com. v. Booth, 18 Dist. 190; 56 Pitts. 280.

District attorneys, salary, increasing, stenographers, employment of, Act of 1909.—Act of April 27, 1909, P. L. 258 (16 PS § 3472), authorizing employment of stenographer by district attorneys of certain counties does not violate Art. 3, § 13, of constitution, because employment of stenographer does not increase district attorneys' salary or emoluments. Evans v. County, 12 North. 355; 20 Dist. 929.

District attorney, special assistant, appointment, Act 1905.—Act of May 2, 1905, P. L. 351 (71 PS §§ 817–819), authorizing attorney general to appoint special district attorney under certain circumstances is not unconstitutional as depriving district attorney, elective constitutional officer, of his power. Com. v. Havrilla, 38 Super. 292.

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Directors of poor:

Poor Laws—Directors (Election).

Dual office holding, assessor, member of legislature, Act 1927.—The chief personal property assessor of board of revision of taxes of Philadelphia, appointed under Act April 7, 1927, P. L. 149 (72 PS §§ 5001–5003), is not a civil officer within meaning of art. ii, sec. 6 of Constitution which provides that "no senator or representative shall, during time for which he may have been elected, be appointed to any civil office under Commonwealth." Bromley v. Hadley, 10 D. & C. 23.

Such clerk is a clerk or employee of board, appointed by it and removable at its pleasure, and exercises no independent functions of government as public or civil officer. Id.

Election officers, removal.—Election officers are constitutional officers and can be removed only as prescribed by Constitution. Prospect Park Elect. Precincts, 19 Del. 91.

Constitutional officer cannot be deprived of his office by act of legislature abolishing district of his jurisdiction. Id.

Impeachment, removal from office, Act 1901.—Act March 7, 1901, P. L. 20, art. XIII (53 PS §§ 9461–9468), providing for impeachment, suspension and removal from office of municipal officers for any corrupt act or practice, is constitutional, and is not impeachment, but proceeding for removal from office under provisions of section 4 of article 6 of constitution. Sweeney's Impeach., 65 Pitts. 498.

Incompatible offices, sheriff, United States prohibition officer.—Under art. 12, sec. 2, State Constitution, sheriff of any county cannot hold appointment of trust or profit under United States and so cannot function as federal prohibition officer. Sterrett's Pet., 8 Erie 132; 74 Pitts. 542.

Should sheriff resign he would not be eligible as prohibition officer because he could not then be state, county or municipal officer. Id.

Incompatible offices, superintendent of construction, public grounds and building, Act of 1895.—Office of superintendent of construction, provided for by Act of July 2, 1895, P. L. 422, relating to board of commissioners of public grounds and buildings, is a civil office within meaning of Art. 2, § 6, of state constitution, and member of legislator is not eligible to appointment to it. Superintendent of Construction, 37 C. C. 19; 13 Dauph. 44.

Incompatible offices, watershed inspector, member of legislature, civil officers distinguished from employees.—Watershed inspector of department of public health is employee whose responsibility is limited to officer appointing him, and is not within constitutional prohibition, art. 2, sec. 6, forbidding appointment of member of legislature to any civil office. Watershed Inspectors, 21 Dist. 112; 39 C. C. 441; 14 Dauph. 288.

Inspector of oils, state officer, compensation, Act 1874.—Act May 15, 1874, P. L. 189, providing for inspection of oils, violates Art. 3, § 27, of constitution which prevents the continuance or creation of a state office for inspection or measuring of merchandise. Kucker v. Sunlight Oil Co., 230 Pa. 528; 79 A. 747.

Even if said act should be construed as providing for county inspection it would violate Art. 14, § 5, of constitution, providing that in counties containing over 150,000 inhabitants, county officers should be paid by salary and not by fees. Id.

Inspector of weights and measures, Acts 1911, 1913.—Act June 23, 1911, P. L. 1118, providing for establishment of bureau of standards in department of internal affairs of Pennsylvania, is not unconstitutional, and does not contravene art. 3, sec. 27 and art. 4, sec. 19 of constitution. Com. v. Comm'rs, Greene Co., 65 Pitts. 657; 16 Just. 73.

Act May 11, 1911, P. L. 275, as amended by Act July 24, 1913, P. L. 960 (76 PS § 201 et seq.), providing for appointment by boards of county commissioners of inspectors of weights and measures, is not unconstitutional and does not contravene art. 3, secs. 3, 7 and 27, and art. 4, sec. 19 of constitution. Id.

Inspector of weights and measures, removal, Acts 1911, 1913.—An inspec-

tor of weights and measures appointed under Act May 11, 1911, P. L. 275, amended by Act July 24, 1913, P. L. 960 (76 PS § 201 et seq.), is an appointed officer within meaning of article 6, sec. 4 of constitution providing that appointed officers may be removed at pleasure of power appointing them. Com. v. Hoyt, 254 Pa. 45; 98 A. 782; Com. v. Leary, 63 Super. 434.

Jury commissioner, county officer, tenure of office, Act 1867.—Office of jury commissioner created by Act April 10, 1867, P. L. 62 (17 PS § 941 et seq.), is a county office within art. 14, secs. 1, 2, of Constitution, and hence incumbent of that office after expiration of term holds over until his successor is duly qualified. Com. v. Fruit, 46 C. C. 665; 47 C. C. 413; 1 Erie 60; 28 Dist. 708.

Justice of peace, non-residence in district, removal, Act 1907.—Act of May 25, 1907, P. L. 257, authorizing courts of common pleas to declare vacant office of justice of peace who fails for period of six calendar months to reside and maintain office in district for which he is elected, is unconstitutional as violating § 4, Art. 6, of constitution relating to removal of officers elected by the people. Bowman's Case, 225 Pa. 364; 74 A. 203; reversing 35 C. C. 641; 18 Dist. 326.

Constitutional direction as to how thing is to be done is exclusive. Id.

Justice of peace, salary, increase, Act 1909.—Constitutional prohibition against increasing pay of public officers after election includes justice of peace, and Act April 23, 1909 P. L. 160 (42 PS §§ 212, 213), does not affect those justices who were in office or elected prior to passage. Freiler v. Schuylkill Co., 6 Schuyl. 340.

Justices of peace are public officers, but not judicial officers, whose services shall be fixed under Art. 3, § 18. Id.

Justices of peace, salary, increase, fees, Act 1909.—A justice of peace is a public officer within Art. 3, § 13, forbidding increase of salary or emoluments during term of office and provisions of Act April 23, 1909, P. L. 160 (42 PS §§ 212, 213), regulating fees to be charged by justices, does not apply to those commissioned at time of act. Freiler v. Schuylkill Co., 46 Super. 58; Koehler v. County, 9 Just. 214.

Justice of peace elected in Feb. 1909, is not entitled to fees prescribed for justices by Act of April 23, 1909, P. L. 160 (42 PS §§ 212, 213), although his commission followed passage of act and duties were not assumed until May, 1909. Walsh v. Norris, 15 Luz. 353; 9 Just. 283.

Election means choosing by votes of people. Id.

Constitutional prohibition against increasing pay of public officers after election includes justice of peace whose term has been extended by constitutional amendment of 1909, and Act of April 23, 1909, P. L. 160 (42 PS §§ 212, 213), regulating fees of justices, does not affect justices in office when it was passed during extension of their terms. Cope v. Northampton Co., 39 C. C. 13; 20 Dist. 1133; 13 North. 30.

Misdemeanor in office:
Criminal Law — Indictment (District).

Municipal officers, appointive, entry in military or naval service, Act 1917.—Act June 7, 1917, P. L. 600 (65 PS §§ 111–113), providing that appointive officers and employes of municipalities who shall enlist or be drafted into military or naval service of United States shall not be deemed thereby to have resigned from or abandoned their offices or employment, or be removed therefrom during period of service, violates Art. 6, Sec. 4, of constitution, which provides that appointed officers, other than judges and superintendent of public instruction, may be removed at pleasure of power by which they shall have been appointed. Mackin v. Boro., 20 Luz. 317.

Municipal officers, removal.—Method prescribed by art. 6, sec. 4, of Constitution for removal of elected officers by governor for reasonable cause, on address of two-thirds of senate and after notice and hearing, applies to municipal officers and, in absence of legislation on subject, is exclusive. Com. v. Conroy, 21 Lack. 46; 11 Mun. 233.

Municipal officers, salary, increase by ordinance.—Art. 3, sec. 13, of Constitution forbidding passage of law increasing or diminishing salary of any

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public officer after his election, refers only to acts of legislation and not to borough ordinances. Sefler v. Borough, 72 Super. 81.

Art. 3, sec. 13 of state constitution which provides: "No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment," refers to acts of legislature and not to ordinances of municipalities. Sefler v. Boro., 66 Pitts. 373; 10 Mun. 6.

Municipal ordinance is not "law" within constitutional provision that "no law shall extend term of any public officer or increase or diminish his salary or emoluments after his election or appointment." Higgs v. Goeringer, 15 Luz. 457; 3 Municip. 86.

Orphans' court, clerk, assistant, removal.—Assistant clerks of orphans' court are "appointed" officers within meaning of art. 6, § 4 of constitution, and may therefore be removed by the power which appointed them. Seltzer v. Fertig, 237 Pa. 514; 85 A. 869.

Such clerks, appointed by Register of Wills "with consent and approval" of orphans' court, may be removed by that officer without consent of court. Id.

Orphans' court, clerk, assistant, salary, increase.—Assistant clerk of orphans' court is public officer within art. 3, § 13 of constitution prohibiting increase or diminution of salary after his election or appointment. Evans v. Luzerne County, 54 Super. 44.

Political activity of officers and employees, incompatible offices, Act 1906.—Act Feb. 15, 1906, P. L. 19, prohibiting political activity of employees of cities of first class, is within power conferred on general assembly by art. 12, § 2 of constitution to declare what offices and employments are incompatible, and legislature thereby declared what political activities are inconsistent with proper performance of public duties by such employees. Duffy v. Cooke, 21 Dist. 613.

Political activity, of officers and employees, personal rights, Acts 1906.—Act February 15, 1906, P. L. 19, prohibiting officeholders in cities of first class from taking part in politics, does not deprive them of any constitutional right, nor is it inconsistent with Act March 5, 1906, P. L. 83, forbidding discharge of employees of cities of first class for causes "religious or political." Duffy v. Cooke, 239 Pa. 427; 86 A. 1076.

Poor director, salary, increase of, Acts 1909, 1917.—Poor director elected under Act May 3, 1909, P. L. 382 (62 PS § 1523), is public officer within meaning of art. 3, sect. 13, of constitution and not entitled to increase of salary during term of office under Act May 24, 1917, P. L. 293 (62 PS § 1523). Shirk v. Directors, 11 Berks 126, 150.

President, borough council, secretary, appointed officers.—President and secretary of borough council are appointed officers within meaning of Art. 6, Sec. 4, Constitution of Pennsylvania, and may be removed at pleasure of appointing power. Wolfe v. Burleigh, 25 Luz. 6; 20 Mun. 27.

Prison inspectors, salary, increasing, Act 1911.—Although prison inspectors of Berks county are public officers, still Act June 19, 1911, P. L. 1070, applies to inspector elected before its passage, since there is no increase of salary or emoluments, but provision for allowance to defray necessary expenses of office. Dundore v. Controller, 4 Berks 390.

Prothonotary, judgment, entry of, discretion, judicial function, Act 1889.—Act April 22, 1889, P. L. 41 (12 PS § 731), relating to entry of judgment by prothonotary, is constitutional, prothonotary's act being mere clerical duty and not exercise of judicial function. Western Nat. Bank v. Cotton Oil, etc., Co., 16 Dist. 47.

Public service commissioners, removal, governor, power of, consent of senate, commission as court of record, Act 1913.—Provision in Act of July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), that Governor, by and with consent of Senate, may remove any public service commissioner, does not conflict with article VI, sec. 4 of Constitution providing that appointed officers other other than judges may be removed at

pleasure of power which appointed them, since legislature itself and not the Governor is the appointing power, and provision that Governor may remove with consent of Senate means that he cannot remove without such consent. Com. v. Benn, 284 Pa. 421; 131 A. 253; Com. v. Shelby, 284 Pa. 443; 131 A. 260.

Power of legislature is supreme except in so far as it is restricted by Constitution, and it therefore has power to designate and remove its own officers. Id.

Public service commissioners are created by legislature and appointed by them, and it may, in its discretion, provide how they shall be removed. Id.

Such commission is not a court of record within meaning of Constitution. Id.

Qualification, conviction of crime: Mandamus — Lies When (Attorney).

Real estate assessors, salary, increase, Act 1907.—Real estate assessors in counties having population of 1,000,000 or over are public officers within meaning of § 13, Art. 3, of constitution, which provides that: "No law shall extend term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment." Richie v. Phila., 225 Pa. 511; 74 A. 430.

Such officers are not entitled to benefit of Act of May 31, 1907, P. L. 329, which increases salaries of real estate assessors in counties having population of 1,000,000 or over from $2,000 to $3,000. Id.

Term "Public officers" is not restricted to officers created by constitutional provisions. Id.

A real estate assessor is a public officer within Art. 3, § 13, of constitution prohibiting change of salaries of public officers after their election, and cannot claim increased salary provided by Act May 31, 1907, P. L. 329, passed during his term of office. Richie v. Phila., 37 Super. 190.

Registration commissioners, salary, increase, Acts 1913, 1917.—Registration Commissioners appointed under Act July 24, 1913, P. L. 977 (25 PS § 641 et seq.), are public officers within sec. 13, art. 3, of Constitution, and not entitled to increase of salary under Act July 19, 1917, P. L. 1108 (25 PS § 661), passed after their appointment. Com. v. Moore, 266 Pa. 100; 109 A. 611, 71 Super. 363.

Salary board, appeal to common pleas, passing on questions de novo, Act 1876.—Part of sec. 7, Act March 31, 1876, P. L. 13 (16 PS § 2237), giving county official right of appeal from action of salary board to court of common pleas, is constitutional. Salary Board, Appeal From, 8 Wash. 96; 11 D. & C. 307.

Salary, increase: Municipalities—Officers (Attorney).

Salary, increase, additional duties imposed after assuming office.—Art. III, sec. 13, of state Constitution does not prevent constitutional officer from receiving additional compensation during his term of office for duties imposed on him after assuming office which are not germane to original office, if statute, in force when he was elected, provides for it. Davis v. County, 9 D. & C. 374.

Salary, increase, appointment to fill vacancy.—The constitutional provision that no law shall increase or decrease salary of public officer during his term does not prevent one appointed to fill vacancy from receiving salary provided in act in force at time of appointment, even though different from salary received by deceased. McKinney v. County, 75 Super. 581.

School director, candidate acting as clerk of election.—A clerk of election is an election officer within Art. 8, § 15, of constitution providing that no election officer shall be eligible to any office to be filled at that election, and election of school director who served as clerk on election board, is illegal. Com. v. Brenneman, 33 C. C. 483; 21 York 26; 5 Just. 18.

School directors, removal, Acts 1854, 1911.—Section 217 of School Code of May 18, 1911, P. L. 309 (24 PS § 180), providing for removal of directors by court of common pleas, is not unconstitutional as providing method of removing appointed and elected public officers, since that section was merely

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amendment of Sec. 9 of Act of May 8, 1854, P. L. 617, which was in force at time constitution was adopted, and constitutional restrictions were meant to apply merely for future. Georges Twp. School Dir., 286 Pa. 129; 133 A. 223.

New constitution will not be construed as changing existing laws unless intent is clear, but will operate in future only. Id.

Office of school director is not constitutional office and therefore provisions of Act May 18, 1911, P. L. 309 (School Code (24 PS § 1 et seq.; 72 PS §§ 3511–3521), authorizing removal of school directors by court of common pleas, do not offend against art. 6, sec. 4, of constitution, relating to removal of public officers. Jefferson Twp. School Dist's Directors, 2 D. & C. 679.

Sheriff, deputy, salaries, increase, Act 1915.—Chief deputy sheriffs are public officers whose salaries cannot be increased and they are not entitled to benefits of Act June 8, 1915, P. L. 915 (16 PS § 2295), fixing salaries in certain counties. Dewey v. Luzerne Co., 74 Super. 300.

Term "public officer" is not restricted to those created by constitution but applies to all who exercise public duties and are paid out of public treasury. Id.

Tax collector, removal.—Borough council cannot declare vacancy in office of tax collector, as that office is within protection of art. VI, sec. 4 of state constitution. Com. v. Boro. of Swissvale, 73 Pitts. 17; 5 D. & C. 733.

Under constitution, state, county or municipal officer, having been duly elected, can be removed in three ways only: on conviction of misbehavior or crime, at pleasure of appointing power, and for reasonable cause on address of two-thirds of senate. All officers are subject to first kind, appointed officers to second, and elected officers to third. Id.

Tax collector, removal, Act 1917.—Borough tax collector appointed by county commissioners, under Act May 17, 1917, P. L. 221, to fill vacancy is not elective officer and may be removed by commissioners at their discretion under authority of art. 6, sec. 4, of constitution. Com. v. Floyd, 21 Luz. 298; 13 Mun. 52.

Tax collector, salary, decrease, Act of 1907.—Act of May 28, 1907, P. L. 273, relating to collection of taxes in townships of first class is not unconstitutional as diminishing emoluments of public officer during his term. Cornman v. Hagginbotham, 227 Pa. 549; 76 A. 721.

Act of March 2, 1911, P. L. 8 (65 PS §§ 71–76), extending terms of public officers holding office at date of constitutional amendments of 1910, does not violate Art. 3, § 23, of constitution, forbidding legislature to pass law extending term of public officer. Com. v. Miller, 59 Pitts. 539; 3 Mun. 60; s. c. Com. v. Comm'rs, 39 C. C. 146.

Tax collectors, salary, increase.—Tax collectors are public officers within meaning of art. 4, sec. 13, of constitution, and their compensation cannot be increased or diminished during term of office; and this applies to officers whose term of office has been extended by constitutional amendment. Rowley v. Sch. Dist., 40 C. C. 140.

Constitutional provision that salary or emoluments of elective officers shall not be changed during their terms, does not control case of tax collector. York Twp. Sch. Dist. v. Landis, 29 York 114.

Term, extension, amendment to constitution, Acts of 1889, 1911.—Schedule to constitutional amendments of 1909 relating to public officers, applies to terms of the existing officers as well as future officers, and the term of officers elected in 1909 for three years term was extended for one year, making an election in 1911 unnecessary. Meisel v. O'Neil, 233 Pa. 213; 82 A. 71; Com. v. O'Neil, 233 Pa. 218; 82 A. 73.

The Act of June 21, 1911, P. L. 1102, providing that the incumbents of certain offices shall hold their offices until the first Monday of December, 1911, and no longer, violates the schedule of the constitutional amendments of 1909 in that it shortens the term of an officer whose official term was lengthened by the schedule, and also

cuts down the term of such officers a certain number of months and making it on uneven numbered years. Com. v. O'Neil, supra.

Section 2 of art. 6 of Act May 23, 1889, P. L. 277, as amended by sec. 6 of Act June 21, 1911, P. L. 1102, does not apply to boroughs which are in course of transformation into cities of third class; and terms of officers of such boroughs who are holding at date of passage of Act of 1911, are extended, under sec. 3, art. 1 of Act 1889, as amended by Act 1911, until the first Monday of December, 1913. Com. v. Langley, 233 Pa. 222; 82 A. 56.

The words "next succeeding" used in sec. 1 of Act of 1911, do not qualify the word "December," but are construed as qualifying the words "the first odd-numbered year." Id.

Term, extension, amendment to constitution, auditor general.—Term of auditor general elected in 1909 was not extended to four years by amendment to art. 4, § 21 of constitution, but remained at three years, expiring 1913, and election of successor should take place at general election of 1912. Etter v. McAfee, 237 Pa. 557; 85 A. 857; Etter v. McAfee, 15 Dauph. 128; 60 Pitts. 583.

Term, extension, amendment to constitution, borough assessors.—Under the schedule of amendments adopted in 1909, term of borough assessor ends in December, 1911. Com. v. Mallans, 240 Pa. 37; 87 A. 301.

Term, extension, amendment to constitution, city assessors.—Under schedule of amendments adopted in 1909 term of assessor in city of third class ends in December, 1911, and such vacancy must be filled at November election of same year. Com. v. Samuel, 238 Pa. 155; 85 A. 1101.

Word "assessors" in amendment of 1909, includes property assessors. Id.

Term, extension, amendment to constitution, councilmen, Act 1906.—Section 10 of Act February 7, 1906, P. L. 7 (53 PS §§ 167–173), which has effect of extending term of councilmen in city of Allegheny, does not violate Art. 3, § 13 of constitution, providing that "no law shall extend term of public officer," merely because terms in some instances were lengthened by temporary adjustment incident to change of government. Pittsburgh's Petition, 217 Pa. 227; 66 A. 348; affirming 30 Super. 210.

Term, extension, amendment to constitution, councilmen, Act 1911.—Act June 19, 1911, P. L. 1047, extending terms of councilmen then in office to January 1, 1914, is unconstitutional. Com. v. Mowrer, 4 Mun. 211.

Term, extension, amendment to constitution, county officers.—County officers elected at November election of 1909 for terms beginning January 1, 1909, hold until first Monday of January, 1914, and their successors are elected in fall of 1913. No new commissions need be issued and bonds need only be renewed where given for definite term. County Officers' Terms, 61 Pitts. 115; 15 Dauph. 302.

Terms, extension, amendment to constitution, overseers of poor, Act 1911.—Terms of office of overseers of poor elected February, 1910, are not affected by Act June 19, 1911, P. L. 1052 (62 PS §§ 1721, 1722), changing term of office from two to four years, and under constitutional amendment of 1909 terms of such officers expire first Monday of December, 1911. Com. v. Bailey, 237 Pa. 609; 85 A. 876.

Term, extension, amendment to constitution, township supervisor, Act 1911.—The term of a township supervisor elected in February, 1909, for unexpired term of a predecessor in office, which would have ended in March, 1911, was extended to first Monday of December, 1911, by schedule of Constitutional Amendments of 1909, and could not be further extended by Act June 14, 1911, P. L. 942. Com. v. Krepps, 239 Pa. 471; 86 A. 1020.

Term, limitation, retroactive effect.—Constitutional provision limiting term of office applies to incumbent elected before adoption of constitution. Com. v. Erie Co. Commrs., 20 Dist. 792; 59 Pitts. 550.

Tipstaves, salary increase.—Tipstaff employed in court is not a public officer within meaning of art. 3, § 13 of constitution. Search v. County, 16 Luz. 330; 22 Dist. 1079.

Constitutional Law—Public Officers —(Cont'd).

Township supervisors, removal, Act 1917.—Section 192 of Township Act of July 14, 1917, P. L. 840 (53 PS § 16563), providing for removal of township officer by court for neglect or refusal to perform duty, does not violate article 6, section 4 of constitution providing that all officers elected by the people, with certain exceptions, may be removed by governor for reasonable cause with consent of two-thirds of senate. Milford Twp. Supervisor's Removal, 291 Pa. 46; 139 A. 623.

Article 6, section 4, is not applicable where legislature, having right to fix term of office, has made it determinable by judicial proceedings or other contingencies than mere passage of time. Id.

Township treasurer, compensation, increase.—Township treasurer is public officer, and, if holding office when Act is passed increasing fees of such office, he is prohibited from receiving benefits of such act, under Art. 3, § 13 of constitution. Walker's Ap., 44 Super. 445.

Treasurer of township of first class is public officer within meaning of constitutional prohibition of increase of salary or emoluments of public officer during his term of office. Plains Twp. Auditors' Report, 14 Luz. 407.

Treasurer, school district, removal.—Treasurer of school board is appointed officer within Art. 6, Sec. 4, of constitution, and is removable at pleasure of school board. Muir v. Madden, 286 Pa. 233; 133 A. 226; Hinchcliffe v. Madden, 24 Luz. 125.

Treasurer, school district, salary, increase, Acts 1862, 1909, 1911.—Special Act April 10, 1862, P. L. 526, incorporating borough of Dunmore, so far as it relates to school affairs, and general Act May 6, 1909, P. L. 440, so far as it has any bearing on term of office of borough treasurer as treasurer of school fund of Dunmore school district, are repealed by Act May 18, 1911, P. L. 309 (school code; 24 PS § 1 et seq.; 72 PS §§ 3511–3521), and such repeal is not in violation of prohibition against diminishing emoluments of public officers, contained in art. 3, sec. 13, of constitution. Flannelly **v.** Manley, 13 Lack. 168.

Vacancy, appointment by governor to fill, candidate rejected by senate.—Where the senate has rejected the nomination made by the governor for a particular office, the governor has power to reappoint the same candidate to fill the temporary vacancy thus created until the end of the next session of the senate. Com. v. Snyder, 261 Pa. 57; 104 A. 494.

Vacancy, appointment by governor to fill, judges, election, time of holding, extension of term, Act of 1911.—Under constitutional amendment of 1909, requiring that election of judges shall be held in odd numbered years, successor to judge whose term expires in Jan., 1913, cannot be elected at municipal election of 1911, and that part of Act of March 2, 1911, P. L. 8 (65 PS §§ 71–76), extending term of all judges whose commissions expire in January of any odd numbered year so that they shall hold office until January in following even numbered year, is unconstitutional. Com. v. McAfee, 232 Pa. 36; 81 A. 85.

Where in such case vacancy may exist, it can be filled by executive under Art. 4, § 8, of constitution, and appointment will be followed by election either on first or second succeeding election day appropriate to office. Id.

Word "vacancy" as used in constitution, applies to any office without an incumbent, regardless of reason therefor. Id.

Vacancy, appointment by governor to fill, judges orphans' court, election, time of holding.—Where judge of orphans' court died within three months but more than two months prior to election, such vacancy cannot be filled at next election for judges, but must be filled by appointment until second election thereafter, pursuant to provisions of sec. 25, art. 5 of constitution. Buckely v. Holmes, 259 Pa. 176; 102 A. 497.

This provision of Constitution is not changed by Sixth Amendment of 1909 amending sec. 8, art. 4, and providing that in case of vacancy in elective office the person appointed shall be succeeded by one chosen at next election day ap-

propriate for such office, unless vacancy shall happen between two calendar months immediately preceding such election, in which case it shall be filled on second succeeding election day, the intent of this section being to eliminate the spring election and continue the constitutional provisions for election of local or municipal officers on a day different from that on which general state officers are elected, judges of judicial districts being within the class of officers who are to be elected at municipal elections. Id.

Vacancy, election to fill, state treasurer-elect, death of, before term begins, appointment, holding over.—Under constitutional amendment of 1909, where state treasurer-elect died on Jan. 11, 1910, when term would not have commenced until May 1, 1910, person appointed by governor in April, 1910, holds office until general election of 1912. Etter v. McAfee, 229 Pa. 315; 78 A. 275.

Vacancy, election to fill, state treasurer-elect, death of, before term begins, appointment, holding over, Act 1874.—State treasurer being a constitutional officer, whose term is limited absolutely to two years, the Act of May 9, 1874, P. L. 126, which endeavors to extend term "until successor shall be duly qualified" is unconstitutional exercise of legislative power and hence void. Com. v. Sheatz, 228 Pa. 301; 77 A. 547.

Death of treasurer-elect, therefore, creates vacancy at end of incumbent's term and duty rests on governor to appoint and commission a person to fill vacancy. Id.

Warden, matron, prison, removal by county commissioners, quarter sessions, Act 1852.—Although Act of April 1, 1852, P. L. 211, requires county commissioners to nominate annually and with consent of both president and another judge of quarter sessions warden and matron who may be dismissed during their term in like manner, county commissioners under art. 6, sec. 4, of constitution, may remove warden and matron without approbation of both president and another judge of quarter sessions. Morgan v. Adamson, 4 D. & C. 77.

Constitutional Law—Searches and Seizures.

Books and papers:

Injunctions—Mandatory (Books).

Drugs found in defendant's home, evidence, self incrimination, Act 1917.—Under Act July 11, 1917, P. L. 758 (35 PS §§ 851–870) making unlawful possession of drugs a crime, evidence of possession and sale of drugs found in defendant's home by officers who made arrest without search warrant is competent and is not a violation of constitutional provisions against illegal searches since such provisions do not prevent use of evidence secured against defendant. Com. v. Grasse, 80 Super. 480.

Escheat, Act 1915.—Provisions of Act June 7, 1915, P. L. 878, requiring report of property presumptively escheatable, are not open to objection that they violate sec. 8, art. 1, of constitution of state, which secures against unreasonable search and seizure. Union Trust Co. v. Powell, 20 Dauph. 95; 45 C. C. 199; 15 Just. 197.

Food laws, validity, raising question, motion to quash, Act 1909.—Whether Act May 3, 1909, P. L. 395 (3 PS §§ 51–56), regulating sale of concentrated commercial feeding-stuffs is in conflict with art. 1, sec. 8 of constitution is question which could not be raised on motion to quash indictment under act. Com. v. Haines, 27 Dist. 586.

Fortune telling, articles used in connection with, evidence, self-incrimination, Act 1861.—On trial of indictment for fortune telling under Act April 8, 1861, P. L. 270 (18 PS §§ 2651–2656), articles which defendant had used and offered to public view in her place of business may be properly seized and offered in evidence against her without violating constitutional right to protection against unreasonable search and self-incrimination, it being right of officer when making arrest to take from defendant any articles which were used in connection with, or which were result of, the crime, and which might be used as evidence against her. Com. v. O'Malley, 81 Super. 100.

Liquor, evidence, arrest without warrant.—Defendant was arrested for having in his possession grip contain-

Constitutional Law—Searches and Seizures—(Cont'd).

ing liquor. Petition was presented for rule to show cause why liquor should not be returned and district attorney restrained from offering testimony in relation thereto. Rule was discharged because petition did not set forth that defendant was in lawful possession of liquor, nor did he deny that he was possessing it in violation of law; but as to petition to restrain district attorney from offering evidence on ground that seizure was unlawful, commonwealth was given leave to file additional answer in which it may state what was controlling reason why search and seizure were not unlawful. Com. v. De Bellis, 39 Montg. 285.

Liquor, search for:
Liquor.

Liquor, search of home without warrant, Act 1921.—Defendant was arrested for violation of Act May 5, 1921, P. L. 407, and when officers went to make arrest defendant was not at home and officers were shown through house by defendant's wife and still with some liquor was found and seized by officers. On rule to show why still and liquor should not be returned, held seizure was illegal and articles must be returned. Com. v. Bateman, 39 Montg. 160.

Defendant's constitutional rights are not violated where officer, after serving warrant charging defendant with illegal sale of liquors, searched defendant's living quarters without search warrant, and confiscated liquor found therein, since officer when making arrest may seize any evidence of crime found on prisoner or on premises under his control. Com. v. Stubler, 84 Super. 32.

Liquor, search of home without warrant, evidence, self-incrimination, bill of rights.—Search of dwelling house by police, without search warrant, and seizure of intoxicating liquor therein and of materials and appliances for its manufacture, and arrest of owner without warrant, are violations of fundamental rights of personal security and private property as guaranteed by bill of rights, and authorities will not be permitted to use evidence so obtained, but it will be ordered returned to owner. Com. v. Kekic, 26 Dauph. 147; 71 Pitts. 353; 37 York 17; 16 Del. 318; 3 D. & C. 273.

Liquor, search of home without warrant, search incidental to arrest, Act 1923.—Provision in federal constitution against unreasonable searches and seizures does not include searches and seizures made by other than federal officers. Com. v. Komitz, 3 Wash. 184; 37 York 121; 71 Pitts. 798.

It has been common law of this state that, in connection with prosecution of crime, search and seizure may be made either as incidental to lawful arrest, or under search warrant. Id.

Our constitutional provision only prohibits unreasonable, not reasonable searches and seizures. Id.

Search and seizure made as incidental to lawful arrest is not unreasonable search and seizure, and is not prohibited by sec. 8 of Act March 27, 1923, P. L. 34 (47 PS § 41). Id.

Liquors, search of truck without warrant.—Where officers without search warrant pry open doors of truck belonging to man who is in custody for violating traffic rules, and intoxicating liquor found therein, and he is charged with unlawfully transporting same, his rights under 4th and 5th U. S. Constitutional Amendments, and under art 1, sec. 8, of Penna. Constitution have been violated, and he is entitled to be released on habeas corpus. Com. ex rel. v. Turnkey, 3 D. & C. 633.

Liquor, search to obtain evidence.—State police have no right to obtain search warrants for purpose of searching houses to obtain evidence to be used in prosecution of liquor cases. Com. v. Raymond, 19 Sch. 371.

Liquor, search without warrant, knowledge of crime.—To justify search and seizure without warrant, in intoxicating liquor and other cases, officer must have knowledge by his own sense perceptions of commission of crime. Com. ex rel. v. Turnkey, 3 D. & C. 633.

Liquor, seized in transportation, Act 1923.—Provisions of state constitution providing against unreasonable search and seizure are not violated by sec. 9, of Act of March 27, 1923, P. L.

34 (47 PS § 42), providing for arrest without warrant of any person discovered in act of transporting intoxicating liquor. Com. v. Rubin, 82 Super. 315.

Liquor and automobile seized on highway by state police will not be returned on ground that search and seizure was violation of constitutional right. Com. v. Latsch, 39 Montg. 243; Com. v. Ross, 39 Montg. 252.

Liquor seized in transportation, deadly weapon, possession of.—Where officers stopped defendants who were coming out of restaurant because one of them looked like a man wanted by police, searched them, took them to headquarters, and found gun in overcoat of one of them, who was then held for carrying concealed deadly weapons, and learn they had been driving trucks loaded with liquor which officers find, smell liquor, and seize, no constitutional rights of defendants have been violated and motion for return of property will be dismissed. Com. v. Reynolds, 4 D. & C. 262.

Liquor seized in transportation, self-incrimination.—Both state legislation and common law furnish authority to police officers to stop and, with or without warrant, search motorvehicles for contraband or other instrumentalities of crime. Com. v. Street, 3 D. & C. 783.

This authority is valid and lawful, and does not contravene constitutional rights of citizens against unreasonable searches and seizures. Id.; Com. v. Cella, 3 D. & C. 783.

Where, as incident of arrest, liquor was found in defendant's possession as result of search with his assistance and without protest, such seizure without warrant is not in violation of constitutional right to be secure against unreasonable searches and seizures, and liquor may be used as evidence against him without violating his right not to be compelled to give evidence against himself. Com. v. Horbach, 15 Luz. 265.

Where policeman stopped defendant who was carrying a bulging suitcase, asked him where he was going, what he had in suit case, received evasive answers and finally proffer of bribe, liquor found in suit case on arrest can be used as evidence, since there was no unreasonable search and seizure under circumstances as violated defendant's constitutional rights. Com. v. DeBellis, 40 Montg. 10.

Minors, employment, trial by jury, Act 1913.—Section 17 of Act July 25, 1913, P. L. 1024 (43 PS § 117), prohibiting female minors to be employed for more than fifty-four hours in one week and providing for process by summons for violating act, does not violate art. 1, sec. 8, prohibiting unreasonable searches and seizures. Com. v. Co-operative Co., 60 Super. 314.

Neither does above section violate art. 1, sec. 8, relating to criminal prosecutions and trial by jury. Id.

Search warrant, absence of:
Liquor.

Search warrant, illegal, evidence, self-incrimination, federal decisions, stare decisis.—Decisions of United State Supreme Court that liquor, seized on search warrant illegally issued, cannot be used as evidence, are not stare decisis as to this commonwealth, since limitations of fourth and fifth amendments of constitution do not apply to several states, and are not even binding on them in construction of similar provisions in their own constitutions. Com. v. Schwartz, 82 Super. 369; Com. v. Chambers, 82 Super. 381.

Search warrant, information and arrest, John Doe proceedings, absence of crime, Act 1911.—Arrest, after search warrant issued by justice of peace under Act June 15, 1911, P. L. 975, cannot be sustained on John Doe information and warrant, where transcript of justice fails to show commission of any offense by person whose premises were searched and whose arrest followed. Com. v. Risch, 22 Luz. 333.

Such proceeding would be a roving commission and as such unlawful, and all proceedings in pursuance equally unlawful, as violating art. 1, sec. 8 of state constitution. Id.

Search warrant issued on Sunday, Act 1705.—A search warrant issued on Sunday, without describing the property, etc., is unconstitutional and contrary to Act of 1705. Com. v. Mihavetz, 16 Del. 267; 3 D. & C. 829.

Constitutional Law—Searches and Seizures—(Cont'd).

Search warrant, sufficiency, article seized under defective warrant, competency as evidence, liquor law.—Under Art. 1, Sec. 8 of Constitution, search warrant must describe, as nearly as possible, place to be searched and person or things to be seized. Com. v. Dabbierio, 290 Pa. 174; 138 A. 679; Com. v. Connolly, 290 Pa. 181; 138 A. 682; Com. v. Hunsinger, 290 Pa. 185; 138 A. 683; 89 Super. 243, 435.

Fact that search warrant was defective and wrongfully issued does not prevent articles seized thereunder from being offered in evidence on trial of defendant. Id.

Fact that justice who issued search warrant received costs allowed for so doing has no effect on admission in evidence of goods seized under warrant. Id.

Where premises to be searched are accurately described and things to be seized therein described in general language, description is sufficient if by reason of the articles being illegally kept it is "as nearly as may be" to the identification of such articles. Com. v. Connolly, supra.

Where things to be seized under search warrant are illegally possessed, less particularity in describing them is required. Id.

Constitutional Law—Special Laws.

Additional defendants, bringing in, as parties scire facias, Act 1929.—Act April 10, 1929, P. L. 479 (12 PS § 141), providing for bringing in additional parties defendant to record by means of scire facias, is not unconstitutional as being special or local statute since it regulates generally every proceeding where liability referred to in it may appear. Vinnacombe v. Philadelphia, 297 Pa. 564; 147 A. 826.

Adoption, adults, Act 1889.—Act May 9, 1889, P. L. 168, relating to adoption of adults as heirs, is not improper classification. Leinbach's Est., 241 Pa. 32; 88 A. 67.

Aliens, instruction of foreign-born residents, classification, Act 1919.—Counties cannot be classified by use of such words as "large" or "small," or by referring matter to judicial discretion. Hence the Act of July 8, 1919, P. L. 764 (24 PS §§ 2721–2725), is unconstitutional. Appointment of Instructor for Aliens, 19 Sch. 136.

Appropriations, diverting to different use, cities of first class, curative legislation, Acts 1923, 1927.—Fact that there is only one city in Commonwealth belonging in first class does not make Act April 3, 1923, P. L. 50 (53 PS §§ 4591–4598), providing for diversion of funds from one purpose to another, special legislation. Plumly v. Hadley, 9 D. & C. 281.

Amendment to art. III of Constitution empowers legislature to classify cities and expressly provides that all laws relating to each class shall be deemed general legislation. Id.

Whatever defects may have been in proceedings under Act 1923, supra, were cured by Act of March 2, 1927, P. L. 7. Id.

Assessments, improper, payment, refunding, Acts 1917, 1919.—Act July 5, 1917, P. L. 682 (53 PS § 631), authorizing cities to refund moneys paid into their treasuries by property owners for assessments improperly levied, which is extended by Act March 21, 1919, P. L. 20 (53 PS § 631), to boroughs and incorporated towns, is not unconstitutional as local or special legislation. Rubinsky v. Pottsville, 18 Sch. 107; 1 D. & C. 505; 13 Mun. 234.

Attorney, lien, debts, collection, Act 1915.—Attorneys' Lien Act of May 6, 1915, P. L. 261, is unconstitutional as providing new method for collection of debts. Laplacca v. Tran. Co., 265 Pa. 304; 108 A. 612; aff. 68 Super. 208; Silverman's Est., 22 Sch. 70.

Automobile accident, suits in county where accident occurs, debts, collection, Act 1923.—Sec. 36, Automobile Act June 14, 1923, P. L. 718, authorizing suits to be brought in county where accident occurs, does not violate constitutional prohibition of local legislation by "providing or changing methods for collection of debts or enforcing of judgments." Thompson v. Bean, 7 D. & C. 209; 39 York 186; 17 Mun. 202.

Automobile, damage, repairs, receipted bill, evidence justice of peace,

Jurisdiction, title of act, sufficiency, Acts 1919, 1923.—Exceptions to record of justice of peace on ground that he did not have jurisdiction in action to recover damages to auto run into by defendant because receipted bill for repairs was not offered in evidence, were dismissed in certiorari, because Act June 30, 1919, P. L. 678, contains no such provision, and Act June 14, 1923, P. L. 718, purporting to amend Act 1919, and containing such provision, makes no mention in its title of this item. Frye v. Lanning, 8 Wash. 45; 76 Pitts. 161; 10 D. & C. 727.

Aviation fields, Act 1923.—Act of May 21, 1923, P. L. 295 (16 PS §§ 3592–3596), authorizing county commissioners to acquire land by purchase or condemnation and to establish aviation field, is constitutional. Wightman v. County, 72 Pitts. 929.

Bawdy house, male frequenter of, Act 1905.—Act April 18, 1905, P. L. 202 (18 PS § 806), making it a misdemeanor for any male person having no apparent trade, occupation or business to stay, frequent or loiter in or about any bawdy-house, is not unconstitutional because act grants immunity to those persons who are excluded from its operation. Com. v. Stoner, 33 Lanc. 276; 25 Dist. 1125.

Boarding housekeepers, claims by, issuance of attachment with summons. Acts 1905, 1913.—Acts April 10, 1905, P. L. 134 (42 PS § 621), and May 1, 1913, P. L. 132 (42 PS §§ 621, 622), permitting issuance of attachment along with summons for board claim, are unconstitutional as they give boarding housekeepers privileges not enjoyed by other creditors. George v. Alex, 9 Wash. 150; 43 York 76.

Breweries:

Constitutional Law — Personal Rights (Premiums).

Bridges, classification based on cost, tolls, taxation, Act 1923.—Act June 28, 1923, P. L. 875 (16 PS §§ 3641–3644), is not local or special legislation since classification of county bridges according to their cost is proper. Ruler v. York Co., 290 Pa. 427; 139 A. 136.

Tolls may be levied by counties on inter-county bridges and applied to payment of bonds issued for construction of such bridges which cost over certain sum specified in Act of 1923, and such classification based on cost of bridge does not render it unconstitutional. Ruler v. York Co., 290 Pa. 427, 139 A. 136.

Tolls on bridges and highways are not taxes. Id.

Bridges, tunnels, payment for work done under unconstitutional Act 1917.—Act April 20, 1917, P. L. 90 (71 PS § 851), providing for payment by county for work done in construction of public bridge or tunnel prior to time act under which work was done was declared unconstitutional, is not a local or special law within art. 3, sec. 7 of the Constitution. Kennedy v. Meyer, 259 Pa. 306, 103 A. 44.

Bulk Sales Act, merchandise in stock, Act 1905.—Act March 28, 1905, P. L. 62, requiring notice to creditors of sales in bulk of stock of merchandise and fixtures, is not arbitrary class legislation within 14th amendment of Federal constitution guaranteeing to all equal protection of law. Wilson v. Edwards, 32 Super. 295; Feingold v. Sternberg, 33 Super. 39.

Capitol park, commission to condemn property for purpose of, Act 1911.—Act June 16, 1911, P. L. 1027, providing for appointment of Park Capitol Commission to obtain property for park purposes around capitol building, is not local or special law within meaning of constitution. Com. v. Matter, 257 Pa. 322; 101 A. 649.

Cemeteries, use of land where drainage passes into stream furnishing city water supply, police power, Act of 1895.—Act of June 24, 1895, P. L. 244 (9 PS § 10), prohibiting use for burial purposes of land, drainage from which passes into any stream furnishing water supply of any city, except beyond one mile from such city, is not lawful exercise of police power and is unconstitutional as local and special legislation. Phila. v. Cemetery Co., 21 Dist. 75.

City solicitor, bond, counties, regulating affairs of classification, Act 1923.—Act of May 10, 1923, P. L. 183,

Constitutional Law—Special Laws —(Cont'd).

authorizing bonding of city solicitors in cities of fourth class, is not special or local legislation regulating affairs of counties within sec. 7, Art. 3 of Constitution, the classification being proper. Graeff v. Schlottman, 287 Pa. 342; rev. 87 Super. 387.

Civil service, examinations, soldiers and their children, exemption from provision of Act 1906.—Act March 5, 1906, P. L. 83, relating to civil service examinations in cities of the first class, is unconstitutional as improper class legislation in-so-far as it exempts soldiers, sailors and their widows and children from the operation of the Act. Wood v. Phila., 46 Super. 573.

As the Act itself remains complete without the provision exempting soldiers from its operation, the latter proviso only will be declared unconstitutional and the Act allowed to stand. Id.

Commonwealth, claims by, for maintenance of lunatics, debts, collection, Act 1915.—Act June 1, 1915, P. L. 661 (71 PS §§ 1781–1788), providing equitable proceeding for collection by commonwealth of claims for maintenance of lunatics, is not in conflict with art. 3, sec. 7 of constitution, as creating new method of collecting debts. Duerr's Case, 25 Dist. 406.

Conditional sale, Act 1923.—Conditional Sales Act May 1, 1923, P. L. 117, does not violate sec. 7, art. III, of Constitution of Pennsylvania, as being special law for creation of liens or changing method of collection of debts. Bartholomew v. Limestone Co., 76 Pitts. 49; 42 York 2.

Conditional sales, liens, collection of debts, Act of 1915.—Act of June 7, 1915, P. L. 866, relating to conditional sales, is not a special law for creation of liens or changing method of collection of debts within meaning of Art. 3, sec. 7 of Constitution. Ridgeway Engine Co. v. Werder, 287 Pa. 358; 135 A. 216.

Consolidation of municipalities, Act 1906.—Act Feb. 7, 1906, P. L. (53 PS §§ 151–177), providing for consolidation of cities "contiguous or in close proximity," does not violate art. 3, § 7, forbidding local legislation. Pittsburg's Pet., 217 Pa. 227; 66 A. 348; affirming 32 Super. 210.

Consolidation, municipalities, affairs of, regulation, Act 1915.—Act May 6, 1915, P. L. 260 (53 PS § 178) providing that debts of municipalities annexed to contiguous city shall be paid by consolidated city, is not a local or special law regulating affairs of municipalities under art. 3, sec. 7 of constitution. Moore v. Pittsburgh, 254 Pa. 185; 98 A. 1037.

Consolidation, municipalities, annexation of contiguous territory, Acts 1871, 1903.—Act April 28, 1903, P. L. 332 (53 PS §§ 91–96), relating to annexation of cities, boroughs or territory to a contiguous city, does not violate Art. 3, § 7, of the constitution, forbidding local or special legislation. Sheraden Boro. Case, 34 Super. 639; Higgins v. Price, 8 Lack. 333.

That the Act of May 10, 1871, P. L. 718, authorizing consolidation of adjacent territory within city of Pittsburg, is not repealed by Act of 1903, does not affect the general character of Act of 1903. Id.

Counties:

County Officers (Jury).

Counties, classification, Act 1919.—Classification of counties by use of words large or small is improper, and therefore Act July 8, 1919, P. L. 764 (24 PS §§ 2721–2725), providing for appointment of Americanization officers in counties "having a large resident population of foreign-born residents" is special legislation and void. Seltzer's Petition, 2 D. & C. 242.

Act of July 10, 1919, P. L. 887 (16 PS § 1081), classifying counties into eight classes, is constitutional. Com. v. Wert, 11 Leh. 66.

Counties, officers, compensation, fees, Act 1923.—Act of July 11, 1923, P. L. 1054 (16 PS §§ 2391–2403), relating to county officers in counties of fifth class, providing for salaries and requiring payment of fees into county treasury, is constitutional. Com. v. Wert, 11 Leh. 66.

County court, Act 1911.—Act May 5, 1911, P. L. 198 (17 PS §§ 621–651), establishing county court in Al-

legheny county, is not local or special legislation within meaning of art. 3, § 7. Gottschall v. Campbell, 234 Pa. 347; 83 A. 286.

County officers, salary, Act 1923.—Act July 11, 1923, P. L. 1054 (16 PS §§ 2391–2403), requiring county officers in county of fifth class to pay all fees over to treasurer, does not conflict with art. 14, sec. 5 of state constitution, which refers to only two classes of counties so far as compensation of county officers are concerned, since latter provision does not specify how compensation shall be regulated in counties having population less than 150,000, thus leaving matter open to legislature, and latter may therefore classify counties having less. population and fix salaries for each class. Com. v. Wert, 282 Pa. 575; 128 A. 484.

The constitutional amendment of 1923, authorizing general classification of counties and other municipal divisions into specific number of classes, and allowing legislation for each class separately, determines extent to which classification may be carried. Id.

Courts, justice, appeals, special allowance, Allegheny County Court, Act 1913.—Act May 23, 1913, P. L. 315, 310 (17 PS §§ 636–640), requiring leave from common pleas to appeal from judgment on verdict in county court, is not special. Findley v. Bryans, 58 Super. 399.

Courts, procedure, corporations, Act of 1885.—The Act of June 24, 1885, P. L. 149, is bad so far as it provides that the incorporation of a corporation plaintiff need not be proved unless put in issue, because its title relates solely to cases where defendant is a chartered corporation. Empire Mfg. Co. v. Hence & Dromgold, 19 York 186; 15 Dist. 659.

Courts, procedure, motor vehicles, hearing, waiver, Act 1913.—Practice of not giving defendant preliminary hearing where he has waived summary trial and hearing and demanded trial by jury in quarter sessions, does not render Act July 7, 1913, P. L. 672, relating to motor vehicles, unconstitutional as undertaking to establish entirely new method of criminal procedure. Com. v. Walker, 66 Pitts. 757.

Courts, process, service in other county, automobiles, actions against owners, amendment of statute, title, Acts 1901, 1909.—Act April 27, 1909, P. L. 265, providing that in actions for damages against automobile owners service of process may be made on defendant in any other county, does not violate art. 3, § 7 of constitution forbidding local or special acts "regulating the practice or jurisdiction of, or changing the rule of evidence in any judicial proceeding or inquiry before courts." Garrett v. Turner, 235 Pa. 383; 84 A. 354; aff. 47 Super. 128.

Said act is not an amendment of Act July 9, 1901, P. L. 614 (12 PS § 291 et seq.), and therefore does not violate art. 3, § 6 of constitution requiring amended acts to be recited at length. Id.

Courts, records, indexes, affairs of county, Act 1891.—Act May 26, 1891, P. L. 129 (17 PS §§ 1981–1986), empowering court of common pleas to change mode of keeping indices in several offices of record, is not local or special legislation. Indexing of Deeds, etc., 5 Leh. 107.

Declaratory judgments, Act 1923.—Declaratory judgment Act of June 18, 1923, P. L. 840 (12 PS §§ 831–846), does not violate constitution as to special acts. Brookville's Election, 5 D. & C. 54.

Descent, changing, privileges and immunities, Act 1907.—Act of June 1, 1907, P. L. 364 (12 PS § 1761), enabling widow to bid on real estate in partition proceedings, does not violate constitution as being special law changing course of descent or succession, and granting to individuals special or exclusive privileges and immunities. Scarlett's Est., 39 Super. 284.

Descent, intestate law, widow's share, Act of 1909.—Act of April 1, 1909, P. L. 87, regulating descent and distribution of estate of intestate, is not local or special law within inhibition of Art. 3, § 7 of constitution. Gilbert's Est., 227 Pa. 648; 76 A. 428.

Descent, intestate, law, widow's share, title, subject, Act 1917.—Act

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July 11, 1917, P. L. 755 (20 PS § 11), amending § 2 (a) of Act June 7, 1917, P. L. 429 (20 PS § 1 et seq.), relating to $5,000 allotment, and making it apply only to cases of actual intestacy, is not a local or special law and contains but one subject which is clearly expressed in its title. Langerwisch's Est., 267 Pa. 319; 110 A. 165.

Dogs, license, uniformity, right to object, Act 1921.—One who has paid license fee for dogs under Act May 11, 1921, P. L. 522 (3 PS §§ 461–500), has no standing to object that the act is revenue measure and unconstitutional for lack of uniformity because certain cities are excluded from its operation, since court will not consider constitutional objections from one who is no longer affected by the act. Com. v. Haldeman, 288 Pa. 81; 135 A. 651.

There is no constitutional requirement that statutes relating to domestic animals must be uniform throughout state. Id.

Fact that fine paid may be improperly used is no valid ground of complaint. Id.

Elections, contests, school directors, Act 1911.—Section 223 of Act May 18, 1911, P. L. 309 (24 PS § 1 et seq.), is not special legislation because it separates office of school director from offices included in fourth class of election contests permitted by Act May 19, 1874, P. L. 208 (25 PS § 2391 et seq.). Hayes v. Boyle, 17 Luz. 157; 42 C. C. 236; 24 Dist. 57.

Election expense, right to recover, suit in local court, collection of debt, Act 1917.—Act June 22, 1917, P. L. 636, authorizing Phila. County to sue Commonwealth to recover primary election expenses, does not violate art. 3, sec. 7, providing that no law shall be passed granting special powers or privileges where such powers have been granted by general law or where the courts have jurisdiction to grant same. Phila. v. Com., 270 Pa. 353; 113 A. 661.

The fact that suit may be brought in local courts instead of in Dauphin County court is immaterial since court in which case is tried is no part of method of collecting debt. Id.

The Act of 1917 does not create a liability, but merely authorized city to enforce one already existing. Id.

Election laws, contest, bond, for costs, Act 1899.—Act April 28, 1899, P. L. 118 (25 PS § 2525), requiring bond for costs to be filed in election contest is not local or special legislation. Patton's Election, 228 Pa. 446; 77 A. 658.

Elections, non-partisan ballot, classification, judiciary, Act 1913.—Act July 24, 1913, P. L. 1001, known as the non-partisan ballot law, does not violate art. 8, § 7, requiring elections to be uniform, since it applies uniformly to a particular class of candidates, that is, those who run for office of judge. Winston v. Moore, 244 Pa. 447; 91 A. 520.

Elections, non-partisan ballot, third class cities, Act 1913.—Act June 27, 1913, P. L. 568, providing in its twelfth article for use in third class cities of nonpartisan ballot is constitutional and not violative of art. 3, sec. 7 of constitution prohibiting passage of local or special laws for opening or conducting of elections. Com. v. Moore, 61 Pitts. 481; Kessler v. Moore, 16 Luz. 429; 22 Dist. 678; Com. v. Clinton Co. Comm'rs, 41 C. C. 239; Com. v. Osborne, 61 Pitts, 489; Com. v. Cambria Co. Comm'rs, 22 Dist. 674; Com. v. Corl, 61 Pitts. 513; 41 C. C. 151; Com. v. Dickey, 61 Pitts. 532; contra Com. v. Fayette Co. Comm'rs, 61 Pitts. 465; 22 Dist. 654; Cadwallader v. McAfee, 61 Pitts. 569; 16 Dauph. 216; Van Essen v. Campbell, 61 Pitts. 576.

Employment agencies, license, police power, Acts 1907, 1911.—Act April 25, 1907, P. L. 106 (53 PS §§ 2461–2474), amended by Act June 13, 1911, P. L. 881 (53 PS § 2463 et seq.), requiring license for operating employment agency in certain classes of municipalities is not in violation of art. 1, sec. 1 of constitution, but is proper exercise of police power. Com. v. Clark, 60 Pitts. 455; 40 C. C. 49.

Fact that act creates classification of municipalities in regard to its operation and also classifies different businesses to which it shall apply does not

make it local or special legislation within inhibition of art. 3, sec. 7. Id.

Engineers, license, exemption, steam boiler, Act 1899.—Act April 18, 1899, P. L. 49, providing for examination and licensing of engineers and excluding from its provisions persons having charge of steam engines or boilers under certain horse power or carrying less than certain pounds pressure per square inch, is an improper classification. Chalmers v. Phila., 250 Pa. 251; 95 A. 427.

Escheats, corporations, classification, Act 1915.—Act June 17, 1915, P. L. 878, relating to escheats, is not special legislation merely because it excluded from its provisions building and loan associations and saving fund societies, since the distinction between these and other corporations receiving money for deposit and otherwise is sufficient to warrant placing them in a class by themselves. Germantown Trust Co. v. Powell, 265 Pa. 71; 108 A. 441.

Escheats, courts, practice, Act 1915.—Act June 7, 1915, P. L. 878, regulating escheat of certain kinds of property, is not special legislation, nor special law regulating practice or jurisdiction of courts. Germantown Trust Co. v. Powell, 20 Dauph, 106; 45 C. C. 209.

Fees, prothonotary, local law classification, Act 1919.—Act July 17, 1919, P. L. 1001 (17 PS § 1580), fixing fees of prothonotary in counties having less than 70,000 inhabitants is unconstitutional as local legislation since subject matter of statute had no relation to the population of counties. Sieber v. Co. of Juniata, 79 Super. 247.

Fire escapes, building law, Act 1913.—Act May 20, 1913, P. L. 272, regulating openings of buildings over or under fire escapes and providing that nothing therein contained shall interfere with fire escapes "now in use approved by proper authorities," applies only to fire escapes thereafter to be erected or theretofore erected without approval of proper authorities, and so construed is not in violation of art. 3, sec. 7 of constitution relating to special legislation. Alexander v. Porter, 23 Dist. 459; 42 C. C. 210.

Fires, inquiry into, retroactive effect of constitution, Act 1869.—Act April 17, 1869, P. L. 74 (35 PS §§ 1151–1155); providing mode of inquiry into fires, is not unconstitutional as being local legislation, since such provision of constitution is not retroactive. Com. v. Williams, 54 Super. 545.

Fire protection, municipalities, police power, classification, Act of 1909.—Act of May 9, 1909, P. L. 417, "for safety of persons from fire or panic in certain buildings not in cities of first and second class by providing proper exists, fire escapes, fire extinguishers, etc., by vesting jurisdiction for enforcement of act in department of factory inspector, and by providing proper penalties for violation of same," is not special legislation because it excludes certain classes of municipalities. Roumfort Co. v. Factory Inspector, 13 Dauph. 53; Globe Theatrical Co. v. Same, Id. 61.

Food, adulteration of milk, cities of second class.—Not decided whether Act of July 7, 1885, P. L. 260, prohibiting sale of adulterated milk in cities of second and third class, is unconstitutional as a whole because based on classification provided by unconstitutional act. Reading City v. Miller, 45 Super. 28.

Food, adulteration, wholesale and retail dealers, classification, Act 1909.—Act May 13, 1909 P. L. 520 (31 PS §§ 1–9), is not an improper classification because it permits dealers in dried fruits and molasses to sell food containing sulphur dioxide, while prohibiting dealers in confectionery and other food from doing so. Com. v. Pflaum, 236 Pa. 294; 84 A. 842; affirming 50 Super. 55.

So also a classification of wholesale and retail dealers, allowing latter immunity from prosecution if he can establish a guaranty signed by the manufacturer that the food was not adulterated, but giving no such immunity to the wholesaler, is proper. Id.

Food, cold storage, regulating sale, Act 1913.—It smacks of special legislation to declare that article in common use as food, preserved by best methods known to modern scientific discovery, shall be placed under ban and its owner

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exposed to prosecution, fine and imprisonment if he offers to sell it as food, and yet permit sale of same article, kept as long as, and where, owner may see fit, outside of cold storage warehouse. Nolan v. Jones, 64 Pitts. 521.

Highways, improvements, county highways within cities, Act 1909.—Act May 11, 1909, P. L. 506, relating to making of certain county highway improvements at expense of counties, is not local or special legislation, nor does it violate sec. 20 of art. 3, of constitution. Grand Jury Report, 61 Pitts. 340.

Highways, municipal improvements, benefits, viewers' reports, evidence, Act of 1903.—Act of April 2, 1903, P. L. 124 (53 PS § 392 et seq.), authorizing viewers' reports in road cases to be offered in evidence on appeal as prima facie evidence of benefits is not special legislation, as it applies throughout commonwealth and in all proceedings for purpose of assessing benefits to meet costs and expenses of municipal improvements. O'Donnell v. Pittsburg, 227 Pa. 14; 75 A. 959.

Highways, opening, assessment of damages, viewers' report, evidence, Act 1903.—Act of April 2, 1903, P. L. 124 (53 P. S. § 392 et seq.), which in its second section amends § 6 of Act of May 16, 1901, relating to opening of streets and assessment of damages and provides, that report of viewers shall be prima facie evidence of benefits on trial of appeal, is not special legislation, because it applies only to laying out, opening, widening, etc., of streets of municipality and does not apply to all classes of cases where private property is taken for public use. Haas v. Pittsburg, 56 Pitts. 361.

Highways, opening, review of proceedings, Act of 1901.—Act of July 2, 1901, P. L. 607 (53 PS §§ 18861–18863), to provide for reviewing proceedings of township road commissioners in laying out, opening and vacating roads, is not local act, although it applies only to certain townships in three counties. Earl v. Ryan, 41 Super. 448.

Highways, state department, Act 1911.—Act May 31, 1911, P. L. 468, relating to state highways, does not violate art. 3, § 7, prohibiting local or special legislation. State Highway Com. v. Turnpike Co., 242 Pa. 171; 88 A. 938.

Houses of detention, cities of first class, Act of 1901.—Act of July 2, 1901, P. L. 601 (11 PS §§ 421–429), to establish houses of detention in cities of first and second class, does not violate Art. 3, § 7, of constitution. Price v. Walton, 49 Super. 1.

Incorporation of borough:
Boroughs — Incorporation (Effect).

Indeterminate, sentence, Act 1923.—Act June 29, 1923, P. L. 975 (19 PS § 1057), regulating manner of sentencing prisoners, is not unconstitutional as local or special law, since legislature has right to classify crimes and designate procedure at trial or after sentence. Com. v. Sweeney, 281 Pa. 550; 127 A. 226.

Indeterminate sentences, criminal law, Act 1909.—Indeterminate sentence, Act May 10, 1909, P. L. 495, is not local or special legislation. Com. v. McKenty, 21 Dist. 589; 60 Pitts. 521.

Indigent persons, care of, by county, Act 1903.—Act of March 6, 1903, P. L. 18 (62 PS § 1813), providing for care of certain indigent persons by counties, is not in conflict with Art. 3, § 7, Kittanning Poor Dist. v. County, 17 Dist. 673.

Inspection of oil, Act 1874.—Act of May 15, 1874, P. L. 189, providing for inspection of oils, is local legislation within Art. 3, § 7, of the constitution, being restricted to counties "where oils are manufactured." Kucker v. Sunlight Oil Co., 230 Pa. 528; 79 A. 747.

Inspector of weights and measures, salary, counties, classification, Act 1913.—Act July 24, 1913, P. L. 960 (76 PS § 201 et seq.), fixing minimum salary to be paid inspectors of weights and measures, is not a local law though salary provision does not apply in counties having population less than fifteen thousand; such classification being proper. Goodwin v. Bradford City, 248 Pa. 453; 94 A. 139.

Interest, rate, eminent domain, damages, Act 1915.—Act June 1, 1915, P. L. 685 providing that where private

property is taken for municipal purposes damages should bear interest from date of taking, violates Art. 3, Sec. 7 of Constitution, forbidding special legislation fixing rate of interest. Pa. Co. v. Phila., 262 Pa. 439; 105 A. 630; O'Brien v. Bro., 21 Luz. 93; 12 Mun. 95; McManamon v. Boro., 21 Luz. 96.

Joint building, powers and privileges, affairs of counties, Act 1913.—Act April 18, 1913, P. L. 96 (53 PS §§ 1341–1345), which provides that in each county where county-seat is within limits of any city county commissioners and city authorities may erect joint county and municipal building, is not special legislation regulating affairs of counties, cities, etc. Stratton v. County, 245 Pa. 519; 91 A. 894; affirming 62 Pitts. 41.

Nor is act unconstitutional as being in violation of last paragraph of art. 3, sec. 7, which provides that no law shall be passed granting powers and privileges in any case where granting of such powers and privileges shall have been provided by general law. Id.

Judgments against municipality, justice of peace, debts, collection, Act 1905.—Section 4 of Act April 22, 1905, P. L. 296 (42 PS §§ 768–771), relating to judgments of justice against a borough, township or school district, is unconstitutional as special legislation relating to collection of debts of enforcing judgments. McKenna v. Dunmore Boro., Lack 282; 2 Leh. 332; 21 York 103.

Judgments, justice of peace, certificates, collection of debts, Act 1905.—The Act of April 22, 1905, P. L. 296 (42 PS §§ 768–771), requiring plaintiffs in judgments obtained before justices of the peace, etc., against boroughs, townships and school districts, to file in office of prothonotary certificate giving particulars of such judgments, offends against Art. III, § 7, which provides against local or special law changing methods of collection of debts, etc. Fleming Mfg. Co. v. Twp., 35 C. C. 105; 6 Just. 283.

Justice of peace, validating acts of, Act 1925.—Act May 12, 1925, P. L. 602 (42 PS § 84), validating acts of justice of peace, who has not properly qualified, is unconstitutional, in so far as it attempts to validate matters which are jurisdictional in character, such as hearing and imposition of fine in criminal case under game laws. Com. v. Fye, 9 D. & C. 32; 41 York 15.

Labor, trade or manufacturing, regulation of, performance within municipality, Act 1917.—Act July 6, 1917, P. L. 752, authorizing municipalities to require by ordinances that work on public building should be done within municipality and validating prior ordinances to that effect, is a special law regulating labor, trade and manufacturing, and since it does not relate to governmental functions of municipality but merely to its private business classification based on municipal grounds is improper. Taylor v. Philadelphia, 261 Pa. 458; 104 A. 766.

Labor, working hours, regulation, municipalities, classification, Act 1897.—Act July 26, 1897, P. L. 418, regulating hours of workmen in employ of municipal corporations, violates Art. 3, § 7, of constitution forbidding the passage of local or special laws regulating labor, etc. Com. v. Casey, 231 Pa. 170; 80 A. 78; rev. 57 Pitts. 193.

With respect to matters not political and governmental, municipalities are to be regarded as private corporations and a classification for the purpose of said act is not proper. Id.

Landlord and tenant:
Constitutional Law — Statutes, Amendment (Landlord).

Legal advertisements, publication in newspapers of foreign languages, Acts 1901, 1915.—Acts May 3, 1915, P. L. 242 and April 30, 1901, P. L. 109 (45 PS § 41), requiring advertisements and notices, required by law to be published, to be published in papers of German, Italian and Yiddish languages, contravenes sec. 7 of art. 3 of constitution prohibiting local or special legislation. Phila. v. Unknown, 24 Dist. 753.

License, engineers, police power, Act unconstitutional in part, Act of 1921.—Act May 25, 1921, P. L. 1131, providing that it shall be unlawful to practice engineering in state without license, is unconstitutional as providing for improper classification because it exempts

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from its operation officers and employees of corporations engaged in interstate commerce. Com. v. Humphrey, 288 Pa. 280; 136 A. 213.

Such act does not exceed police power of state which extends to protection of lives, health and property of citizens. Id.

Where part of act declared unconstitutional is separable from remainder of act so that it may stand by itself, it will be sustained as such, but where void part is vital to whole, or other provisions are dependent upon and connected with it, whole act is void. Id.

License fees, cities of third class, affairs of, uniform taxation, Act 1919.—Act May 27, 1919, P. L. 310 (53 PS § 10963 et seq.), authorizing cities of third class to levy and collect license taxes for general revenue purposes is not unconstitutional, under art. 3, sec. 7, as local or special legislation regulating affairs of cities, nor under art. 9, sec. 1, providing for uniformity of taxation. Clouser v. Reading, 9 Corp. 293; 13 Berks 99; Kemerer v. Reading, 13 Berks 102; affd., 270 Pa. 96; 113 A. 189.

License fees, telegraph and telephone companies, Act of 1905.—Act of April 17, 1905, P. L. 183 (72 PS § 3795), "providing for determination by court of common pleas of proper county of all disputes as to reasonableness of amount of license fees between municipal corporations and telegraph, telephone or light or power companies," is not special legislation because it does not apply to street car companies or public service corporations maintaining poles in public streets, other than telegraph, telephone, light and power companies. West Chester v. Postal Tel.-Cable Co., 227 Pa. 384; 76 A. 65; affirming 38 Super. 603; Pittsburg & Allegheny Tel. Co. v. Boro., 56 Pitts. 372.

License fees, telegraph and telephone companies, legislative power, delegation, police powers, obligation of contract, Act 1905.—Act April 17, 1905, P. L. 183 (72 PS § 3795), providing for determination by common pleas of all disputes as to reasonableness of amount of license fees between municipalities and telegraph, telephone or light and power companies, is not an unlawful delegation of legislative power. Penna. Tel. Co. v. South Bethlehem, 10 North. 376; 10 Del. 318; 16 Dist. 878.

Right to charge for inspection of poles being founded in police power of municipality, act is not void under Art. 1, § 17, as impairing obligation of contract between company and city. Id.

Liens, automobile seized in unlawful transportation of liquors, equal protection of law, Act 1923.—Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), which authorizes return of vehicle seized on account of its use in unlawful transportation of intoxicating liquor to owner, upon proof that unlawful use of vehicle was without his knowledge or consent, but gives to bailor of such vehicle so seized amount due under his bailment contract for sale of vehicle, does not violate sec. 7 of art. 3 of state constitution, nor fourteenth amendment of the constitution of the United States, as a discrimination or unequal protection of law. Com. v. Ford Coupe, 28 Dauph. 28.

Liens, creation of, appropriation by state, reserving lien, Act 1909.—Act May 13, 1909, P. L. 835, making appropriation to Western Pennsylvania Hospital and providing such amount should be lien on premises for use of commonwealth, does not violate art. 3, § 7, providing that no "local or special law authorizing the creation, extension or impairing of liens" shall be passed, as that section does not apply to liens in favor of state. Booth v. Miller, 237 Pa. 297; 85 A. 457.

Liens, creation of, silk throwers, work done on other materials, Acts 1907, 1913.—Act May 20, 1913, P. L. 271 (6 PS § 21), amending Act May 23, 1907, P. L. 228 (6 PS §§ 21, 22), insofar as it gives a lien on goods placed in hands of manufacturers for work done upon other goods which have already been delivered, is unconstitutional as special legislation relat-

ing to liens. Gerli v. Silk Co., 70 Super. 299.

Limitation of, actions against corporations, savings bank deposits, payment to state, Act 1872.—Act April 17, 1872, P. L. 62 (7 PS §§ 585, 661; 27 PS §§ 302–305), requiring saving fund deposits to be paid to state where depositor has made no demand for period of thirty years, is not a statute of limitations but an enactment for protection of saving banks after they have paid deposits to state treasurer, and does not violate article 3, section 21 of constitution as providing a limitation of time for bringing of actions against corporations different from laws regulating actions against natural persons. Com. v. Bank, 259 Pa. 138; 102 A. 569.

Liquor law, enforcement, Act 1921.—Act May 5, 1921, P. L. 407, known as Woner Act, passed for purpose of carrying out Eighteenth Amendment to Federal Constitution and the Volstead Act, is not unconstitutional as special legislation. Com. v. Alderman, 79 Super. 277.

Loaning money, interest, rate, classification, Act 1909.—Act of May 11, 1909, P. L. 518, regulating business of making small loans of $200 or less for which no security other than note or contract is taken, is in conflict with Art. 3, § 7, forbidding special legislation fixing rate of interest, and cannot be sustained either by classification of loans or by placing wage-earners in class apart from other citizens. Jefferson Credit Co.'s Application for License, 18 Dist. 634.

Loaning money, interest, rate classification, Act 1915.—Act June 17, 1915, P. L. 1012 (7 PS §§ 751–760), regulating business of loaning money in sums of $300 or less, is not unconstitutional as special legislation since there appears both a necessity and valid basis for classifications of business of loaning money in small amounts. Commonwealth v. Puder, 261 Pa. 129; 104 A. 505; aff. 67 Super. 11; Wheeler v. Remedial Loan Co., 261 Pa. 139; 104 A. 508; aff. 67 Super. 21.

Loaning money, interest, rate, police power, Act 1913.—Act June 5, 1913, P. L. 429, providing for licensing of money lenders, is special law applying only to certain class of persons and not proper exercise of police power of state. Com. v. Young, 248 Pa. 458; 94 A. 141; Foster's License, 60 Super. 8; Elder's Case, 61 Pitts. 673.

Local acts, repeal of, in part, liquor laws, local option, Acts of 1872, 1911.—Act June 8, 1911, P. L. 703, repealing Act April 3, 1872, P. L. 804, relating to liquor licenses and local option in certain townships of Allegheny county does not violate art. 3, § 7, of the constitution, relating to local laws, merely because it repeals a local law in so far as it applies to a particular township, leaving it in force as to a borough which had been erected out of the township since the passage of the local law. Rassau v. Campbell, 48 Super. 408. Reversed on another point in 236 Pa. 455; 84 A. 957.

Lunatics, maintenance, collection for, by commonwealth, Act 1915.—Act of June 1, 1915, P. L. 661 (71 P S §§ 1781–1788), giving commonwealth right to collect cost of maintenance of insane or feeble minded persons, is not a local or special law within the meaning of the constitution. Mansley's Estate, 253 Pa. 522; 98 A. 702.

Mechanics' liens:
Mechanics' Liens — Claims (Amendment).
Mechanics' Liens — Lien (Grading).

Mechanics' lien, alterations and repairs, local law.—Mechanics' lien act as applied to alterations and repairs is not unconstitutional in Lackawanna County for act is general and not local legislation. Staryeu v. Midouhas, 30 Lack. 191.

To hold otherwise would make act constitutional in number of counties and unconstitutional in others. Id.

Mechanics' liens, attachment, debts, collection, Acts 1901, 1909.—Section 28 of Act June 4, 1901, P. L. 431, giving material men right of attachment execution against owner of building, is special legislation changing methods for collecting debts within Art. 3, § 7, of constitution. Vulcanite

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Portland Cement Co. v. Allison, 220 Pa. 382; 69 A. 855; Trexler v. Kuntz, 36 Super. 352; Sterling Bronze Co. v. Syria Imp. Asso., 226 Pa. 475; 75 A. 668; O'Kane v. Murray, 65 Pitts. 155; 14 Del. 284; 26 Dist. 1075.

It seems that the provision of the Act of 1901, allowing defendant, at his own option, to substitute bond for licensed property, and thereafter proceed to trial, is not unconstitutional. Schellentrager v. O'Donnell, 44 Super. 43, 48.

Act of March 24, 1909, P. L. 65 (49 PS § 101), relating to mechanics' liens is not unconstitutional as being special legislation for collection of debts, the system of mechanics' lien laws having been in force at time of adoption of constitution. McBride v. Goldstein, 57 Pitts. 437.

Section 22 of mechanics' lien Act of June 4, 1901, P. L. 431 (49 PS § 1 et seq.), is unconstitutional, being special legislation, offending against Const. art. 3, sec. 7, prohibiting special laws changing method for collection of debts or creation, extension or impairing liens. Lisowski v. Ryan, 21 Dist. 174.

Every act of general assembly extending right to mechanic's lien to class of creditors or to character of materials or labor for which right to such lien did not exist at time of adoption of constitution of 1874 is special legislation. Parkhill v. Hendricks, 21 Dist. 566.

Constitutionality of sec. 15 (49 PS §§ 71–74), sustained. Egolf v. Osborne, 28 Montg. 177.

Section 23 of Act June 4, 1901, P. L. 431 (49 PS § 133), giving any party having lien against real estate right to intervene and protect himself against improper lien, is not unconstitutional as being change in method of collecting debts. Crane Co. v. Rogers (No. 1), 60 Super. 305.

Mechanics' Lien Act June 4, 1901, P. L. 431 (49 PS § 1 et seq.), so far as it extends remedy from one in rem to one in personam, violates Art. 3, Sec. 7, of constitution and is void. Ott v. Construction Co., 20 Luz. 183; 47 C. C. 287.

Enlargement of subjects of mechanics' liens by Act June 4, 1901, where old method of procedure for collection of lien debt is retained, does not violate Const. art. 3, § 7. General F. E. Co., v. Vehicle Co., 6 Berks 297.

Section 34 of Act June 4, 1901, P. L. 431 (49 PS §§ 153, 154), permitting defendant to require plaintiff to reply under oath to matters set up in defense, does not violate Const. art. 3, § 7. Seelar v. East End Tile Co., 58 Super. 119.

Mechanics' lien, debts, collection, alterations and repairs, ratification of contract, Act 1901.—Provisions of Secs. 2 and 4 of Act June 4, 1901, P. L. 431 (49 PS §§ 21–24, 28), authorizing mechanics' lien to be filed for alterations and repairs and defining circumstances under which ratification by owner of contract made by another shall be presumed, are not unconstitutional as special legislation. De Armond v. Haviland, 35 Montg. 69; 8 Leh. 189; 28 Dist. 830.

Mechanics' liens, debts, collection, attachment, Act 1901.—Sections 28 and 29 of Act June 4, 1901, P. L. 431, providing process for collecting debts for labor and materials furnished by attaching money due defendant in hands of third party, does not conflict with Const. Art. 3, § 7, as special legislation providing method of collecting debts. Rogers v. Lisowski, 16 Dist. 372; 21 York 61; contra, Dombach v. Smedley Construction Co., 24 Lanc. 201; Trexler v. Kuntz (No. 2), 2 Leh. 208; see also Tenn. Marble Co. v. Grant, 14 Dist. 453, 9 Del. 493.

Mechanics' liens, debts, collection, change of system, limitation, Act 1901.—Sec. 51, Act June 4, 1901, P. L. 431 (49 PS §§ 243, 244), in so far as it attempts to allow amendments of matters of substance after time for filing lien has expired, is unconstitutional because it is an advance on law as it stood prior to Constitution of 1874. South Phila. Builders' Supply Co. v. Testa, 8 D. & C. 794; Davies v. Goldsborough, 74 Pitts. 52.

But provision that plaintiff should be precluded from recovery if he in-

tentionally files excessive lien, does not make it unconstitutional. Lornot v. Williamson, 74 Pitts. 289.

Provisions of mechanics' lien acts, passed since adoption of present constitution, are not invalid where they curtail system of mechanics' liens existing prior to 1874, but only where they attempt any advance on that system. Lobb v. Wheeler, 37 Montg. 277.

Mechanics' liens, debts, collection, claim for gas fixtures, Act 1901.—Section 2 of Act June 4 1901, P. L. 431 (49 PS §§ 21–24), purporting to give lien for gas fixtures, is extension of law as it stood prior to adoption of constitution, and is special legislation in violation of art. 3, § 7, of constitution. Colonial Mfg. Co. v. Rogers, 22 Dist. 714; Col. Mfg. Co. v. Rapp, 22 Dist. 715.

Mechanics' liens, debts, collection, contractor, claim against, Act 1901.—Sec. 35 of Mechanics' Lien Act of June 4, 1901, P. L. 431, 434 (49 PS §§ 155, 156), giving right to subcontractor to pursue contractor personally on judgment procured on sci. fa. sur mechanic's lien, is unconstitutional, and execution issued in pursuance of this section will be stricken off. Brader v. Snyder, 11 Leh. 90.

Mechanics' liens, debts, collection, lien against building alone, Act 1901.—Sec. 38 of Act of June 4, 1901, P. L. 431, which permits mechanics' liens to be filed against building without reference to land, and provides for sale and removal of building for benefit of lien holders is unconstitutional inasmuch as it violates § 7 of Art. 3, which prohibits special legislation "providing or changing methods for collection of debts or enforcing of judgments." Henry Taylor Lumber Co. v. Carnegie Institute, 225 Pa. 486; 74 A. 357.

Mechanics' liens, debts, collection, municipalities, regulating affairs of, Act 1909.—Act May 6, 1909, P. L. 441, providing method to secure and recover money due sub-contractors for labor and materials on municipal improvements, violates art. 3, § 7 of constitution forbidding passage of special laws relating to liens, regulating affairs of municipalities, or changing method for collecting debts. Sax v. School Dist., 237 Pa. 68; 85 A. 91; Lay Const. Co. v. County, 57 Pitts. 506; 1 Mun. 276.

Mechanics' lien, debts, collection, notice of intention, sub-contractor, Acts 1901, 1909.—Section 8 of Act June 4, 1901, P. L. 431, as amended by Act March 24, 1909, P. L. 65 (49 PS § 101), requiring sub-contractor to give notice of intention to file lien, is not special legislation changing method of collecting debts or enforcing judgments. Benton v. Berg Co., 63 Super. 412.

Mechanics' liens, debts, collection, practice, uniformity, Act 1901.—Act June 4th, 1901, P. L. 431 (49 PS § 1 et seq.), relating to mechanics' liens, does not violate Art. 3, sec. 7 of the Constitution forbidding special laws changing method of collecting debts. Atlantic Terra Cotta Co. v. Carson, 248 Pa. 417; 94 A. 72.

The above act is not unconstitutional because it extends practice with regard to affidavits of defense to certain other counties, since effect of such change in procedure tends to promote uniformity and is not special legislation. Id.

Mechanics' liens, debts, collection, priority, advance money mortgages, Acts of 1881, 1901.—Section 13 of Act of June 4, 1901, P. L. 431, providing for priority of mechanics' liens over advance money mortgages, except as to actual value of land before building, is special legislation and offends against Art. 3, § 7, of constitution, prohibiting special laws changing method for collection of debts or creation, extension or impairing liens. Page v. Carr, 232 Pa. 371; 81 A. 430.

For same reason Act June 8, 1881, P. L. 56, is unconstitutional. Id.

Section 28 of Act of June 4, 1901, P. L. 431, is special legislation. Mann v. Tannler, 12 Lack. 39.

Mechanics' liens, debts, collection, procedure, Acts 1836, 1901.—Act June 4, 1901, P. L. 431 (49 PS § 1 et seq.), relating to mechanics' liens does not violate Const. art. 3, § 7, forbidding special laws changing method of collecting debts, merely because it omitted portion of Act June 16, 1836,

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P. L. 695, which regulated time for issuing scire facias. Atlantic Terre Cotta Co. v. Carson, 53 Super. 91.

Any provision of Mechanics' Lien Act of June, 1901, which changes law as it stood prior to adoption of constitution of 1874, violates Const. art. 3, § 7, forbidding special laws changing method of collecting debts. Sumption v. Rogers, 53 Super. 109; Malone v. Hosfeld, 53 Super. 134.

If sec. 12 of Act of 1901 (49 PS §§ 54, 55), forbidding apportioned claim but allowing separate claims of amounts due by apportionment, were construed to cover cases where buildings are separated by public street, such section would be unconstitutional. Sumption v. Rogers, supra.

Mechanics' liens, debts, collection, public service corporation, railway, power house, Acts 1870, 1901.—The method provided by § 46 of Act June 4, 1901, P. L. 431, for enforcing liens against public service corporations, is special legislation and said section is void. Vulcanite Paving Co. v. Transit Co., 220 Pa. 603; 69 A. 1117.

A lien cannot be enforced against a power house of such company as in other cases, but remedy is under § 46 by proceeding in accordance with Act April 7, 1870, P. L. 58 (12 PS §§ 1337, 1338). Id.

Memorial building, soldier's monument, Act 1903.—Act April 3, 1903, P. L. 136, allowing counties of certain population to erect memorial building instead of monument to soldiers of civil war, is proper classification according to population. Yoho v. Allegheny Co., 218 Pa. 401; 67 A. 648.

Mines, anthracite tax, classification, Act 1921.—Act May 11, 1921, P. L. 479 (72 PS §§ 2501–2503), imposing state tax on anthracite coal is not special and does not violate Const. Art. 3, Sec. 7 forbidding special or local legislation. Heisler v. Colliery Co., 274 Pa. 448; 118 A. 394; Mahon v. Coal Co., Id. 448; 118 A. 394.

Classification may be based on existence of differences recognized in business world on want of adaptability of same subjects to same method of taxation, on importance of uniformity of results or considerations of public policy. Id.

Distinction between mining of anthracite and bituminous coal has always been recognized and conditions of population mentioned in Act of 1921 form proper basis for classification. Id.

Mines, anthracite tax, classification, interstate commerce, tax on, uniformity of tax, Act 1921.—Anthracite coal is proper subject for classification under constitution, and taxing Act of May 11, 1921, P. L. 479 (72 PS §§ 2501–2503), is therefore constitutional. Com. v. Phila. & R. C. & I. Co., 278 Pa. 338, af. 25 Dauph. 508; S. P. Meadow Creek Coal Co., 25 Dauph. 497.

Where number of tons of coal prepared for market each day is approximated as nearly as conditions permit, and checked up while in coal cars, there is substantial compliance with Act 1921, supra, and tax so levied is not one on transportation or interstate commerce. Id.

Tax levied is uniform and therefore constitutional, although daily price of coal fluctuates. Id.

Mines, injury to workman, mine foreman, negligence, Acts 1891, 1901.—Sec. 6 of Act May 29, 1901, P. L. 342 (52 PS § 598), making owner of mine liable to injured workman for negligence of mine foreman in failing to comply with provisions of act, is not unconstitutional. Hannon v. D. & H. Co., 20 Luz. 187.

Act of 1901 was manifestly intended to remedy defects for which certain provisions of Act June 2, 1891, P. L. 176, relating to anthracite coal mines, had been declared unconstitutional. Id.

Term "mine foreman" used in Act of 1901 is not limited in meaning to "certified mine foreman" mentioned in Act of 1891, but means person who, on behalf of operators, shall have immediate supervision of mine. Id.

Minors, employment in mines, public officer, school superintendent, interest in question of constitutionality, Act of 1905.—So much of the Act of

May 2, 1905, P. L. 344, regulating the employment of minor children in anthracite coal mines, as requires the furnishing of employment certificates by the superintendent of schools, etc., is bad as arbitrarily discriminating against minors who cannot produce a certificate of registration of birth, etc. Collett v. Scott, 30 Super. 430; affirming 13 Luz. 61.

A superintendent of schools has an interest to question the constitutionality of the act. Id.

Mothers' pension, Acts 1913, 1915.—Acts April 29, 1913, P. L. 118, and June 18, 1915, P. L. 1038, do not violate art. 3, sec. 7 of constitution, for reason that they are not to become operative in any county until accepted by county authorities. Com. v. Schlager, 18 Lack. 16; 14 Del. 256.

Municipal assessments, re-payment, Act 1917.—Act July 5, 1917, P. L. 682 (53 PS § 631), relating to repayment to property owners of money paid on claims erroneously assessed against them, is not unconstitutional as being special and local legislation. Rubinsky v. Pottsville, 81 Super. 105.

Municipal claims, debts, collection of, Acts 1907, 1909.—Act April 4, 1907, P. L. 40, as amended by Act March 25, 1909, P. L. 78, giving municipalities right to collect claims by lien or action of assumpsit is not local or special law changing method of collecting debts within art. 3, sec. 7 of constitution. Phila. v. DeArmond, 63 Super. 436.

Municipal court, practice, Act 1913.—Section 12 of Act July 12, 1913, P. L. 711 (17 PS §§ 681–699), regulating practice in municipal courts in cities of first class, does not violate Const. Art. 3, Sec. 7 forbidding passage of local or special law regulating practice in courts. Phila. & Reading Ry. v. Walton, 248 Pa. 381; 94 A. 79; aff. 23 Dist. 535; Torak v. Ry., 60 Super. 248.

The Constitution does not require Municipal Court to exercise same jurisdiction or adopt same procedure as Common Pleas; the former being of a different class or grade than latter. Id.

Municipal elections, indebtedness, increase, validating Act of 1911.—Act June 19, 1911, P. L. 1044, validating municipal elections for increasing indebtedness, which were invalid because of failure to observe certain statutory requirements, is not special legislation, as it applies to all municipalities. Swartz v. Boro., 237 Pa. 473; 85 A. 847.

Municipal improvements, assessment of property outside of borough abutting on boundary street, Act 1907.—Act May 28, 1907, P. L. 287 (53 PS § 741), providing for assessment for street improvements where property abuts on side of street opposite municipality making improvement but which lies outside of boundary, is not local or special legislation because act is limited to cases where property and municipality are both in same county and does not apply to like condition where property and municipality are in different counties. Ben Avon Boro. v. Crawford, 64 Super. 163.

Municipal liens, Act 1901.—Act of June 4, 1901, P. L. 364, allowing municipal lien for lighting, does not violate Const. sec. 7, art. 3, prohibiting local laws creating liens, since act applies to every municipality in state. Franklin Guards v. Boyer, 70 Super. 263.

Municipal liens, borough street, state highway, Act 1923.—Act March 29, 1923, P. L. 47 (36 PS §§ 371, 372), authorizing assessment by foot-front rule of borough's share of cost of improvement, constructed by state highway department, upon owners of real estate abutting on improvement, is not local or special law within prohibition of art. 3, sec. 7 of constitution, although act does not embrace like improvement within cities or townships. Ligonier Bor. v. Deeds, 13 West. 156; 16 Mun. 170.

Municipal ordinance:
Municipalities — Ordinances (Law).

Municipalities, government of, Act 1919.—Section 8, art. 17, Act June 25, 1919, P. L. 581 (53 PS §§ 2901 et seq.), relating to government of cities of first-class and prohibiting borrowing money or incurring debt for cur-

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rent expenses, is not local or special law. Kraus v. Phila., 265 Pa. 425; 109 A. 226.

Municipalities, wards, redistricting, ministerial act, Act 1905.—Act of April 24, 1905, P. L. 307 (53 PS §§ 9901–9907), relating to redistricting of cities of second class into wards is not unconstitutional, nor violation of Art. 3, § 7 of constitution forbidding local or special legislation regulating practice or jurisdiction of courts. Pittsburg's Redistricting, 37 Super. 525.

Division provided by act is of ministerial and not of judicial character, and power conferred on president judge of county in which city is situated to appoint commission to divide city into wards is proper exercise of legislative authority. Id.

Normal school, supplies, sale by trustee of school, affairs of county, Act 1903.—Act April 23, 1903, P. L. 285 (18 PS § 1822), forbidding officers or managers of institutions receiving appropriations of state money from selling supplies to such institutions, is not a regulation of "affairs of the county," within Art. 3, § 7, of constitution. East Stroudsburg Normal Sch. v. Yetter, 33 Super. 557.

Notice of intention to pass, local acts, repeal.—Where general law repeals local act it is not necessary to publish notice of intention to apply for passage of local or special bill as required by § 8, Art. III, of constitution. Lutz v. Matthews, 37 Super. 354.

Notice of intention to pass, publication, county officers, compensation for collections, Act 1901.—Act July 10, 1901, P. L. 630, relating to compensation of county officers or agents of commonwealth for collecting money "in counties co-extensive with cities of first class," is a local or special law, and, having been passed without publication, is unconstitutional. Com. v. Klemmer, 10 Dauph. 110.

Notice of intention to pass, publication, factory inspection, Acts of 1874, 1909.—Act of May 3, 1909, P. L. 417, providing for inspection of fire-escapes, etc., having been declared constitutional by supreme court, must be enforced by the factory inspector without inquiring whether publication of intention to introduce it into legislature was made in accordance with Art. 3, § 8, of constitution and Act of Feb. 12, 1874, P. L. 43 (17 PS §§ 1511, 1512). Factory Inspection, 20 Dist. 679; 38 C. C. 674.

Where special act has been duly approved, it is presumed that publication was made according to law and court will not inquire whether or not this was done. Id.

Notice of intention to pass, publication, presumption, poor district, director-at-large, Act 1917.—Act May 25, 1917, P. L. 305, providing for director-at-large of Middle Coal Field Poor District, composed of parts of Carbon and Luzerne counties, is local in application, and is ineffective, lacking previous notice of intention to pass, required by art. 3, sec. 8, of constitution of Pennsylvania. Eckert v. Walsh, 20 Luz. 77.

Presumption that law as to notice was complied with is offset by admission of commissioners that required advertisement was not given. As publication was required in both counties, omission to publish in one voids operation of act in both. Id.

Ordinances.—An ordinance is not a law within meaning of constitution prohibiting special legislation. Taylor v. Philadelphia, 261 Pa. 458; 104 A. 766; Nussbaumer v. Boro., 71 Pitts. 234.

Park Commission, powers, city of Philadelphia.—Act April 17, 1913, P. L. 93 (53 PS § 3766), vesting in Park Commission of Philadelphia powers over parks and parkways, other than Fairmount Park, is local and special law as it applies to City of Philadelphia only and is therefore unconstitutional. Phila. v. Spangler, 9 D. & C. 577.

Partnership Act of 1915.—Not decided whether Uniform Partnership Act of March 26, 1915, P. L. 18 (59 P S § 1 et seq.), is special legislation. Hall's Est., 266 Pa. 312, 314, 317; 109 A. 697.

Party walls, Act 1899.—Act May 5, 1899, P. L. 193, relating to party walls, is not improper class legislation. McGlumphy v. Lentz, 69 Super. 36.

Pharmacists, registered, corporation, Act 1927.—Act May 13, 1927, P. L.

1009, prohibiting any corporation from establishing, owning or conducting pharmacies, other than those owned or conducted by it at time of passage of above act, unless all members of such corporation are registered pharmacists, violates 14th amendment of federal constitution. Evans v. Baldridge, 294 Pa. 142; 144 A. 97.

Plumbers, Act 1901.—Act of June 7, 1901, P. L. 493 (53 PS §§ 2551–2630), relating to plumbing, is not improper classification merely because some of its provisions are not applicable to certain cities having sewerage systems differing from others. New Castle v. Withers, 291 Pa. 216; 139 A. 860.

Plumbers, registration, Act 1895.—Act June 24, 1895, P. L. 232 (53 PS §§ 2162–2165), relating to registration of plumbers, is not unconstitutional because it applies only to boroughs and cities having sewerage system. Com. v. Shafer, 32 Super. 497.

Politics, participation in by municipal employees, cities of first class, affairs of municipality, Act of 1906.—Act of Feb. 15, 1906, P. L. 19, providing for manner of appointment, suspension and removal of officers, clerks and employees of cities of first class and prohibiting them from taking part in political movements, is not local or special law within prohibition of Const. art. 3, sec. 7, because it relates only to cities of first class, as subject of legislation relates to exercise of corporate powers and duties of officers employed in management of municipal affairs. Com. v. Hasskarl, 21 Dist. 119.

Poor districts, local law, Act 1831.—Legislation for poor districts, though it be local in character, is not forbidden by Art. 3, Sec. 7 of Constitution, and therefore Act April 4, 1831, P. L. 422, was not invalidated by adoption of constitution. Tosh v. Schlottman, 2 D. & C. 256.

Poor laws, relief, settlement, affairs of municipalities, Act of 1903.—Those parts of Act of March 6, 1903, P. L. 18, which provide for relief of needy, sick and indigent persons who have no known settlement in commonwealth at expense of county where relief is required, do not contravene § 7, Art. 3 of constitution, relating to special and local legislation regulating affairs of municipalities. Pulaski Twp. Poor Dist. v. County, 222 Pa. 358; 71 A. 705.

Poor laws, settlement, Act of 1903.—The Act of March 6, 1903, P. L. 18 (62 PS § 1813), imposing on counties in which poorhouses are not maintained the burden of supporting paupers who have no known legal settlement is bad. Renovo Boro. v. Clinton Co., 32 C. C. 209; 36 Pitts. 318; 2 Leh. 39. See contra. Kittanning Boro. Poor Dist. v. Armstrong Co., 34 C. C. 221.

Poor laws, support, affairs of county, Act 1903.—Act March 6, 1903, P. L. 18 (62 PS § 1813), providing for relief of needy sick and indigent persons having no legal settlement within commonwealth, at expense of county where relief is required, does not violate Art. 3, § 7, of the constitution, relating to local legislation regulating affairs of county. Pulaski Twp. Poor Dist. v. Co., 34 Super. 602.

Prison inspectors, affairs of counties, Act 1911.—Board of prison inspectors of Berks county is quasi-corporation, and as such it is agency of state distinct from county, and "affairs" of two are separate. As such Act June 19, 1911, P. L. 1070, although local and special legislation, is not in contravention of art. 3, § 7, of constitution, which prohibits local or special legislation regulating affairs of counties. Dundore v. Controller, 4 Berks 390.

Private banking, regulating, Act 1911.—Act June 19, 1911, P. L. 1060 (7 PS § 711 et seq.), providing for licensing and regulating private bankers, is not void as special legislation merely because it exempts from its operation bankers who have done business continuously for seven years prior to approval of Act and who are not engaged in sale of railroad or steamship tickets. Com. v. Grossman, 248 Pa. 11; 93 A. 781; Com. v. Bilotta, 61 Super. 264; Com. v. Frasso, 5 Berks 230.

Prospective construction.—Provisions of Const. art. 3, sec. 7, forbidding special or local legislation is prospective only and does not affect laws in force before adoption of constitution. Com. v. Lucas, 30 Dist. 963.

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Prothonotary, fees, affairs of county, Act 1919.—Act July 17, 1919, P. L. 1001 (17 PS § 1580), which provides that in counties having less than 70,000 population, prothonotary shall receive fee of $5.00 for each day of his attendance at court, to be paid by county, violates art. 3, sec. 7, of Constitution, forbidding passage of local or special laws regulating affairs of counties, and is void. Sieber v. County, 30 Dist. 449.

Public halls, fire escapes, affairs of municipalities, classification, Act 1909.—Act May 3, 1909, P. L. 417, requiring exits, fire escapes and other safeguards in buildings where people assemble, but excluding buildings situated in cities of the first and second classes, is local because of such exclusion, but is not a regulation of "affairs" of municipalities and therefore not within the prohibition of Art. 3, § 7, of the constitution. Roumfort Co. v. Delaney, 230 Pa. 374; 79 A. 653.

Stewart and Moschzisker, JJ., concur in decision but base their conclusion on the ground that the purpose of the act is an "affair" of the municipality, and the subject matter properly within the sphere of established classification. Id.

Public improvements, claims for labor and materials, collection of debt, procedure, Act 1903.—Act April 22, 1903, P. L. 255, providing method of recovering for labor and materials furnished public improvements in lieu of lien given by mechanics' lien act, violates art. 3, § 7, forbidding special laws changing method of collecting debts. Smith's Appeal, 241 Pa. 336; 88 A. 491.

Public schools, Act 1911.—Act May 18, 1911, P. L. 309 (24 PS § 1 et seq.), is not unconstitutional as being local or special law. Minsinger v. Rau, 236 Pa. 327; 84 A. 902; Com. v. Sch. Dist., 39 C. C. 385; Com. v. Plummer, 21 Dist. 182; Flannelly v. Manley, 13 Lack. 168.

Act May 18, 1911, P. L. 309 (school code; 24 PS § 1 et seq.), is intended to cover whole school system of commonwealth, and is in no sense local law within prohibition of art. 3, sec. 8 of constitution. Flannelly v. Manley, 13 Lack. 168.

Public schools, affairs of county, Act 1915.—Act May 5, 1915, P. L. 244, requiring counties containing population not less than 750,000 nor more than 1,200,000 to establish certain schools for care of children, is void as a local and special law regulating affairs of counties, since it does not provide for method of enforcement in counties that might subsequently come within class. Com. v. Gumbert, 256 Pa. 531; 100 A. 990.

Public schools, attendance, inmates of orphans' homes situated in two districts, Act 1915.—Act June 1, 1915, P. L. 670 (24 PS § 1372), providing that where orphans' homes or other institutions furnishing free support for children of school age own adjacent real estate situated in two or more school districts, the pupils residing thereon should have right to attend in any of said districts, is improper classification and violates article 3, section 7 of Constitution relating to special or local laws. Com. v. Schumaker, 255 Pa. 67; 99 A. 214.

Public school, directors, appointment of tax collector.—The fact that in districts of second class school board may appoint tax collector while in others they may not, does not render Act May 18, 1911, P. L. 309 (24 PS § 1 et seq.), unconstitutional. Com. v. Dusman, 240 Pa. 464; 87 A. 783.

Public school districts, classification, Act 1911.—School code of May 18, 1911, P. L. 309 (24 PS § 1 et seq.), dividing districts in accordance with population, and providing that in districts of first class directors shall be appointed by courts, is not improper classification. Minsinger v. Rau, 236 Pa. 327; 84 A. 902.

Public schools, districts, townships, public health, police power, Act of 1899.—Act of April 11, 1899, P. L. 38, empowering school directors of townships to exercise powers of board of health, and to make rules and regulations to prevent spread of contagious or infectious diseases, is not special legislation, nor diversion of school funds. School District v. Montgomery, 227 Pa. 370; 76 A. 75; 38 Super. 483.

Public schools, high schools, attendance from another district, Act 1905.—Act of March 16, 1905, P. L. 40, relating to tuition of children in high schools outside of districts in which children reside is not local or special legislation. Hughesville Boro. Sch. Dist. v. Dist., 40 Super. 311.

Public Service Commission, appeals from, courts, practice, Act 1915.—Act June 3, 1915, P. L. 779 (66 PS § 351 et seq.), providing that appeals from findings and orders of public service commission shall be taken to Superior Court, is not special legislation within article 3, section 7. West Va. Paper Co. v. Public Service Commission, 61 Super. 555.

Realty, possession, proceedings, Schuylkill county, Acts 1871, 1905.—Act of April 20, 1905, P. L. 239 (12 PS § 2513 et seq.), relating to possessory proceedings to recover possession of real estate purchased at judicial sales, is general act, and repeals Act of May 13, 1871, P. L. 820, relating to Schuylkill county, and is not affected by § 8, Art. III, of constitution, relative to publication of notice of intention to apply for passage of local or special bill. Lutz v. Matthews, 37 Super. 354.

Register of wills, salary, affairs of county, classification, Act 1913.—Act July 21, 1913, P. L. 878, fixing salary of register of wills in counties having population of 1,500,000 and providing that all fees shall be paid into county treasury, is a local statute regulating affairs of county and violates Art. 3, Sec. 7 of Constitution. Phila. Co. v. Sheehan, 263 Pa. 449; 107 A. 14.

In such case population of county has no relation to subject matter of statute and classification cannot be sustained. Id.

Repeal by constitution:

Criminal Law—Concealed Weapons (Special).

Repeal in part of local law, amendment, taxes, rebate, Acts of 1851, 1855 and 1895.—The Act of April 9, 1895, P. L. 33, repealing section 2 of the local Act of April 3, 1851, P. L. 317, which was extended to Washington county by the Act of May 8, 1855, P. L. 528, and which provided a deduction of 5 per cent. from the amount of taxes if paid before a certain time, is unconstitutional and void under Art. III, sec. 7 of the constitution, forbidding the passage of local laws. Munnell v. Morgan, 15 Dist. 819.

A local law may be passed to repeal a prior local law; but a repeal of a part only of such law is an amendment thereof and within the prohibition of the constitution. Id.

Road taxes, working out, Act 1905.—Act April 12, 1905, P. L. 142, providing for abolition of work tax at election of taxpayers of townships, does not violate Art. 3, § 7, forbidding local or special laws. Foster Twp. Rd. Tax, 32 Super. 51.

Salary, bond, Acts 1907, 1911.—Act March 4, 1911, P. L. 10, extending provisions of salary bond act of April 4, 1907, P. L. 58, to counties containing certain population, is local and special, as there is only one county that comes within its provisions and no provision for admission of other counties which may subsequently have required population. Davis v. Moore, 50 Super. 494.

Sales act, debts, collection, Act 1915.—The Sales Act of May 19, 1915, P. L. 543 (69 PS § 1 et seq.), requiring contract for sale in excess of $500 to be in writing is constitutional. Mason-Heflin Company v. Currie, 270 Pa. 221; 113 A. 202.

Scaffold, inspection, Act 1907.—Act April 15, 1907, P. L. 81 (53 PS §§ 2261–2264), to regulate construction, maintenance and inspection of scaffolding, etc., within limits of cities of first, second and third class, is unconstitutional, being local law. Jodoin v. Ball, 43 C. C. 555.

Secret societies, emblems, wearing with intent to deceive, Act 1907.—Act March 28, 1907, P. L. 35 (18 PS §§ 2719, 2720), making it a misdemeanor to wear the emblem, with intent to deceive, of any secret society which "has had a grand lodge having jurisdiction in this state for ten years or more," does not violate Art. 3, § 7, clause 27, forbidding special legislation. Com. v. Martin, 35 Super. 241.

Securities Act, "trade," act unconstitutional in part, presumption, intention of legislature, Act 1923.—Act

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June 14, 1923, P. L. 779, known as Securities Act, is not special legislation within article 3, sec. 7 of constitution. Bagley v. Cameron, 282 Pa. 84; 127 A. 311.

Word "trade" used in above act has particular significance and includes not only business of exchanging commodities, but of buying and selling for money generally and dealing in securities for profit. Id.

Where part of act found to be unconstitutional can be severed from rest of statute and Act contains clause which saves remainder when portion is declared unconstitutional, presumption is that legislature would have passed Act notwithstanding its unconstitutional parts. Id.; Com. v. Moore, 5 D. & C. 738.

Sesqui-centennial exhibition, appropriations for, transfer of, legislation for debts incurred, Acts 1789, 1919, 1923, 1927.—Act of July 11, 1923, P. L. 1037 (53 PS § 3278), authorizing city of first class to borrow money to pay for public sesqui-centennial exposition, and Act April 6, 1927, P. L. 123, giving it power to appropriate money to pay for services already rendered and materials previously furnished on account of such exposition, whether directly to city or to agency for purpose of carrying out project, are not invalid as local and special legislation. Sambor v. Hadley, 291 Pa. 395; 140 A. 347; Blumly v. Hadley, 291 Pa. 411; 140 A. 353; Turner Constr. Co. v. Mackey, 291 Pa. 412; 140 A. 353.

The legislature had at all times power to authorize cities to incur indebtedness for such purposes and under Act March 11, 1789, sec. 16, 2 Sm. L. 462 (53 PS § 6364), city had general power to make appropriations for celebration of an important historical event such as signing of Declaration of Independence. Id.

Sec. 10 of Art. 17, of Act June 25, 1919, P. L. 581 (53 PS § 3280), relating to cities of first class and providing that no liability for services, shall be enforceable unless there shall have been a previous appropriation, supplemented by Act April 3, 1923, P. L. 50 (53 PS §§ 4591–4598), giving such cities power to transfer previously authorized loans from original purpose, if the purpose for which it is intended to accomplish was lawful at time of original authorization, sustains act of city in transferring appropriation from department of city treasury to the Sesqui-centennial Exhibition Association, created for carrying out the same purpose, but if there was any irregularity it was cured by the Act of March 2, 1927, P. L. 7, validating all elections to approve a change of purpose of loans by cities of first class in furtherance of sesqui-centennial celebrations. Id.

Where a city has pledged its faith and credit to carry on public celebration through agent, corporation created for that purpose, and such agent has contracted debts pursuant thereto, city may, under its moral obligation, appropriate money to pay such debts. Id.

Sewage, pollution of water, Act 1905.—Act of April 22, 1905, P. L. 260 (35 PS § 711 et seq.), forbidding deposit of sewerage into waters of state, does not violate Art. III, § 7. Com. v. Emmers, 221 Pa. 298; 70 A. 762.

Sewage, pollution of water, municipalities, Act 1905.—Act April 22, 1905, P. L. 260 (35 PS § 711 et seq.), forbidding deposits of sewage in waters of state, does not violate Art. 3, § 7, prohibiting local or special laws granting to any corporation or individual any special privilege or immunity, because it allows municipalities with sewage system constructed prior to act to continue to discharge sewage in rivers, while denying same privilege to individuals or private corporations. Com. v. Emmers, 221 Pa. 298; 70 A. 762; aff. 33 Super. 151.

Municipal corporations are not included in said section. Id.

Sheriffs, fees, affairs of counties, Act 1911.—Act June 20, 1911, P. L. 1072 (16 PS §§ 2731–2733), is unconstitutional inasmuch as it violates art. 3, sec. 7 of constitution prohibiting special and local legislation regulating affairs of counties. Renno v. County, 42 C. C. 671; 24 Dist. 619; 13 Just. 281; Parker v. County, 24 Dist. 837; Kradel v. County, 24 Dist. 106; Harpe v.

County, 24 Dist. 554; Reese v. County, 44 C. C. 353; Waite v. County, 44 C. C. 457; Jones v. Chester Co., 21 Dist. 742; Meyers v. County, 13 North. 396; 22 Dist. 757; Hochard v. County, 22 Dist. 751; Glass v. County, 22 Dist. 753; 1 Northum. 21; Meredith v. County, 12 Just. 14.

Street railways, fares, regulation, cities of second class, Act 1907.—Act June 7, 1907, P. L. 453, regulating street car fares in cities of second class, is not local or special legislation within prohibition of constitution. Ashworth v. Ry., 34 C. C. 253; 38 Pitts. 138.

Act June 7, 1907, P. L. 453, regulating maximum rate of fare to be charged by street railways in cities of the second class, and limiting fare for single ride to five cents, is unconstitutional as improper classification, because it does not regulate municipal affairs or relate to the exercise of corporate powers, and hence is not a purpose for which cities may be classified. Ashworth v. Ry., 231 Pa. 539; 80 A. 981.

Streets, improvement, assessment, Act 1911.—Act May 12, 1911, P. L. 288, giving boroughs power to pave streets and assess portion of cost on abutting owners, is not local or special legislation since it refers to all boroughs. South Fork Borough v. R. R. 251 Pa. 261; 96 A. 710.

Streets, improvement, assessment outside corporate limits, Act 1907.—Acts May 28, 1907, P. L. 287, authorizing municipalities to assess abutting property outside corporate limits to pay for street improvements, is not local legislation within article 3, section 7 of Constitution. Ben Avon Boro. v. Crawford, 64 Super. 163.

Suit against commonwealth, Act 1917.—Act May 10, 1917, P. L. 159, authorizing certain individual to sue state, is unconstitutional as special act creating liability where none existed. Collins v. Comm., 262 Pa. 572; 106 A. 229; Swift v. Comm., 262 Pa. 580; 106 A. 232.

Suit against commonwealth, injury to realty, dam, commission of soldiers' orphans' schools, Act 1915.—Act May 28, 1915, P. L. 616 (12 PS § 145), authorizing suit to be brought against commonwealth by specified owners of realty for injury to property and impairment of water power caused by erection of dam by commission of soldiers' orphans' schools, violates art. 3, sec. 7, of Constitution. Schleicter v. Com., Dauph. 1920, 58; 48 C. C. 539.

Suit against commonwealth, state highways, construction and improvement, practice, debts, collection, Acts 1917.—Acts April 5, 1917, P. L. 37, 38 (36 PS §§ 2641–2643), and April 19, 1917, P. L. 86, authorizing suits to be brought against commonwealth by specified contractors for price of labor and materials furnished for construction and improvement of state highways, violate art. 3, sec. 7, of Constitution, which forbids special legislation regulating practice, etc., in any judicial proceeding, or changing methods for collection of debts. Souder v. Com., Dauph. 1920, 54; 68 Pitts. 218; 29 Dist. 254; 48 C. C. 534; Somerset Contracting Co. v. Com., Dauph. 1920; 57; 48 C. C. 537.

Taxes, collection, townships of first class, Act of 1907.—Act of May 28, 1907, P. L. 273, conferring on township treasurer in townships of first class right to collect state and county taxes is not special or local legislation. Cornman v. Hagginbotham, 227 Pa. 549; 76 A. 721; Dane v. Poor Directors, 19 Dist. 983.

Taxes, collection, townships of first class, Act of 1909.—Act of May 1, 1909, P. L. 301, is unconstitutional because it is attempt indirectly to enact special or local law by partial repeal of general law, and attempt to affect only part of townships of first class contrary to § 7 of Art. 3. Cornman v. Hagginbotham, 227 Pa. 549; 76 A. 721.

Taxes, collectors, appointment, third class cities, Act 1913.—Act April 15, 1913, P. L. 75 (72 PS § 5529), providing collector of county tax in cities of third class of counties having board of assessment and revision under Act March 24, 1905, P. L. 47 (72 PS § 5271, et seq.), should be appointed by said board, is local or special law. Hart v. Moore, 16 Luz. 473.

Taxes, exemption, burial ground, Acts 1901, 1903.—Act June 4, 1901, P.

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L. 364, as amended by Act March 19, 1903, P. L. 41, exempting from taxation and assessment burial grounds not used for profit, is proper classification. Pittsburg v. Cemetery Ass'n., 44 Super. 289.

Taxes, exemption, farmers, Acts 1834, 1844.—Acts of April 29, 1844, P. L. 486, § 32, amending Act of April 15, 1834, P. L. 509, § 3, cl. III, exempting farmers from occupation taxes, is constitutional. Thompson v. Co., 83 Super. 248.

Taxes, securities held by corporation for individuals, Act 1911.—Provision of Act June 7, 1911, P. L. 673, that securities held by corporations in any other manner than for the whole body of stockholders shall be taxed as if they belonged to individuals, does not create unlawful classification. Provident Life & Trust Co. v. McCaughn, 245 Pa. 370; 91 A. 672.

Title, land, acquired at tax sale, Act 1919.—Act May 16, 1919, P. L. 180 (53 PS § 2111 et seq.), providing method of establishing title to land acquired at sale for unpaid taxes or municipal claims, is not unconstitutional as it is not retroactive or forbidden special legislation. Patterson v. Dunkle, 74 Pitts. 317; 40 York 49; 8 D. & C. 265.

Townships, classification, by population, Act 1899.—Act April 28, 1899, P. L. 104, classifying townships according to density of population, is constitutional. Travis v. Lehigh Coal Co., 33 Super. 203.

Trust companies, assets, priority, distribution, debts, collection, Act 1913.—Act May 23, 1913, P. L. 354 (7 PS § 689), giving to depositor of trust company priority on distribution of its assets is not unconstitutional as local or special law providing method of collecting debts. Cameron's Account, 287 Pa. 560; 135 A. 295.

Tuberculosis hospitals, establishment by counties, Act 1925.—Act of March 23, 1925, P. L. 65, providing for establishment of tuberculosis hospitals by counties, is not local or special legislation merely because it requires vote of majority of electors of each county in favor of such hospital. Com. v. Woodring, 289 Pa. 437; 137 A. 635; af. 43 Montg. 107; see also vol. 1926, same subjects.

Statutes general in character are not unconstitutional because by their adoption in some counties and not in others local results may be produced. Id.

Turnpikes, condemnation of, repairs, Acts 1905, 1907.—Acts of April 20, 1905, P. L. 237, and April 25, 1907, P. L. 104 (53 PS § 569), relating to appropriation of turnpikes for public use free from tolls, and maintenance thereof by counties, cities or boroughs are constitutional. Clarion County v. Clarion Twp., 222 Pa. 350; 71 A. 543; aff. 36 Super. 302; Com. v. Van Bowman, 35 Super. 410.

Turnpikes, freeing from tolls, Act 1905.—Act April 20, 1905, P. L. 237 (53 PS § 569), relating to appropriation of turnpikes for public use free of tolls, is class legislation within Const. art. 9, § 1, as to taxation, and Const. art. 3, § 7, and unconstitutional. Com. v. Bedford Co. Com., 23 Montg. 34; 16 Dist. 353; 20 York 171; Haines Twp. v. Centre Co., 33 C. C. 433; 16 Dist. 659; contra, Com. v Von Bowman, 34 C. C. 87.

Turnpikes, maintenance, Act 1905.—Act April 20, 1905, P. L. 237 (53 PS § 569), relating to care of condemned turnpikes by counties, does not violate provisions of constitution relating to special legislation. Com. v. Commissioners, 7 D. & C. 2.

Vaccination, compulsory, Act of 1895.—The Act of June 18, 1895, P. L. 203, requiring exclusion from public schools of children who have not been vaccinated, is not local legislation, because township school districts may possibly not be included in the act. Stull v. Reber, 215 Pa. 156; 64 A. 419.

Vocational schools, Act 1913.—Act May 1, 1913, P. L. 138 (24 PS § 1651 et seq.; 72 PS §§ 4281–4283), defining vocational education and providing for vocational schools is not unconstitutional as special legislation. Benton Boro. Sch. Dist. v. Dist., 50 C. C. 399.

Wages, attachment for board, debt, collection, Acts 1876, 1905, 1913.—The Acts of April 10, 1905, P. L. 134 (42 PS § 621), and May 1, 1913,

P. L. 132 (42 PS §§ 621, 622), authorizing attachment of wages on judgments for board are unconstitutional as special legislation. Schmidt v. Schmidt, 24 Lack. 108; 71 Pitts. 315; 16 Del. 287; 3 D. & C. 461; 37 York 78; 5 Erie 109; 38 Lanc. 585; Michaels v. Cunningham, 58 Pitts. 261; Anderson v. Martinez, 4 D. & C. 464; Phillips v. Burchinal, 6 Wash. 85; 17 Del. 315; 74 Pitts. 294; Railway Co. v. McMillan, 20 Dist. 327; 59 Pitts. 48; 9 Just. 242; Yosavich v. Yereshune, 59 Pitts. 78; 9 Just. 236; Defano v. Tin Plate Co., 4 Leh. 286; Antreason v. Samarsien, 18 Dist. 335; 10 Lack. 129; 7 Just. 253; Jenkins v. Davis, 14 Luz. 353; 8 Just. 6; 18 Dist. 928; Penna. Co. v. Carr, 63 Pitts. 245; 43 C. C. 282; 62 Pitts. 391; Linahan v. Lawson, 24 Dist. 628; 43 C. C. 533; Linahan v. Lawson, 24 Dist. 628; Sheffield v. Goldstram, 16 Lack. 290; See Contra; Neilniczek v. Nesuruk, 2 Berks 191; 19 Dist. 741; Nowak v. Filerty, 20 Dist. 328; 12 North. 362; Mendola v. Pellerite, 21 Dist. 391.

The Act of May 8, 1876, P. L. 139 (42 PS § 621), is constitutional. Schmidt v. R. R., 83 Super. 125.

Water companies, acquirement by borough, Act 1907.—Act of May 31, 1907, P. L. 355 (53 PS §§ 1241–1247), relating to acquirement of water works by boroughs, does not violate Const. Art. 3, § 7, as being class legislation. Fleetwood Water Co. v. Boro., 1 Berks 69.

Water course, confining, cities of third class, Act 1907.—Act June 1, 1907, P. L. 378 (53 PS §§ 12191–12197), authorizing cities of third class to confine creeks, is not unconstitutional as special legislation, because it applies to cities of third class only. Erie City's App., 297 Pa. 260; 147 A. 58.

Water department, cities of third class, Act 1889.—Section 2, Art. 12, of Act May 23, 1889, P. L. 277, relating to water department in cities of third class, is not unconstitutional as special or local legislation merely because the city of Erie was excluded by terms of said section. Com. v. Heller, 219 Pa. 65; 67 A. 925.

Mere fact that existing exceptions to an act are not immediately abolished does not destroy constitutionality of Act. Id.

Water works, classification as to ownership, Act 1913.—Clauses 13 and 43 of art. 5, § 3 of Act June 27, 1913, P. L. 568 (53 PS §§ 11015, 11051), providing for government of cities of the third class, are not special or local legislation because of provision that they do not apply to any city where title to water works is in name of Commissioners of Water Works. Com. v. Elbert, 244 Pa. 535; 91 A. 227.

Water-works commissions in boroughs, etc., Act 1913.—Act June 5, 1913, P. L. 445 (53 PS §§ 15911–15919), providing for establishing of water-works commissions, is constitutional. Com. v. Krebs, 43 C. C. 425; 11 Sch. 371.

Workmen's compensation, Act 1915.—Act June 3, 1915, P. L. 777 (77 P S § 24), exempting domestic servants and agricultural workers from provisions of workmen's compensation Act June 2, 1915, P. L. 736 (77 PS § 1 et seq.), is not in conflict with sec. 7 of art. 3 of constitution, prohibiting enactment of special legislation. Rheam v. Wharton, 27 Dist. 562.

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Adoption, adults, act containing complete system, Acts 1833, 1889.—Act May 9, 1889, P. L. 168, relating to the adoption of adults as heirs, is not an amendment of Act April 8, 1833, P. L. 315, relating to descent and distribution, and is therefore not unconstitutional because it does not recite latter act. Leinbach's Est., 241 Pa. 32; 88 A. 67.

Act which is complete in itself is valid, though it may operate to alter or repeal a prior act or refer to mode of procedure established by other acts. Id.

Births and deaths, registration, Acts 1885, 1905.—Act May 1, 1905, P. L. 330, providing for registration of births and deaths, is complete in itself and not amendment of Act June 3, 1885, P. L. 56, to which it refers only by reference to its title and is therefore not in con-

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flict with Art. 3, § 6 of constitution. Com. v. Grove, 16 Dist. 440.

Board of viewers, complete system, Act 1911.—Act June 23, 1911, P. L. 1123 (16 PS § 2641 et seq.), establishing a board of viewers in each county, is not unconstitutional because it fails to recite prior acts amended by it. Reber's Pet., 235 Pa. 622; 84 A. 587.

Said act establishes a new system and is complete within itself and needs no aid from prior legislation to give it effect, and constitutional provision does not apply. Id.

Boroughs, division into wards, amendment by reference to title, Acts 1874, 1877.—Act May 14, 1874, P. L. 159, relating to division of boroughs into wards, sufficiently states its subject in the title. Summit Hill Boro., 240 Pa. 396; 87 A. 857; aff. 50 Super. 117.

Nor does Act March 24, 1877, P. L. 47, violate art. 3, § 6, because it merely refers to title of Act of 1874, since it does not purport to amend latter act but is only a supplement thereto. Id.

Corporations, capital stock, bonus, Acts 1919, 1923.—Act May 21, 1923, P. L. 288 (15 PS §§ 165, 166), authorizing corporations to convert their capital into stock with or without nominal par value, is insufficient in title under art. 3, sec. 6 of Constitution, insofar as it attempts to extend by reference to its title only liability imposed by Act July 12, 1919, P. L. 914 (15 PS §§ 181–192), relating to payment of bonus on stock. Com. v. Wayne Sewerage Co., 287 Pa. 42; 134 A. 390.

Corporations, capital stock, bonus, computing on no par value shares, subject expressed, retrospective act, Acts 1919, 1927.—Sections 9 and 11 of Act July 12, 1919, P. L. 914 (15 PS §§ 189, 191), providing that for purpose of computing bonus on corporate stock each share without par value should be considered as having value of $100, do not violate Art. III, Sec. 6 of the constitution providing that no law should be revived or amended by reference to its title only, nor Art. III, sec. 6 requiring acts to contain only one subject which shall be clearly expressed in the title. Com. v. Budd Wheel Co., 290 Pa. 380; 138 A. 915.

Act April 20, 1927, P. L. 322 (72 PS §§ 1821–1827), relating to payment of bonus, is prospective only and does not apply to cases which arose prior to its passage. Id.

Corporations, officers, false accounts, Acts 1860, 1878.—Section 2 of Act June 12, 1878, P. L. 196 (18 PS § 2511 et seq.), entitled as "supplementary" to Act March 31, 1860, P. L. 382 (18 PS § 141 et seq.), relating to false accounts by officers of corporations, and which amends section 117 of Act of 1860 (18 PS § 2512), by adding to it, is not in violation of sec. 6, art. 3 of state constitution, because it recites sec. 117 only as amended. Com. v. Bomberger, 33 Lanc. 65.

County controllers, Act 1913.—Act March 27, 1913, P. L. 10 (16 PS § 1391), amending Act May 8, 1901, P. L. 140, relating to county controllers, does not offend sec. 6, art. 3, as amendment of an act by reference to its title without publishing at length so much as is amended. It is not necessary to republish whole of act to be amended. Com. v. Bankert, 23 Dist. 676.

Divorce, evidence, competency of witness, Acts 1911, 1915.—Act April 21, 1915, P. L. 154, entitled "An act to amend § 1 of an act entitled 'An act enabling the libellant in all proceedings for divorce on ground of desertion to testify to the fact of desertion and to the efforts made by him or her to induce the respondent to return and resume the marital relations,' approved June 8, 1911, by making the libellant a competent witness generally," and amending § 1 of Act June 8, 1911, P. L. 720, so as to make libellant competent witness generally in all proceedings for divorce, does not violate Const. art. 3, sec. 6, relating to amendment of statutes. Krupp v. Krupp, 46 C. C. 1; 26 Dist. 487; 7 Leh. 324; 35 Lanc. 68.

Drugs, adulteration, Act 1909.—Section 3 of Act May 8, 1909, P. L. 470 (35 PS § 784), relating to adulteration of drugs, does not violate Const. art. 3, sec. 6, prohibiting amendment of act by reference to title only. Com. v. Sweeney, 61 Super. 367.

Elections, Acts of 1874, 1899.—The Act of April 28, 1899, P. L. 127 (25 PS § 1991 et seq.), does not recite the Act of February 13, 1874, P. L. 44 (25 PS §§ 221, 1414, 1994 note), providing for returns of elections of township and borough officers, and hence does not repeal it. Computation of Vote, 13 Luz. 75.

Elections, ballot, form, increase of indebtedness of borough, Acts 1893, 1897 and 1903.—The Act of April 29, 1903, P. L. 338 (25 PS § 981 et seq.), prescribing form of official ballot (here used as to increase of borough indebtedness) is constitutional, as it amended Act of June 10, 1893, P. L. 419 (25 PS § 971 et seq.), and July 9, 1897, P. L. 223 (25 PS § 972 et seq.), not only by citing titles, but also by re-enacting entire 14th section with notice of subject in title. McLaughlin v. Boro., 224 Pa. 425; 73 A. 975.

Electrocution, Act 1913.—Act June 19, 1913, P. L. 528 (19 PS §§ 1121–1128), providing for inflicting death penalty by electricity, is complete in itself and does not violate art 3, sec. 6 of constitution requiring parts of acts amended or extended to be published in full. Com. v. Tassone, 246 Pa. 543; 92 A. 713.

Extortion, blackmail, Act 1897.—Act May 27, 1897, P. L. 111 (18 PS § 2931), relating to blackmail and extortion, is unconstitutional, in that it offends against Art. 3, § 6, providing that no law shall be amended by reference to its title. Com. v. Cucovic, 33 C. C. 232; 16 Dist. 1020.

Food law, unconstitutionality of part of act, Act 1907.—Unconstitutionality of first proviso of subsection 5 of § 5 of Act of June 1, 1907, P. L. 386, attempting to extend Act of Congress by reference to title, necessarily results in unconstitutionality of whole of subsection 5, because if the enacting portion of the clause were allowed to stand, persons would be drawn within penalties provided by act who the legislature declares by terms of proviso should not be subject to such penalties. Com. v. Dougherty, 39 Super. 338.

Unconstitutionality of subsection 5 of § 5 does not affect validity and constitutionality of other subsections of § 5, or any other part of act. Id.

Foreign attachment, amendment of amending act, Act 1911.—Section 6, art. 3, Const., is complied with when in enacting amendment to amended section of original act, amended section is set out fully as basis of re-enactment without repeating section of original act. Rieck v. Taxicab Co., 63 Pitts. 795.

Act June 21, 1911, P. L. 1097, is constitutional. Id.

Implied amendments, extending general system.—Constitutional prohibition of amendment by reference to title, relates only to express amendments and does not require acts incidently affected to be recited. Davis v. Moore, 50 Super. 494.

Act applying general system of procedure to new class of cases by general reference does not violate constitutional provision. Id.

Indeterminate sentences, Act 1909.—Indeterminate sentence Act May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), while attempting to modify prior acts without publication thereof at length as required by art. 3, § 6 of constitution, does not do so expressly and is not therefore, unconstitutional on that ground. Com. v. McKenty, 21 Dist. 589; 60 Pitts. 521.

Indeterminate sentences, Acts 1911, 1923.—Act of June 29, 1923, P. L. 975 (19 PS § 1057), purporting in its title to amend sec. 6, Act June 19, 1911, P. L. 1055, and relating to minimum sentences, does not violate sec. 6, art. 3 of constitution by attempting to amend other act by referring to title only. Com. v. Sweeney, 281 Pa. 550; 127 A. 226.

Intervening amendatory act, reference to.—Title of act amending prior act, which recites its title, adding words "as amended," but does not refer in terms to intervening acts, is sufficient. Hoover v. Commrs., Dauph. 1920, 176, 179; 29 Dist. 1103, 1105; Wasson v. Woods, 265 Pa. 442, 446; 109 A. 214.

Intestate law, widow's exemption, subject, expressing in title, Act 1909.—Act April 1, 1909, P. L. 87, relating to widow's preference in husband's estate, does not violate art. 3, § 6 of constitution as being an amendment of prior act by reference to title

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only, since said act refers to general law in force at time of its passage and not to any particular statute. Guenthoer's Est., 235 Pa. 67; 83 A. 617; Deegan's Est., 235 Pa. 88; 83 A. 620; Mercer's Est., 235 Pa. 178; 83 A. 707; Gilbert's Est., 227 Pa. 648; 76 A. 428.

Nor does said act violate art. 3, § 3, because its title recites that it relates to "descent and distribution of estates of intestates" and construction of act applies it to estates of testates where widow claims against will, since it deals with the $5,000, preference as part of intestate's estate and not as going to widow under will. Id.

Landlord and tenant, possession, special law, Act 1905.—Act of March 31, 1905, P. L. 87 (68 PS §§ 366, 367), is not unconstitutional as being amendment of Act December 14, 1863, P. L. (1864) 1125 (68 PS § 364), and because it does not recite at length part of Act 1863 it intended to amend. Wilson v. Wilson, 8 Sch. 89.

Nor is it special legislation. Id.

Limitations, embezzlement, Acts of 1860, 1878.—Section 6 of the Act of June 12, 1878, P. L. 196 (19 PS § 213), amending section 77 of the Act of March 31, 1860, P. L. 427, 450 (19 PS § 211), relating to the limitation of prosecutions for embezzlement by certain officers, does not offend against Art. III., section 6 of the constitution, and is good, although other sections of the act may be bad. Com. v. Shoener, 3 Schuyl. 66, 72, 199.

Liquor law, reference to existing law, Act 1921.—Act May 5, 1921, P. L. 407, passed for purpose of carrying out Eighteenth Amendment, does not violate Art. 2, Sec. 6 of Constitution relating to amendment of acts by reference to title only, since an act may refer to established law without recital thereof. Com. v. Alderman, 275 Pa. 483; 119 A. 551.

Liquor law, reference to existing law, title broader than act, Act 1923.—Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), relating to liquor and providing that violators of previous acts may be prosecuted, is sufficient in title and does not violate constitutional provision prohibiting an act to be revived, amended or extended by reference to its title only. Com. v. Cooper, 277 Pa. 554; 121 A. 502.

It is not necessary to quote part of prior act which remains as it was before amendment.

An Act will not be held unconstitutional merely because title is broader than provisions of act. Id.

Mistake in referring to prior act, affidavit of defense, filing, time of, Acts 1915, 1917, 1921.—Act March 10, 1921, P. L. 16 (12 PS § 411), providing that no affidavit of defense should be required to be filed until return day of the writ, and amending sec. 12 of Act May 3, 1917, P. L. 149, which in turn amended Sec. 12 of Act May 14, 1915, P. L. 483 (12 PS § 411), is not defective in title merely because it mentions specifically Sec. 12 of Act of 1917 when in fact that act contains no such section but was an error in drafting the act, section 12 of act of 1915 being in fact the one which was amended. Roads v. Dietz, 80 Super. 507.

Murder, penalty, power of jury, party not affected by unconstitutional act, Acts of 1860, 1913, 1925.—Act of May 14, 1925, P. L. 759 (18 PS § 2222), giving jury power to determine whether penalty for murder shall be death or life imprisonment, does not, in reenacting section 75 of Act of March 31, 1860, P. L. 382 (18 PS § 2222), violate article 3, section 6 of Constitution relating to revival and amendment of acts previously passed. Commonwealth v. Meyers, 290 Pa. 573; 139 A. 374.

Section 75 of Act of 1860 is not repealed by act of June 9, 1913, P. L. 528 (19 PS §§ 1121–1129), except insofar as method of death is changed from hanging to electrocution, and the remainder of the act was substantially re-enacted by the Act of 1913, and the amendment of 1925 did not revive or re-enact a dead act contrary to the constitution. Id.

Act of 1925 should be construed as part of original Act of 1860 as modified by Act of 1913. Id.

Even if Act of 1925 were held unconstitutional, the Act of 1913 is effective to carry the punishment and meth-

od of inflicting it so that a person convicted under first act would not be affected by unconstitutionality of second, and the rule applies that only a person injured by an unconstitutional act can take advantage of it. Id.

Public service commission, appeal, Act 1915.—Act June 3, 1915, P. L. 779 (66 PS § 351 et seq.), requiring appeals from orders of Public Service Commission to be taken to Superior Court, does not violate Constitution, article 3, section 6, providing that no law shall be revised or amended by reference to title only. West Va. Paper Co. v. Public Service Commission, 61 Super. 555.

Repeal of repealing statute, effect of.—Section 6, article 3, of constitution prohibiting amendment by reference to title only, refers to express statutory revivals and does not change common law rule that when a repealing statute is repealed prior statute is revived. Manchester Township v. Wayne County Com., 257 Pa. 442; 101 A. 736.

Soldiers, funeral expenses, payment by county, Acts 1915, 1919.—Act June 20, 1919, P. L. 519, amending Act June 7, 1915, P. L. 870, which authorizes county to contribute to funeral expenses of soldiers, sailors and marines, does not violate art. 3, § 6, of constitution requiring republication in acts altering or repealing other acts of portions of prior act which is affected. Hoover v. Commrs., Dauph. 1920, 176, 179; 29 Dist. 1103, 1105.

Supplemental act.—It is not necessary that act which is supplementary to existing law, but does not expressly amend any particular statute, should comply with constitutional provisions as to amendments. Com. v. Levine, 3 D. & C. 439; Dundore v. Controller, 4 Berks 390.

Supplemental acts, amendment by reference to title, Acts 1860, 1878.—Title of Act of June 12, 1878, P. L. 196 (18 PS § 2511 et seq.), is not defective in that it fails to express its subject matter but merely states it is a supplement to the Act of March 31, 1860, P. L. 427 (19 PS § 1 et seq.), entitled "An act to consolidate, revise and amend the penal laws of the state," though the latter act says nothing regarding limitation of actions. Com. v. Bell, 288 Pa. 29; 135 A. 645.

In such case any provision which is germane to earlier statute and could properly have been inserted therein may be placed in supplementary act and even though it was not specifically included in the earlier statute. Id.

Supplemental acts, municipalities, consolidation, Acts 1915.—Acts May 6, 1915, P. L. 260 (53 PS § 178) and 272 (53 PS § 102), providing that debts of municipalities annexed to city shall be paid by consolidated city, are merely supplemental to legislation relating to government of cities of second class and do not violate Const. art. 3, sec. 6 relating to amendments. Troop v. Pittsburgh, 254 Pa. 172; 98 A. 1034; Moore v. Pittsburgh, 254 Pa. 185; 98 A. 1037.

Taxes, assessment, forest lands, Act 1923.—Act of June 7, 1923, P. L. 498, is not unconstitutional as extending Act April 8, 1869, P. L. 19 (72 PS § 4142), by referring to its title only. Snyder v. Lewis, 26 Dauph. 337; Com. v. Snyder, 26 Dauph. 320; 12 Corp. 226; 24 Lack. 331.

Taxes, collection, townships first class, Act 1907.—Act of May 28, 1907, P. L. 273, does not offend against § 6, Art. 3, of constitution in that it declares that township treasurer shall have powers of tax collector whose office was abolished in townships of first class. Cornman v. Hagginbotham, 227 Pa. 549; 76 A. 721.

Taxes, exemption, charities, Acts 1901, 1909.—The Act of March 24, 1909, P. L. 54, relating to exemption of charities from taxation, is not an amendment of Act May 29, 1901, P. L. 319, and is not unconstitutional because it fails to mention latter act. Mercersburg College v. Boro., 53 Super. 388.

Tenant, arson by, Act 1881.—Act June 10, 1881, P. L. 117 (18 PS § 3026), relating to punishment of tenant who wilfully burns building does not violate art. 3, sec. 6, of constitution, providing that no law shall be amended or extended by reference to its title only. Com. v. Levine, 82 Super. 105.

Title, reference to:
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Townships, Act 1919.—Act of June 7, 1919, P. L. 420, 421, amending general township act and in its title referring to latter, is sufficient. Lower Merion v. Harrison, 40 Montg. 42.

Townships, classification, extending mode of procedure, Acts 1893, 1901.—Act May 24, 1901, P. L. 294, extending to townships of first class provisions of § 7 of Act June 12, 1893, P. L. 451, relating to classification and government of townships, does not violate art. 3, § 7 of constitution, forbidding amendment of acts by reference to title only, as it merely applies the mode of procedure established by the Act of 1893, to counties of first class. McKeown's Petition, 237 Pa. 626; 85 A. 1085. affirming 51 Super. 277.

Township, supervisors, Act of 1905.—Act of April 12, 1905, P. L. 142, § 14, is not a revival, amendment, extension, or conferring of provisions of another act within prohibition of § 6 of Art. 3, of state constitution. Wysox Twp. Road, 42 Super. 258.

Purpose of Act of 1905 was to make name of officers of all townships of second class "supervisors" whatever may have been name of official exercising function of officers commonly known as supervisors of highways in various counties. Id.

Turnpikes, repairs, Acts 1905, 1907.—Acts of April 20, 1905, P. L. 237, and April 25, 1907, P. L. 104 (53 PS § 569), providing for maintenance by proper municipality of condemned turnpikes, do not violate Art. 3, § 6, of constitution, prohibiting amendment of former act by reference to its title. Clarion County v. Twp., 222 Pa. 350; 71 A. 543.

Wages, preference, Act 1878.—Act June 12, 1878, P. L. 207 (43 PS § 230), which is supplement to Act April 9, 1872, P. L. 47 (43 PS § 221 et seq.), does not offend against art. 3, sec. 6 of constitution, which requires acts altering or repealing other acts to republish parts affected. Brown v. Mehrten, 27 Dist. 919.

Weights and measures, inspector, reference to title of earlier act, Act 1913.—Act July 24, 1913, P. L. 960 (76 PS § 201 et seq.), relating to appointment and salaries of inspectors of weights and measures, is not defective in title, which states it to be an act to amend Act of May 11, 1911, P. L. 275 (76 PS § 201 et seq.), its provisions being germane to subject matter of latter act. Goodwin v. Bradford City, 248 Pa. 453; 94 A. 139.

Constitutional Law—Statutes, Single Subject.

Administrative Code, executive agency, Act 1923.—Administrative Code of June 7, 1923, P. L. 498, is not unconstitutional as containing more than one subject. Com. v. Snyder, 279 Pa. 234; 123 A. 792; af. 26 Dauph. 320; City Bank v. Bentz, 38 York 13.

Act creating executive agency may contain points of substantive law defining rules of conduct, duty to enforce which is placed on governmental instrumentality in question, if such rules are reasonably within commonly conceived scope of such agency, and under these circumstances contents of statute may be accounted single subject. Id.

If there are provisions in act not covered by title, and they are vital in character and it is apparent that without them the lawmakers would not have passed the legislation, the act is not valid. Id.

Animals, state live stock sanitary board, Act 1913.—Act July 22, 1913, P. L. 928 (3 PS § 331 et seq.; 71 PS §§ 1221–1224), relating to domestic animals and defining powers of State Live Stock Sanitary Board, does not refer to more than one subject in its title. Com. v. Falk, 59 Super. 217; Com. v. Weber, 59 Super. 223.

Animals, title, Act 1913.—Act July 22, 1913, P. L. 928 (3 PS § 331 et seq.; 71 PS §§ 1221–1224), relating to domestic animals and preventing disease, is unconstitutional, as it contains more than one subject and part of what it contains is not expressed clearly in its title. Com. v. Falk, 31 Lanc. 181, 184; 23 Dist. 702; Com. v. Weber, 31 Lanc. 184.

Appropriation bills, Act 1913.—Section 10 of Act July 7, 1913, P. L. 672, does not violate Art. 3, sec. 15 of the

Constitution relating to general appropriation bills, as this section has no application to a fund created for a particular use specified in an act of assembly. Com. v. Powell, 249 Pa. 144; 94 A. 746.

Appropriation to hospital, reserving lien, Act 1909.—Act May 13, 1909, P. L. 835, making appropriation to Western Pennsylvania Hospital and providing such amount should be lien on premises for use of commonwealth, to be refunded if hospital should be converted to private use, does not violate art. 3, § 3, providing that no act shall contain one or more subjects which shall be clearly expressed in its title. Booth v. Flinn, 237 Pa. 297; 85 A. 457.

Provision for security and lien were not separate and distinct subjects, but were naturally and properly connected with general subject. Id.

Board of viewers, Act 1911.—Act June 23, 1911, P. L. 1123 (16 PS § 2641 et seq.), establishing a board of viewers in each county, does not violate constitutional provision forbidding more than one subject in an act and requiring it to be clearly expressed in its title. Reber's Pet., 235 Pa. 622; 84 A. 587.

City planning commission, title, expressing subject, Act 1913.—Act July 16, 1913, P. L. 752 (53 PS §§ 11411–11416), creating city planning commissions in cities of third class, is not unconstitutional in that its title contains more than one subject and in that subject-matter thereof is not clearly expressed in title. Chester v. Wunderlich, 12 Del. 566.

County controllers:
Constitutional Law—Statutes, Title (County).

Ejectment, mesne profits, Act 1876.—Act May 2, 1876, P. L. 95 (12 PS § 1557), permitting recovery of damages or mesne profits to date of trial, does not violate art. 3, § 3 of constitution which provides an act shall contain not more than one subject which shall be clearly expressed in its title. Langan v. Boro., 51 Super. 551.

Fish law, Act of 1909.—Act of May 1, 1909, P. L. 353, is not unconstitutional on ground that its title contains more than one subject in that it not only regulates propagation, distribution and catching of fish, but also defines powers and duties of department of fisheries. Com. v. Hippy, 27 Lanc. 241.

Foreign corporations, registration, Act 1911.—Act June 8, 1911, P. L. 710 (15 PS §§ 3141–3145), providing for registration of foreign corporations, does not violate art. 3, sec. 3, of constitution which provides that no bill shall contain more than one subject. Locomobile Co. v. Malone, 24 Dist. 1058; 63 Pitts. 179; 43 C. C. 168; 2 Corp. 570.

Husband and wife, competency as witnesses, Act 1909.—Act April 27, 1909, P. L. 182 (48 PS §§ 131, 132), entitled "An act to amend Act of 1907 (May 23, P. L. 227) by permitting husband and wife to testify, and providing for method of service of process," does not contain more than one subject in its title. Erdner v. Erdner, 234 Pa. 500; 83 A. 420.

Indeterminate sentence act:
Criminal Law—Sentence (Indeterminate).

Indeterminate sentences, Acts 1911, 1923.—Act June 29, 1923, P. L. 975 (19 PS § 1057), purporting in its title to amend sec. 6, Act June 19, 1911, P. L. 1055, and relating to minimum sentences, is unconstitutional in that it contains more than one subject not clearly expressed in title. Com. v. Sweeney, 5 D. & C. 80.

Indeterminate sentences, Acts 1909, 1911.—Acts May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), and June 19, 1911, P. L. 1055, relating to indeterminate sentences, do not violate sec. 3, art. 3 requiring act to contain only one subject, which shall be clearly expressed in its title. Com. v. McKenty, 52 Super. 332; Com. v. Kalck, 239 Pa. 533; 87 A. 61.

The words "regulating the manner of sentencing convicts," are sufficiently broad to cover not only procedure but substance of sentence. Id.

Intestate laws:
Constitutional Law — Statutes, Amendment (Intestate).

Liquor:
Constitutional Law — Statutes, Title (Liquor).

Constitutional Law — Statutes, Single Subject—(Cont'd).

Liquor law, enforcement act, Act 1921.—Act May 5, 1921, P. L. 407, known as the Woner Act, passed for purpose of carrying out Eighteenth Amendment to Federal Constitution and the Volstead Act, is not unconstitutional as containing more than one subject matter in its title. Com. v. Alderman, 79 Super. 277.

Subject clearly expressed in title: see preceding paragraph.

Penalties:
Constitutional Law — Statutes, Title (Penalties).
Pollution of stream:
Watercourse (Pollution).

Secret societies, emblems, wearing with intent to deceive, Act 1907.—Act March 28, 1907, P. L. 35 (18 PS §§ 2719, 2720), prohibiting fraudulent use of emblems of secret societies and fixing penalties for violation of act, is not void under Art. 3, § 3, restricting acts to one subject. Com. v. Martin, 35 Super. 241.

Sedition, Acts 1919, 1921.—Act June 26, 1919, P. L. 639 (18 PS §§ 121, 122), amended by Act May 10, 1921, P. L. 435 (18 PS § 121), known as the Sedition Acts, are not unconstitutional as containing more than one subject. Com. v. Blankenstein, 81 Super. 240.

Streets, opening, several streets included in one ordinance, Act 1889.—An ordinance authorizing opening and grading of certain streets does not offend against Act of May 23, 1889, P. L. 277, governing cities of third class, nor of Art. 3, § 3, of constitution, providing that no bills shall be passed containing more than one subject, merely because said ordinance provides for improvement of several streets. Fourth Street, Harrisburg, 33 C. C. 204; 10 Dauph. 50; 16 Dist. 989.

Supplemental act, Allegheny County prison, Acts 1865, 1871.—Act March 8, 1871, P. L. 184, entitled supplement to act of March 23, 1865, P. L. 607, relating to management of Allegheny County Prison, is germane to provisions of latter act and is not unconstitutional because its subject matter is not expressed in its title. Com. v. Jones, 90 Sup. 489; Com. v. Aiello, 90 Sup. 495.

Surveyor, engineer, license, Act 1921.—Act May 25, 1921, P. L. 1131, regulating practice and profession of engineering and land-surveying, and the approval of contracts for public improvements, seems to cover more than one subject and may, therefore, be unconstitutional for this reason. Com. v. Humphrey, 288 Pa. 281; 136 A. 213.

So held in Stevenson v. Registration Board, 28 Lac. 1.

Taxes, cities of first class, act 1913.—Act June 17, 1913, P. L. 507 (72 PS § 2121 et seq.), imposing taxes on certain classes of personal property in cities of first class, does not contain more than one subject. McGuire v. Phila. (No. 2), 245 Pa. 307; 91 A. 628.

Water companies, acquirement by boroughs, Act 1907.—Act of May 31, 1907, P. L. 355 (53 PS §§ 1241–1247), relating to acquirement of water works by boroughs, does not violate Art. 3, § 3. Fleetwood Water Co. v. Boro., 1 Berks 69.

Constitutional Law—Statutes, Title.

Additional law judge, powers:
Elections — Contest (Court).

Administrative code, Act 1923.—Title of Act of June 7, 1923, P. L. 498, known as the Administrative Code, is sufficiently comprehensive and gives abundant notice of its provisions. Com. v. Snyder, 279 Pa. 234; aff. 26 Dauph. 320; 12 Corp. 226; 24 Lack. 331.

Adoption, adults, Act 1889.—Act May 9, 1889, P. L. 168, relating to the "adoption of any person as heir" is not defective in title merely because body of act is limited to adult persons while title includes all persons. Leinbach's Est., 241 Pa. 32; 88 A. 67.

Adoption, transfer of jurisdiction, common pleas, orphans' court, Act 1925.—It is doubted whether Act April 4, 1925, P. L. 127 (1 PS §§ 1–4), relating to adoption, is not in conflict with sec. 3, article 3 of Constitution, in that transfer of jurisdiction from common pleas to orphans' court is not expressed in its title. Feil's Case, 6

D. & C. 529; 73 Pitts. 759; 39 York 105; 17 Del. 221.

Agricultural fairs, imposing liability on county, Act 1915.—Act June 18, 1915, P. L. 1035, entitled "An act for the encouragement of agriculture and the holding of agricultural exhibitions; providing state aid for certain agricultural associations, and regulating the payment thereof," is unconstitutional in so far as it imposes any liability on county to pay premiums mentioned in act. Lycoming County Fair Asso. v. County, 44 C. C. 280.

Alcohol permit board, Act 1926.—Act Feb. 19, 1926, P. L. 16 (47 PS §§ 121–144), creating state alcohol permit board, is not unconstitutional as being defective in title. Premier Cereal Co. v. Pa. Permit Board, 292 Pa. 127; 140 A. 858; Altoona Beverage & Ice Co. v. Permit Board, 11 D. & C. 60.

Aliens, instruction of foreign-born residents, Act 1919.—Title of Act July 8, 1919, P. L. 764 (24 PS §§ 2721–2725), relating to instruction of foreign-born residents, does not clearly express subject-matter of act. Appointment of Instructor for Aliens, 19 Sch. 136.

Amending acts, highways, improvement, Act 1901.—Where title of amending act specifies nature of changes made in original, provisions of amending act are limited to subjects specified in title. Blair v. Com., 3 West. 258; 42 C. C. 353.

Act July 2, 1901, P. L. 611, amending Act May 2, 1899, P. L. 164, to provide for improvement of public roads, is unconstitutional. Id.

Amending section of prior act.—When section of prior act is amended, it is not necessary to state subject-matter of amendment. Skinner v. Rudy, 30 Dauph. 312.

Animals, dogs, license tags, Act 1921.—Title of Act May 11, 1921, P. L. 522 (3 PS §§ 461–500), relating to licensing of dogs, is sufficient to give notice of provisions requiring tags to be used. Com. v. Haldeman, 288 Pa. 81; 135 A. 651.

Animals, dogs, taxation, disposition of funds, general act, Act 1911.—Title of Act July 11, 1917, P. L. 818 (53 PS §§ 2711–2753), relating to taxation or licensing of dogs and protection of live stock, is sufficient to give notice of change in method of disposing of taxes since act is general and complete in itself and creates a new system covering entire subject-matter. Com. v. Friebertshauser, 263 Pa. 211; 106 A. 204.

Animals, ferrets, Act 1915.—Section 9 of Act April 21, 1915, P. L. 146, prohibiting breeding or selling of ferrets, or having such animals in possession, except by license from state board of game commissioners, and providing penalties for violation, is strictly and closely germane to subject matter of act as expressed in title. Com. v. Boero, 18 Lack. 154; 26 Dist. 741; 31 York 109.

Animals, prevention of disease, State livestock sanitary board, Act 1913.—Act July 22, 1913, P. L. 928, relating to domestic animals and preventing disease, is unconstitutional, as part of what it contains is not clearly expressed in its title. Com. v. Falk, 31 Lanc. 181; 23 Dist. 702; Com. v. Weber, 31 Lanc. 184.

Section 26 of act is void because it forbids driving of any animal affected with certain diseases while title to act gives notice that it is to apply only to domestic animals. Id.

Defining powers and duties of State livestock sanitary board and officers and employees and fixing compensation of deputy state veterinarian are not germane to subject of domestic animals. Id.

Appropriation, hospital, Act 1909.—That part of Act May 13, 1909, P. L. 835, making appropriation to Western Pennsylvania Hospital for erection of new building, which provides that amount shall be lien on premises, is unconstitutional, as subject of lien is not expressed in title. Booth & Flinn v. Miller, 60 Pitts. 607.

Assessment of benefits:
Boroughs — Powers (Assessment).

Automobiles, licenses, Act of 1903.—The Act of April 23, 1903, P. L. 268, relating to automobiles, is bad because its title indicates a purpose to put the duty of getting a license on the person of the operator only, while the body of

Constitutional Law—Statutes, Title—(Cont'd).

the act requires the owner alone to obtain a license. Com. v. Harvey, 7 Lack. J. 121.

Automobiles, operating without consent of owner, Act 1909.—Title of Act April 27, 1909, P. L. 265, is misleading and violates sec. 3, art. 3 of constitution, in that subject-matter of that part of section 10 which provides penalties for operating motor-vehicle without consent of owner is not referred to. Com. v. Adams, 22 Dist. 174; 40 C. C. 585.

Automobiles, permit of learner, impersonating holder, conspiracy to obtain operator's license, Acts 1919, 1925.—Sec. 10, Act April 27, 1925, P. L. 254, amending Auto. Act June 30, 1919, P. L. 678, providing that person who impersonates holder of learner's permit shall be guilty of misdemeanor, is unconstitutional as it is not referred to in title of act. Com. v. Smith, 8 D. & C. 702; 75 Pitts. 342; 31 Dauph. 1.

Where act in its title enumerates specifically a number of sections of act to be amended, but omits in its title one section which it amends, such section is unconstitutional. Id.

For same reason action for conspiracy to obtain operator's license by impersonating holder of learner's permit will be quashed. Com. v. Beasley, 8 D. & C. 704.

Banks, private, Act 1911.—Act June 19, 1911, P. L. 1060 (7 PS § 711 et seq.), providing for licensing and regulating private banking, is not defective in title in failing to give notice of prohibition in engaging in business of receiving deposits or requiring license therefor. Com. v. Bilotta, 61 Super. 264.

Banks, private, license, Act 1911.—Act June 11, 1911, P. L. 1060 (7 PS §§ 711–717, 719–728), entitled "To provide for licensing and regulating private banking; and providing penalties for violation thereof," plainly indicates purpose of act, and fairly gives notice of exemptions in sec. 8. Com. v. Frasso, 5 Berks 230; 5 Leh. 220; 23 Dist. 16.

Births and deaths, registration, expense, notice, Act 1893.—Act June 6, 1893, P. L. 340, entitled "An act to provide for registration of births and deaths in the several counties of the commonwealth," is unconstitutional because its title gives no notice that county is to bear expense of carrying act into effect. Com. v. Braymer, 33 C. C. 209; 16 Dist. 747.

Board of health, Act of 1905.—Act of April 27, 1905, P. L. 312 (71 PS §§ 1401–1409, 1411), entitled "An Act Creating a Board of Health and Defining its Powers and Duties," is not unconstitutional because its punitive features are omitted from its title. Com. v. Grube, 27 Lanc. 259; 8 Just. 274; 24 York 27; 57 Pitts. 691.

Board of viewers, road juries, practice, etc., Act of 1911.—Act of June 23, 1911, P. L. 1123 (16 PS § 2641 et seq.), establishing in each county a board of viewers; prescribing their duties; providing for their appointment as viewers, road juries, juries of view, and commissioners to view land, etc., is unconstitutional insofar as it prescribes duties, not only of general board of viewers, but of particular juries to be appointed from their number, and procedure by and before these juries; provides that courts of common pleas shall regulate proceedings of views and juries appointed by quarter sessions; and provides for payment of salaries and expenses of the viewers by county, reversing general laws that such salaries or fees and expenses are to be borne by parties interested in views, is unconstitutional, title of act not indicating such provisions. Penn and Sixth Aves., 4 Berks 102; 59 Pitts. 739; s. c. Reber's Petition, 21 Dist. 4.

Sections 1, 2 and 3, the first and fourth paragraphs of sec. 5, first paragraph and first sentence of second paragraph of sec. 6, and secs. 11 and 12 are constitutional and binding, and remaining provisions of act are unconstitutional and void. Id. Contra Com. v. Cunningham, 60 Pitts. 209; 21 Dist. 219.

Borough, annexation, Act 1923.—Act July 11, 1923, P. L. 1030, is questionably constitutional because title refers to changing county lines and body contemplates annexation proceedings. Alteration of County Line, 42 Montg. 28; 8 D. & C. 19.

Boroughs, annexation to cities, amended act, reference to title, Act 1917.—Title of Act July 6, 1917, P. L. 751, relating to annexation of boroughs of cities of third class is defective in that it fails to give notice of provision requiring borough council to pass appropriate ordinance asking for annexation. Com. v. Boro, 272 Pa. 189; 115 A. 873.

In considering sufficiency of the title of an amending act which quotes title of act to be amended, court will treat part quoted as part of title of latter act. Id.

Boroughs, burgess, salary, ordinance, Acts 1915, 1921.—Title of Act May 20, 1921, P. L. 976, relating to salary of burgess, is not clear expression of any legislative purpose, in that it purports both to amend and to repeal same section of Act May 14, 1915, P. L. 312 (Borough Code), and ordinance based on such act is void. Burke v. Boro., 23 Lack. 138; 36 York 58; 14 Mun. 11.

Boroughs, street improvements, assessment of property outside borough, consolidating prior acts, Act of 1915.—Art. 7, chap. 6, sec. 28 of Boro Code of May 14, 1915, P. L. 312, permitting assessments for improvements of streets within boro limits against abutting property located outside boro, is sufficiently covered by title of act which is general one consolidating many prior acts, and it is not necessary that title should refer to all its various subjects. Williamsburg Boro v. Bottenfield, 90 Super. 203.

Title of consolidated act must be construed in light of existing legislation. Id.

Method of assessing land lying outside is not by lien or assessment by foot front rule but by appointment of viewers and assessment of benefits in accordance with art. 2, chap. 6, of Boro Code. Id.

Borough, supplying electricity to other boroughs, Act 1915.—If section 41 of ch. 6, art. 17 of Act May 14, 1915, P. L. 312, could be construed as authorizing borough to supply electricity to other boroughs, which are not adjacent to its own limits, section would be to that extent unconstitutional, as no such intention is expressed in title of act. Day v. Lansdale Boro., 35 Montg. 27; 10 Mun. 182; 28 Dist. 330.

Bottles, registered, refilling, Act 1911.—Act June 15, 1911, P. L. 975 (73 PS §§ 31–36), prohibiting refilling of registered bottles, would be defective in title if construed to prohibit mere possession of such bottles. Com. v. Barbono, 56 Super. 637.

Bridges, construction, Acts 1869, 1871.—Title of Act Jan. 2. 1871, P. L. 1556, viz.: "A further supplement to the act incorporating the City of Harrisburg in the county of Dauphin, passed April 9, 1869," gives no notice of provision in body of act that Dauphin County is to be compelled to defray expense of building bridges on streets crossing Paxton Creek within limits of Harrisburg. Com. v. Hoffman, 18 Dauph. 155; 24 Dist. 1108.

Nor is there such notice in title or body of Act April 9, 1869. Id.

Bridges, reconstruction, cost, Acts 1901.—Act of July 9, 1901, P. L. 620, attempting to amend Act of May 13, 1901, P. L. 191, is unconstitutional in so far as it purports to impose on commonwealth one-half expense of reconstruction, inasmuch as no such purpose is disclosed in its title. Union County v. County, 281 Pa. 62, af. 4 D. & C. 132; 6 Northum. 357.

Check, drawing without sufficient funds, Act 1919.—Act April 18, 1919, P. L. 70 (18 PS §§ 2402–2405), making it misdemeanor to give, with intention to defraud, check on bank without having funds on deposit, or credit with depository, sufficient to meet it, is not unconstitutional by reason of defective title, nor because it creates two distinct offenses. Com. v. Felton, Dauph. 1922, 151; 2 D. & C. 79.

Coal companies, eminent domain, Act 1911.—Sections 1 and 4 of art. 12 of Act June 9, 1911, P. L. 756 (52 PS §§ 1371–1374), giving one coal company right to condemn land of another to construct tramway or enter its property, are not germane to title of act. Poland Coal Co.'s Case, 58 Super. 312.

Construction, aid from body of act.—Meaning of title of act is not to be sought in body of act, but title of act must clearly express purpose of act. Com. v. Pottsville, 17 Dauph. 62.

Constitutional Law—Statutes, Title —(Cont'd).

Construction as part of act.—The title of an act is a part thereof and must be considered in determining its scope under constitutional restrictions. Matis v. Schæffer, 270 Pa. 141; 113 A. 64.

Construction, doubtful meaning.—Where words used in title of statute are capable of more than one meaning, such title is defective under constitutional requirement that act shall not contain more than one subject which shall be clearly expressed in its title. Guppy v. Moltrup, 281 Pa. 343; 126 A. 766.

Construction, misleading, Act 1905.—A misleading title stands on different footing from one which is merely general in its terms. In the former case, the subject is not clearly expressed, as it is not expressed at all. Central Tel. Co. v. Boro., 242 Pa. 597; 89 A. 681.

Act April 22, 1905, P. L. 294 (15 PS § 2292), relating to construction of telegraph and telephone lines on city streets, held good. Id.

Corporations, consolidation, street railways, Acts 1874, 1901.—It seems that the title of the Act of May 29, 1901, P. L. 349; entitled "An act supplementary to an act entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April 29, 1874; providing for the merger and consolidation of certain corporations," is not bad because it fails to set forth the classes of corporations affected. Bellevue & Perrysville St. Ry. Co. v. Ry., 32 C. C. 243; 15 Dist. 510; 8 Dauph. 281.

It therefore applies to the consolidation of railroads and street railways. Id.

Corporations, dissolution, banks, failure to exercise corporate franchise, quo warranto, invalidity of part of act, Act 1909.—Act April 23, 1909, P. L. 143, relating to dissolution of banking corporations, is not unconstitutional because of its title. Com. v. Reliance Safe Dep. & Tr. Co., 242 Pa. 177; affirming 40 C. C. 571; 16 Dauph. 124.

Title is not required to be complete index to everything contained in statute. Id.

Title of Act April 23, 1909, is sufficient to lead to inquiry as to causes for which proceedings may commence. Id.

Even if provision is contained in statute of which no notice is given in title, that provision alone would be unconstitutional and remainder of act would stand. Id.

Corporation, foreign process, service, Act 1911.—Title to Act of June 8, 1911, P. L. 710 (15 PS §§ 3141–3145), is concise and clear summary of subject contained in act. Miller Lock Co. v. Fed. Equip. Co., 25 Dist. 246; 3 Corp. 532.

Corporation, foreign, process, service, insurance companies, Acts 1909, 1911.—So much of Act June 1, 1911, P. L. 607, entitled "An act to establish an insurance department, etc.," as provides for exclusive method of service of process upon foreign insurance companies and that portion which expressly repeals Act April 22, 1909, P. L. 120, relating thereto, is unconstitutional, subject of service of process not being clearly expressed in its title. Miller v. Ins. Co., 24 Dist. 414; Carr. v. Ætna Co., 63 Pitts. 465.

Corporations, insurance companies, misrepresenting, Acts 1911, 1913.—Title of Act June 1, 1911, P. L. 581, providing "for incorporation of life insurance companies; and for regulation of home and foreign life insurance companies, and providing penalties for any violation thereof," fails to give sufficient notice of crime of misrepresenting insurance. Com. v. Kight, 24 Dist. 625.

Act July 12, 1913, P. L. 744, to prevent misrepresenting insurance, is apparently recognition by legislature of omission of title of Act of 1911 to give notice. Id.

Corporations, stock, bonus, Act 1919.—Title of Act July 12, 1919, P. L. 914 (15 PS §§ 181–192), is broad enough to impose bonus on no par stock of corporation, even though bonus is charged on new theory without notice of that fact in title. Com. v. Wheel Co., 30

Dauph. 118; 15 Corp. 482; 8 D. & C. 709.

Corporations, stock, choses in action, Act 1915.—Section 4 of Sales Act, May 19, 1915, P. L. 543 (69 PS § 42), is unconstitutional in so far as it refers to choses in action, as no mention thereof is made in its title. Roberts v. Cauffiel; Boyer v. Cauffiel, 283 Pa. 64; 128 A. 670; Parrish v. Bacon, 41 Montg. 294.

Corporations, stock, taxation, reference to title of act amended, Act 1911.—Act June 7, 1911, P. L. 673, relating to tax on capital stock, sufficiently expresses its subject in its title by referring to the prior act to which it is a supplement. Provident Like & Trust Co. v. McCaughn, 245 Pa. 370; 91 A. 672.

Counsel fee, murder cases, payment by county, Act 1907.—The title of Act March 22, 1907, P. L. 31 (19 PS § 784), providing for assignment of counsel in murder cases and allowance of expenses and compensation sufficiently shows that expenses and compensation are to be paid out of county treasury. Com. v. Darmska, 35 Super. 580.

County bridges, building, contracts for, approval by quarter sessions, Act of 1906.—Act of March 5, 1906, P. L. 74, providing that contracts for building county bridges shall be approved by court of quarter sessions, is unconstitutional, because its title gave no notice that approval of quarter sessions was to be required. French Creek Bridge, 39 C. C. 67.

County bridges, construction, Act 1923.—Act June 28, 1923, P. L. 875 (16 PS §§ 3641–3643), relating to construction of county bridges, is not defective in title. Ruler v. York Co., 290 Pa. 427; 139 A. 136.

Fact that title contains no reference to requirement of consent of highway department is immaterial. Id.

County commissioners, compensation, repeal of local laws, Act of 1889.—The Act of May 7, 1889, P. L. 109, entitled "An act regulating the compensation of county commissioners within this commonwealth," gives notice in its title of the purpose of section 3 of the act which reads "all local laws fixing a per diem compensation, less than is provided in this act be and the same are hereby repealed." Berks Co. v. Linderman, 30 Super. 119.

County commissioners, powers of, Act 1909.—Act May 11, 1909, P. L. 506, providing for construction, operation and maintenance of public highways, bridges and tunnels in counties, confers on county commissioners power theretofore exclusively vested in city officials and also transfers financial burdens from municipalities to counties, and is unconstitutional inasmuch as no reference to these matters is made in its title. County Com'rs' Petition, 255 Pa. 88; 99 A. 225; rev. 61 Super. 591.

County controller, Act 1913.—Title of Act March 27, 1913, P. L. 10 (16 PS § 1391), relating to county controllers sufficiently states subject-matter. Com. v. Bankert, 23 Dist. 676.

County controller, Act 1895.—Section 10 of Act June 27, 1895, P. L. 403 (16 PS § 1391 et seq.), creating office of county controller in counties containing 150,000 inhabitants and over, prescribing his duties and abolishing office of county auditor in said counties is not unconstitutional because act does not give notice of its contents. Jacobs v. Sullivan, 33 Montg. 105.

County controller, contracts, participation, Acts 1895, 1909.—Secs. 10 of each of Acts May 6, 1909, P. L. 434, and June 27, 1895, P. L. 403 (16 PS § 1391 et seq.), relating to participation of county controller in award of public contracts, are not unconstitutional because their provisions are not indicated in titles of acts. Lewis Paint & Glass Co. v. County, 9 D. & C. 339.

Use in titles of term "county controller" is sufficient. Id.

County controllers, election, term of office, subjects, more than one, Act 1913.—Act March 27, 1913, P. L. 10 (16 PS § 1391), title to which, after referring to prior acts, gives purpose of act as follows: "By providing for the office of controller in all counties having over one hundred thousand inhabitants," is unconstitutional because title does not give notice of objects of act, the latter referring to more than one

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subject. Com. v. Young, 15 North. 140.

County fair associations, Act 1915.—Act June 18, 1915, P. L. 1035, providing for encouragement of agriculture and holding of such exhibitions and providing state aid, is insufficient in title, in that it does not indicate liabilities imposed upon counties by certain sections of act. Lycoming Fair Ass'n v. Lycoming County, 65 Super. 307.

County officers, salaries, provisions of act, Act 1876.—Act March 31, 1876, P. L. 13 (16 PS § 2231 et seq.), relating to salaries and fees of county officers in counties containing over 150,000 inhabitants, is not defective in title. Com. v. Shields, 50 Super. 1.

County officers, sheriffs, salary, Act of 1895.—Act of July 2, 1895, P. L. 424 (16 PS § 2321), so far as it attempts to fix salaries of sheriffs, is in conflict with § 3 of Art. 3 of constitution of state, since such office or officer is not named in title of act. Connor v. County, 12 Lak. 132.

County prisoners, amendment, reference to title, supplemental act, Acts 1909, 1913.—Act May 21, 1913, P. L. 279 (61 PS §§ 403–406), amending Act April 27, 1909, P. L. 262 (61 PS §§ 403–406), providing for regulation and management of county prisons in counties having a population between 150,000 and 250,000, is unconstitutional in so far as it relates to counties having a population exceeding 250,000, as its title discloses no intention to create a new class of counties. Com. v. Thomas, 248 Pa. 256; 93 A. 1019.

Title to an act is sufficient where it states it is an amendment or supplement and its provisions are germane to subject. Id.

County solicitor, compensation, Act 1923.—Act of May 10, 1923, P. L. 183, fixing compensation to be paid solicitors to sheriffs, clearly expresses its subject in its title so that it does not violate art. III, sec. 3, of Constitution, and solicitor coming within its provision is therefore entitled to compensation. Hallman v. County, 40 Montg. 215.

Court-criers and tipstaves, compensation, Act of 1909.—Title of Act of April 29, 1909, P. L. 287, "to regulate the fee of court-criers and tipstaves of the courts in judicial districts containing more than 90,000, and less than 150,000 inhabitants," gives sufficient notice that compensation of court-criers and tipstaves is fixed by act. Turner v. Chester County, 36 C. C. 620; 19 Dist. 749.

Courts, jurisdiction, questioning, Act 1925.—Act March 5, 1925, P. L. 23 (12 PS §§ 672–675), relating to procedure in cases in which jurisdiction is questioned of courts of first instance over parties or subject matter, is sufficiently expressed in its title. Specktor v. Ins. Co., 295 Pa. 390; 145 A. 430.

Declaratory judgment, Act 1923.—Act June 18, 1923, P. L. 840 (12 PS §§ 831–846), relating to declaratory judgments, sufficiently shows in its title that execution may be issued as incident of judgment obtained thereunder. Sloan v. Longcope, 288 Pa. 196; 135 A. 717.

Dentistry, license, X-rays, Act 1921.—Act May 5, 1921, P. L. 399 (63 PS § 51 et seq.; 71 PS §§ 1121–1124), regulating practice of dentistry, is unconstitutional so far as it requires persons "who shall take X-ray pictures of the human teeth or jaws" to be examined and licensed, because title of act does not give notice of that provision. Heron v. Com., 71 Pitts. 281.

Desertion, non-support, Act 1867.—It seems that Act April 13, 1867, P. L. 78 (18 PS §§ 1251–1254), for the relief of widows and children deserted by their husbands and fathers, is not defective in title because the act provides a remedy where a husband shall "neglect to maintain his wife or children." Com. v. Dilks, 45 Super. 339.

Detention, houses of, Act 1901.—Act July 2, 1901, P. L. 601 (11 PS §§ 421–429), establishing houses of detention in cities of first and second class, does not violate art. 3, § 3, by failing to express its subject in its title. Price v. Walton, 49 Super. 1.

District attorneys, stenographers, Act of 1909.—Title of Act of April 27, 1909, P. L. 258 (16 PS § 3472), authorizing employment of stenogra-

phers by district attorneys of certain counties is sufficient to indicate that compensation of stenographer is to be paid by county. Evans v. County, 12 North. 355; 20 Dist. 929.

Divorce, alimony, Act 1895.—Act June 25, 1895, P. L. 308, making it discretionary with court whether or not to allow wife permanent alimony where husband obtains divorce on ground of cruel and barbarous treatment or indignities to his person, is not unconstitutional because title is silent as to alimony. Heller v. Heller, 28 Dist. 457; 47 C. C. 571.

Divorce, evidence, amendment of act, Act 1915.—Act April 21, 1915, P. L. 154, entitled "An act to amend the 1st section of an act entitled 'An act enabling the libellant in all proceedings for divorce on the ground of desertion to testify to the fact of desertion and to the efforts made by him or her to induce the respondent to return and resume the marital relation,' approved June 8, 1911, by making the libellant a competent witness generally," is not in conflict with sec. 3 of art. 3 of constitution, as intent to make libellant competent witness generally appears clearly from title of amending act. Krupp v. Krupp, 26 Dist. 487; 46 C. C. 1; 7 Leh. 324; 35 Lanc. 68.

In order to amend act it is not necessary to amend its title specifically if title of amending act clearly expresses its purpose as required by art. 3, sec. 3. Id.

Ejectment, damages and mesne profits to date of trial, recovery of, Act 1876.—Title of Act May 2, 1876, P. L. 95 (12 PS § 1557), entitled "An act relating to damages and mesne profits," providing for recovery of same up to date of trial, on notice of such claim being given fifteen days before trial, sufficiently expresses its subject, and act is constitutional. Langan v. Boro., 21 Dist. 533.

Elections, contests, costs, bond security, Act 1899.—The title of Act April 28, 1899, P. L. 118 (25 PS § 2525), relating to contested elections, and providing that costs in certain cases shall be paid by petitioners, gives sufficient notice of the provision required bond to be entered to secure costs. Patton's Election, 228 Pa. 446; 77 A. 658.

Elections, expenses, accounts, Act 1906.—Act of March 5, 1906, P. L. 78 (25 PS §§ 1001–1020), regulating election expenses and requiring accounts to be filed, sufficiently indicates in its title what is contained in body of act. Likins's Petition, 223 Pa. 456; 72 A. 858; affirming 37 Super. 625, 636; Byrne's Case, 34 C. C. 513; 17 Dist. 427; Liebel's Case, 33 C. C. 355; 16 Dist. 595.

Electric railway companies, fencing right of way, Act 1907.—Section 7 of Act of June 1, 1907, P. L. 368 (67 PS §§ 1221–1227), requiring electric railway companies exercising right of eminent domain over private lands to fence in their rights of way, is unconstitutional in that title does not clearly express its subject. Kauffman's Petition, 36 C. C. 1; 18 Dist. 267.

Engineers, surveyors, registration, discrimination, Act 1921.—Conviction under Act of May 25, 1921, P. L. 1131, requiring engineers and surveyors to register, will be set aside, since act violates art. 3, sec. 3, of constitution, in that it contains three distinct but unrelated subjects, one of which is not clearly expressed in title and violates 14th amendment of federal constitution, being discriminatory in its regulations and exemptions. Com. v. Stevenson, 4 D. & C. 321.

Escheat, penal clauses, Act 1915.—Sections of Act June 7, 1915, P. L. 878, relative to filing reports in aid of discovery of property liable to escheat under provisions of act, are germane to general subject of legislation, and notice that they appear in body of act need not be given in title. Union Trust Co. v. Powell, 20 Dauph. 95; 15 Just. 197; 45 C. C. 199.

Act June 7, 1915, does not violate art. 3, sec. 3 of constitution, because its title gives no notice of penal clauses contained in act. Id.

Escheat, penalties, limitation, Act 1915.—Title of Act June 7, 1915, P. L. 878, relating to escheats, is sufficient to give notice of certain penalties provided for violation of act. Germantown Trust Co. v. Powell, 265 Pa. 71; 108 A. 441.

Constitutional Law—Statutes, Title—(Cont'd).

Though statute of limitations is not referred to in title, general subject-matter providing for escheat necessarily includes fixing of limitation and gives notice that act is likely to contain such provision. Id.

Evidence, handwriting, experts, Act of 1895.—Sections 2 and 3 of Act of May 15, 1895, P. L. 69 (28 PS §§ 162, 163), permitting expert testimony in case of "disputed" handwriting, are unconstitutional, in that title of act provides for expert testimony in case of "simulated or altered" handwriting only. Com. v. Weaver, 19 Dist. 784.

Evidence, husband and wife, competency, Acts 1887, 1909, 1911.—As Act May 23, 1887, P. L. 158, was amended by Act April 27, 1909, P. L. 179 (19 PS §§ 682, 683 note, 684, 686), making husband and wife competent to testify against each other in prosecutions for bodily injury to minors in their custody, and Act May 11, 1911, P. L. 269 (19 PS § 683), amended Act 1887, by inserting words making same parties competent to testify in actions for bigamy, but in setting forth amended form of clause, Act of 1911 omitted words supplied by Act of 1909 and title to Act of 1911 made no mention of intention to abrogate Act of 1909, amendment of 1909 was not repealed. Com. v. Arguello, 7 Wash. 17.

Feme sole trader, Act 1915.—Act of May 28, 1915, P. L. 639 (48 PS § 44), is not unconstitutional because its title does not sufficiently indicate its purpose. Smith's Case, 33 Lanc. 382; 64 Pitts. 333; 44 C. C. 440.

Fires, inquiry as to, Act 1869.—Act April 17, 1869, P. L. 74 (35 PS §§ 1151–1155), providing mode of inquiry into fires, is not defective in title. Com. v. Williams, 54 Super. 545.

Fish laws, pollution of water, Act 1901.—The title of Act May 29, 1901, P. L. 302, providing for protection of fish, is sufficient to cover prohibition in § 26 forbidding placing of poisonous substances in any water. Com. v. Immel, 33 Super. 388.

Fish laws, private waters, Act 1901.—Act May 29, 1901, P. L. 302, providing for protection of fish, extends to fish in private ponds, of which purpose the title gives sufficient notice. Com. v. Storch, 17 Dist. 61.

Fish laws, variety of fish, Act 1901.—The provisions of Act May 29, 1901, P. L. 302, regulating catching of other species of fish than those which act declares to be game or food fish, are not void because title of act refers only to game and food fish. Com. v. Kenney, 32 Super. 544; Com. v. Brensinger, 1 Berks 313.

Fish laws, violation, procedure, change of, Act 1907.—Act March 14, 1907, P. L. 13, regulating size of fish nets and changing method of proceeding for violation of act from summary proceedings before justice to misdemeanor triable in quarter sessions, is defective in title in that it gives no notice of intention to make such change. Com. v. Jones, 6 Just. 10.

Food, adulteration, Acts 1895, 1909.—Act May 13, 1909, P. L. 520 (31 PS §§ 1–9), relating to sale of adulterated food, sufficiently gives notice in title of contents. Com. v. Fulton, 263 Pa. 332; 106 A. 636; Com. v. Fulton, 70 Super. 95; Com. v. Ellis, 46 Super. 72.

Act June 25, 1895, P. L. 317, is not defective because its title does not mention sale of adulterated food. Com. v. Arow, 32 Super. 1.

Food, adulteration, ice cream, Act 1909.—Act March 24, 1909, P. L. 63, relating to sale of adulterated ice cream, gives sufficient notice of its contents in its title. Com. v. Crowl, 245 Pa. 554; 91 A. 922.

Food, definition of, adulteration, confectionery, Act 1909.—Act May 13, 1909, P. L. 520 (31 PS §§ 1–9), relating to adulteration of food, is not defective in title because it does not mention confectionery as one of the subjects of the act. Com. v. Pflaum, 236 Pa. 294; 84 A. 842; affirming 50 Super. 55.

Confectionery is a food within the meaning of that word in the title. Id.

Foreign-born residents, unnaturalized.—Title of Act July 8, 1919, P. L. 764 (24 PS §§ 2721–2725), providing for instruction of foreign-born residents in certain counties is defective in that it does not give notice that its application is limited to "unnatural-

ized" foreign-born residents of such counties. Seltzer's Petition, 2 D. & C. 242.

Fraudulent conversion, money as subject of, Act 1917.—Title of Act May 18, 1917, P. L. 241 (18 PS §§ 2486-2488), is broad enough to give notice that money is made subject of crime of fraudulent conversion. Com. v. Disanto, 33 Dauph. 144.

Game law, appeal from summary conviction, Act 1915.—Seventh section of Act June 1, 1915, P. L. 644, is unconstitutional, because its effect is to deprive appellate court of its discretionary power to allow or refuse appeal from summary conviction, and because title of act does not indicate legislative purpose to change method of securing appeal in cases of this character. Com. v. Bacskai, 14 Just. 253.

Game laws, costs, notice, Act 1903.—Act April 16, 1903, P. L. 213, entitled "An act fixing liability for record costs in cases where officers whose duty it is to enforce game laws fail for any legal cause to receive same from defendant" is not unconstitutional by reason of failure to indicate by whom costs are to be paid in case mentioned. Walker v. Jefferson County, 33 C. C. 298; 16 Dist. 757.

General requirements, index to act.—The title of an act need not be a general index, but it is sufficient if it relates to one general subject, regardless of details, provided they are subordinate to the main purpose of the act and germane to its provisions. Page v. Carr, 232 Pa. 371; 81 A. 430.

Gifts, charitable use, Act 1891.—Title of Act of May 26, 1891, P. L. 119 (9 PS § 4), of which concluding words are "said disposition shall be held to be made for a charitable use" sufficiently expresses subject to which concluding words apply. Boyd's Est., 5 Erie 303.

Gifts, taxation of, Act 1919.—Act of June 20, 1919, P. L. 521 (72 PS § 2301 et seq.), relating to taxation of gifts made to take effect at death of grantor, vendor or donor, is constitutional except as it attempts to tax gifts which took full effect in possession and enjoyment prior to death of grantor, this not being expressed in title. Spangler's Est., 281 Pa. 118; 126 A. 252.

Bona fide and unconditional transfer by deed or gift, fully consummated by transfer of title is not within purview of act. Id.

Health laws, Act 1915.—Act June 3, 1915, sec. 43, P. L. 954 (53 PS § 4001), conferring on bureau of health of city of first class extensive discretion in exercise of police power of state does not violate art. 3, sec. 3 of constitution. Smith's Trustees' App., 26 Dist. 341.

Health laws, municipalities, townships, school districts, Act 1895.—Title of Act June 18, 1895, P. L. 203 (53 PS §§ 2161, 2181, 2182), providing for more effectual protection of public health in municipalities is sufficient to put townships and school districts on inquiry as to its contents. Com. v. Wilkins, 2 Erie 38.

Highways, county highways within cities, tunnels, Act 1909.—Title to Act May 11, 1909, P. L. 506, relating to making of certain county highway improvements at expense of counties, is sufficient index of right therein given counties to build tunnels within limits of cities in county. Grand Jury Report, 61 Pitts. 340.

Highways, improvements, benefits, viewers' reports, evidence, Act of 1903.—Act of April 2, 1903, P. L. 124 (53 PS § 392 et seq.), authorizing viewers' reports in road cases to be offered in evidence on appeal as prima facie evidence of benefits accruing to owner by reason of improvement does not offend against Art. 3, § 8, as insufficient in title as to this particular provision, since title to Act of May 16, 1891, P. L. 75 (53 PS § 391 et seq.), to which Act of 1903 is supplement, is sufficiently broad to cover it. O'Donnell v. Pittsburg, 227 Pa. 14; 75 A. 959.

Highways, opening, assessment of damages, Act 1903.—Act of April 2, 1903, P. L. 124 (53 PS § 392 et seq.), is not in violation of Art. 3, § 3, of constitution, which provides that no bill shall be passed containing more than one subject, which shall be clearly expressed in its title. Haas v. Pittsburg, 56 Pitts. 361.

Constitutional Law—Statutes, Title —(Cont'd).

Highways, state department, commissioner, rules and regulations, misdemeanor, Act 1911.—Title of Act May 31, 1911, P. L. 468, establishing state highway department, is sufficient to cover provision making it misdemeanor to violate rules and regulations adopted by state highway commissioner. Com. v. Esbenshade, 37 Lanc. 181; 34 York 36.

Hotel keepers, defrauding, intent, Act 1913.—Act June 12, 1913, P. L. 481 (37 PS § 61 et seq.), providing that proof of certain acts should be prima facie evidence of intent to defraud hotel keepers, is sufficient in its title to give notice that intent of act was to deal with frauds on hotel keepers and inn keepers, and provide penalties for violation of act. Com. v. Berryman, 72 Super. 479.

House of refuge, maintenance and instruction of children, Act of 1901.—The Act of May 11, 1901, P. L. 158, which provides that one-half of the expense of maintenance and instruction shall be borne by the county from which a child is received, is constitutional, and the fact that there is no reference in the title to the provision that counties are to bear such expense is immaterial, as the counties already bore the expense under the Act of 1827, March 2, P. L. 76, which was not repealed by the unconstitutional Act of 1867, Jan. 10, P. L. 1371. House of Refuge v. Luz. Co., 215 Pa. 429; 64 A. 601.

Husband and wife, actions against each other, Act of 1893.—Act of June 8, 1893, P. L. 345 (12 PS § 1911 et seq.), entitled, "An act relating to husband and wife, enlarging her capacity to acquire and dispose of property, to sue and be sued, and enabling them to sue and to testify against each other in certain cases," is comprehensive enough in its title to authorize provision in act conferring power on husband and wife to sue each other at law or in equity. Dorsett v. Dorsett, 226 Pa. 334; 75 A. 593.

Husband and wife, desertion and non-support, Act 1919.—Title of Act June 20, 1919, P. L. 521, 525 (72 PS § 2301 et seq.), is insufficient in that no mention is made of provision in act which attempts to transfer jurisdiction in desertion and non-support cases. Com. v. Shaughnessey, 74 Pitts. 365.

Husband and wife, desertion and non-support, Act 1913.—Section 2 of Act June 12, 1913, P. L. 502, relating to proceedings for desertion for non-support, is defective in title because it does not show wages of delinquents are fixed by act and that county is liable to pay them to wives or children if penal institutions or reformatories are not self-sustaining. Fedorowicz v. Brobst, 62 Super. 458.

Ice cream, adulteration, Act 1909.—Act March 24, 1909, P. L. 63, forbidding sale of adulterated ice cream and fixing a standard of butter fat in ice cream, gives sufficient notice of its contents in the title. Com. v. Crowl, 52 Super. 539.

Imprisonment at labor, support of families, liability of county, Act 1913.—Act June 12, 1913, P. L. 502, relating to payment of certain sums by county to families of persons in prison at hard labor, where funds of institution are insufficient for that purpose, does not disclose such purpose in its title. Federowicz v. Brobst, 254 Pa. 338; 98 A. 973.

Indeterminate sentence act:
Criminal Law — Sentence (Indeterminate).

Indeterminate sentence, Acts 1901, 1911, 1923.—Act June 19, 1911, P. L. 1055, as amended by Act June 29, 1923, P. L. 975 (19 PS § 1057), sufficiently indicates in its title the proportion of minimum to maximum sentence provided, and Act is not unconstitutional. Com. v. Sweeney, 281 Pa. 550; 127 A. 226.

Proviso directing that terms of Act shall not abrogate parole Acts or Act May 11, 1901, P. L. 166 (61 PS §§ 271–278), regulating commutation of sentence, though not specially referred to in title, does not invalidate Act. Id.

Indeterminate sentences, parole, Acts 1860, 1909.—Indeterminate sentence Act May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), entitled "An act authorizing release on probation of certain convicts, instead of imposing sentence; appointment of

probation and parole officers and payment of their salaries and expenses; regulating manner of sentencing convicts in certain cases and providing for their release on parole," is in conflict with art. 3, § 3 of constitution, because its title is misleading in that it gives no notice of implied repeal of provisions of criminal code March 31, 1860, P. L. 382 (18 PS § 141 et seq.), which confer discretionary power on trial judge to sentence criminal for term of imprisonment "not exceeding" maximum named in earlier act. Com. v. McKenty, 21 Dist. 589; 60 Pitts. 521.

Industrial home, Act 1883.—Act June 13, 1883, P. L. 111, "to prohibit the receiving and detaining of children in almshouses and poorhouses and to provide for the care and education of such children," so far as it authorizes county to establish and maintain industrial home, is unconstitutional, because that object is not covered by title. Harris v. Commrs., 30 Dist. 834; 22 Lack. 277.

Infants, boarding houses, repeal of prior act, Act 1925.—Act April 14, 1925, P. L. 234 (11 PS §§ 801–814), regulating and licensing boarding houses for infants, violates art. 3, sec. 3 of Constitution in that its title contains no notice of intention to repeal Act May 28, 1885, P. L. 27 (18 PS § 1031 et seq.), covering same general subject. Com. v. Lakey, 88 Super. 399.

Inheritance tax, Act 1887.—Act May 6, 1887, P. L. 79, relating to collateral inheritance tax, does not violate art. 3, § 3, by failing to give notice of its provisions in its title. Jewell's Est., 235 Pa. 119; 83 A. 610.

Inheritance tax, Act 1919.—Provision of sec. 1 (c) of Act June 20, 1919, P. L. 521 (72 PS § 2301), imposing inheritance taxes on property transferred by decedent in lifetime, in contemplation of death or intended to take effect at or after death, is unconstitutional and void, because purpose of act to impose such tax is not clearly expressed in its title. Spangler's Est., 38 Lanc. 488; 71 Pitts. 456.

Inheritance tax, federal tax, Acts 1919, 1926, 1927.—Act May 7, 1927, P. L. 859 (72 PS § 2303), increasing amount of inheritance tax payable so as to enable state to benefit under provisions of Federal Act 1926, 44 Stat. 70, is not unconstitutional in that part which charges additional amount of taxes against beneficiaries of estate in same proportion as distributees would be charged under Act June 20, 1919, P. L. 521 (72 PS § 2301 et seq.), because of want of notice in title that additional tax is not charged against residuary estate as in federal act. Knowles's Est., 295 Pa. 571; 145 A. 797.

Title of Act 1927 is sufficient, it is entitled supplement to prior act and would therefore put parties interested on inquiry. Id.

Inheritance tax, fees for collection, repeal of prior act, Acts of 1876, 1887.—The Act of May 6, 1887, P. L. 79, section 16, relating to fees for collecting collateral inheritance tax, is not bad because its title does not indicate that it repeals the Act of March 31, 1876, P. L. 13 (16 PS § 2231 et seq.), providing that in counties having a population of over 150,000 inhabitants such fees should be paid into the county treasury. Allegheny Co. v. Stengel, 213 Pa. 493, 496; 63 A. 58; affirming 35 Pitts. 341.

Inheritance tax, illegitimate children, exemption, Act 1901.—Title of Act of July 10, 1901, P. L. 639, gives sufficient notice of exemption from collateral inheritance tax of estates passing from mothers to their illegitimate children. Com. v. Mackey, 222 Pa. 613; 72 A. 250.

Title need not set forth what will legally and logically follow as consequence of provisions in body of act. Id.

Insurance, commissioner, service of process, Act 1911.—Act June 1, 1911, P. L. 607, entitled an "act to establish an insurance department authorizing the appointment of an insurance commissioner, and prescribing his duties," gives sufficient notice of appointment of insurance commissioner as agent upon whom process may be served. Carr v. Aetna Accident Co., 64 Super. 343.

Insurance department, service of process on foreign insurance compa-

Constitutional Law—Statutes, Title —(Cont'd).

nies, Acts 1909, 1911.—So much of Act June 1, 1911, P. L. 607, entitled "An act to establish an insurance department," etc., as provides for method of service of process on foreign insurance companies, and that portion of it which expressly repeals Act April 22, 1909, P. L. 120, relating to this subject, is unconstitutional, inasmuch as subject of service of process is not mentioned in title. Miller v. Ins. Co., 41 C. C. 691; 1 Corp. 254.

Intestacy, dower, realty, Act 1917.—Sec. 3, Intestate Act June 7, 1917, P. L. 429 (20 PS § 31), in providing for widow's share of land aliened in husband's lifetime, is of doubtful constitutionality in that its title does not reveal its intent to govern real estate other than that of which decedents died seized. Bridgeford v. Groh, 9 D. & C. 5.

Intestacy, widow's share, Acts 1917.—Proviso to Section 2 (a) of Intestate Act June 7, 1917, P. L. 429 (20 PS § 11), as amended by Act July 11, 1917, P. L. 755 (20 PS § 11), restricting right of surviving spouse to preference of $5,000 in value to cases of intestacy, is germane to title of acts, and not unconstitutional. Langerwisch's Est., 8 Leh. 147; 28 Dist. 470; Collom's Est., 28 Dist. 503; 47 C. C. 434.

Intestacy, widow's share, exemption laws, general act, Act of 1909.—Act of April 1, 1909, P. L. 87, regulating descent and distribution of estates of intestates, does not offend against Art. 3, § 6 of constitution. Gilbert's Est., 227 Pa. 648; 76 A. 428.

Title of act need not be general index to contents of act, but it is sufficient if it relates to one general subject, no matter how details may be multiplied, provided they are subordinate to general purpose of act and germain to its provisions. Id.

Joint action, tort recovery against one, retroactive law, Act 1923.—Act June 29, 1923, P. L. 981 (12 PS §§ 685, 686), permitting case to proceed against one only of two or more defendants jointly sued, and recovery of judgment against remaining defendant, does not violate article 3, Sec. 3 of the constitution relating to title of acts. Cleary v. Cab Co., 285 Pa. 241; 132 A. 185.

Such act is retroactive and applies to all cases whether arising before or after its passage, since it deals with procedure alone, and affects no legal right. Id.

Justice's court, appeals, summary conviction, suit for penalty, Acts 1876, 1905.—Title of Act of April 17, 1876, P. L. 29 (19 PS § 1189 and note), is sufficiently broad to warrant provision of act conferring right of appeal from judgment of magistrate in suit for penalty. Com. v. Kephart, 39 Super. 524; Chester v. Scholberger, 11 Del. 440.

Act April 17, 1876, P. L. 29 (19 PS § 1189 and note), relating to appeals in summary convictions is not unconstitutional. Com. v. Mitchell, 12 Del. 345.

The title of the Act of April 22, 1905, P. L. 284 "providing for the entering of security on appeal on summary conviction," is bad because it does not indicate that the right of appeal is limited to defendant, that it dispenses with allowance by the court, and changes the character of the trial in the appellate court. Com. v. Luckey, 31 Super. 446; Com. v. Bamberger, 32 C. C. 145; 36 Pitts. 282; Com. v. Jolly, 15 Dist. 305.

Justice's court, jurisdiction, automobiles, trespass, Act 1923.—Act of June 14, 1923, P. L. 718, extending jurisdiction of justices of peace to actions of trespass on case, in causes arising from use of automobiles, is not unconstitutional because title does not mention justices of peace. Campbell v. Krautheim, 4 D. & C. 577.

Justices of peace, fees, Act 1909.—Title of Act April 23, 1909, P. L. 160 (42 PS §§ 212, 213), "to regulate and establish the fees to be charged by justices of peace," etc., is sufficient without mentioning how or by whom fees are to be paid, and is broad enough to cover provision imposing on county liability for payment of justice's fee for taking affidavit and issuing certificate for payment of premium on scalps of noxious animals. McLaughlin v. County, 23 Dist. 479.

Act April 23, 1909, P. L. 160 (42 PS §§ 212, 213), regulating fees

charged by justices, is unconstitutional in so far as it imposes on county burden of paying certain fees, since title of act contains no reference thereto. Roush v. County, 63 Super. 314.

Labor, eight-hour day, Act 1897.—Act of July 26, 1897, P. L. 418, making eight hours a legal day's work for laborers employed by state or municipalities is not unconstitutional, as its title relates to limitation of eight hours and to liability for infraction of its provisions; this part of act is not unconstitutional because title of act contains no reference to employment of alien labor, concerning which act contains provision, as the two subjects are not inseparable. Com. v. Casey, 57 Pitts. 193.

Legal advertisements, newspapers of foreign languages, Acts 1901, 1915.—Provision of Act May 3, 1915, P. L. 242 (45 PS § 41), amending Act April 30, 1901, P. L. 109, by requiring advertisements in certain cases in Italian and Yiddish languages, is invalid, because title of act fails to give notice of intention thus to increase advertising of legal notices. Phila. v. Unknown, 24 Dist. 753.

License fees, telegraph, telephone, light and power companies, Act 1905.—Act of April 17, 1905, P. L. 183 (72 PS §§ 6161–6167), entitled, "an act providing for determination, by court of common pleas of proper county, of all disputes as to reasonableness of amount of license fees between municipal corporations and telegraph and telephone or light and power companies," embraces action at law. Pittsburg & Allegheny Tel. Co. v. Boro., 43 Super. 456.

Lien of bank on capital stock:
Banks—Capital Stock (Lien).

Lien, school property, construction of sewer, Act 1915.—Title of Act May 28, 1915, P. L. 599, is sufficient to give notice that act makes property of school districts liable to liens for construction of sewers. Lower Chichester Twp. v. School Dist., 18 Del. 432; 19 Mun. 247.

Limitation of actions, bank officers, embezzlement, supplemental act, Acts 1860, 1878.—Act June 12, 1878, P. L. 176, supplementing Act March 31, 1860, P. L. 382 (18 PS § 141 et seq.), is defective in title in that it fails to give notice of provisions of Sec. 6 (18 PS § 254), fixing limit of four years for prosecution of misdemeanors committed by officer, director or employee of bank or corporation. Com. v. Bell, 88 Super. 216; 4 Adv. 62.

While rule is that subject of supplemental Act is covered by title which contains specific reference to original, this is true only where provisions of supplemental act are germane to subject of original, and Act of 1860 contains no provisions limiting time of bringing action. Id.

Liquor laws, Acts 1923, 1926.—Title of Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), is sufficient to give notice of penalties and forfeitures contained therein. Com. v. Ford Truck, 85 Super. 188.

Title of Act February 19, 1926, P. L. 16 (47 PS §§ 121–144), is sufficient to indicate that it is supplement to Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), and that it relates to alcoholic liquor. Premier Cereal & Beverage Co. v. Permit Board, 9 D. & C. 554; 75 Pitts. 681.

Liquor law, bonds, sureties, amendment by reference to title, Acts 1887, 1901.—Act of April 24, 1901, P. L. 102, does not in its title offend sec. 3, art. 3, of constitution; nor does it offend sec. 6, art. 3, as amendment of Act May 13, 1887, P. L. 108, by reference to its title, without publishing at length so much thereof as is amended. Evans's License, 22 Dist. 11.

Liquor law, licenses, Acts 1887, 1891.—Act June 9, 1891, P. L. 248, amending sec. 8 of Act May 13, 1887, P. L. 108, relating to granting of liquor licenses and disposition of license money, is sufficient in title to give notice of intent to charge various municipalities for liability for proportionate share of expenses for collecting, since it not only refers to original act by title, but also to subject-matter thereof. Snyder Co. v. Wagonseller, 262 Pa. 269; 105 A. 297.

Liquor law, license fees, collection, county treasurer, compensation, Act 1891.—Act June 9, 1891, P. L. 248, amending sec. 8 of Act May 13, 1887,

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P. L. 108, is not defective in title because there is no reference therein to omission of clause providing for payment by local beneficiaries of proportionate shares of expense of collection, thus leaving no provisions for commissions to treasurer. Snyder Co. v. Wagenseller, 44 C. C. 114; 25 Dist. 1046; 8 Mun. 113.

Liquor law, license fees, refunding, Act 1919.—Title of Act May 8, 1919, P. L. 167 (47 PS §§ 522–524), providing for refunding of liquor license fees to persons prevented from engaging in business by war regulations, does not give sufficient notice to county officials that counties of commonwealth were to be charged with responsibility of refunding money, and is to that extent unconstitutional. Riffle's Pet., 74 Super. 410; Burkel's Pet., 74 Super. 416.

Liquor law, prohibition enforcement, Act 1923.—Title of Act of March 27, 1923, P. L. 34 (47 PS § 1 et seq.), which relates to alcoholic liquors, is sufficiently extensive to cover saving clause in respect to prior legislation, although saving clause is not mentioned in title. Com. v. Blackman, 82 Super. 364; Com. v. Newman, 82 Super. 367; Com. v. Alexander, 82 Super. 367; Com. v. Weiss, 82 Super. 368.

Liquor law, prohibition enforcement, injunction, nuisance, Act 1923.—Prohibition enforcement Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), authorizing court of equity at instance of commonwealth to restrain traffic in intoxicating liquor by injunction, and to declare any place so used to be public nuisance, does not violate sec. 3 of art. III of constitution of state. Purpose of Act is sufficiently indicated by its title. Com. v. Dietz, 73 Pitts. 193.

Liquor law, reference to title, extension by, Act 1921.—Act May 5, 1921, P. L. 407, known as the Woner Act passed for purpose of carrying out Eighteenth Amendment to Federal Constitution and the Volstead Act is not unconstitutional as failing to express its subject in its title or as being an extension of a prior act by reference to its title, since it did not amend or extend any legislation but merely recognized existing law. Com. v. Alderman, 79 Super. 277.

Liquor law, subjects, more than one, dual purpose of act, Act 1923.—Title of Snyder Act March 27, 1923, P. L. 34 (47 PS § 1 et seq.), does not violate article III, sec. 3 of constitution, since act applies to single subject of alcoholic liquors as expressed in title. Com. v. Gardner, 60 Sup. 450; Com. v. Gardner, 297 Pa. 498; 147 A. 527.

While act discloses dual purpose of enforcement of 18th Amendment and exercise of police powers, purpose does not constitute subject of act. Id.

Loans, Acts 1913, 1915.—Act June 17, 1915, P. L. 1012 (7 PS §§ 751–760), is not in contravention of United States constitution, art. 14, clause 1, nor of constitution of Pennsylvania, art. 1, §§ 1 and 8; art. 2, § 1; art. 3, §§ 3, 6 and 7, and art. 5, § 1. Com. v. Stewart, 25 Dist. 892.

Act June 17, 1915, P. L. 1012 (7 PS §§ 751–760), regulating the business of loaning money in small amounts, is sufficient in title to give notices of provision for criminal punishment for loaning money without license. Com. v. Puder, 261 Pa. 129; 104 A. 505; Wheeler v. Remedial Loan Co., 261 Pa. 139; 104 A. 508.

Act June 5, 1913, P. L. 429, making it unlawful for any person to engage in business of loaning money at interest under certain conditions without first obtaining from court of quarter sessions license permitting him so to do, is not unconstitutional on ground that its title is not sufficient index of subject matter of act. Com. v. Young, 57 Super. 521.

Act June 17, 1915, P. L. 1012 (7 PS §§ 751–760), regulating business of loaning money in small sums and prescribing penalties for violation of act, is not defective in title, merely because its title fails to indicate that a person doing business without license is liable to criminal punishment, since word "penalties" in title is sufficient notice thereof. Com. v. Puder, 67 Super. 11; Wheeler v. Loan Co., 67 Super. 21.

Loans, police regulation, Act 1909.—Act May 11, 1909, P. L. 518, regu-

lating business of making small loans of $200 or less, for which no security other than note or contract is taken, and providing penalty for engaging in such business without procuring license is proper police regulation, and subject matter is sufficiently set forth in its title. Com. v. Lynch, 22 Dist. 454.

Lunatics, maintenance, commonwealth, executors and administrators, Act 1915.—Title of Act June 1, 1915, P. L. 661 (71 PS §§ 1781–1788), relating to maintenance of insane and feeble-minded persons confined in state institutions, is not unconstitutional because of defective title, in so far as it imposes duties on executors and administrators of such persons. Minnich's Est., 35 York 53.

Magistrate, jurisdiction, Acts 1919, 1923.—Amendment which Act June 14, 1923, P. L. 718, purports to make in sec. 36 (jurisdiction of magistrate), Act June 30, 1919, P. L. 678, is unconstitutional because not covered by title of amending act, in which is given list of particular subjects respecting which it was proposed to amend Act 1919, and this list did not include matters which body of amending act undertakes to insert in sec. 36. Parson v. Downer, 7 Wash. 28.

Mechanics' liens, Acts 1905, 1911.—Act June 15, 1911, P. L. 980 (49 PS § 151), amending Act April 17, 1905, P. L. 172 (49 PS §§ 53, 151), is sufficient in title merely by reference to title of earlier Act. The word "property" in latter Act, which requires defendant to appear and show cause why claim should not be levied on "said property," is sufficient to include "structure" in former act. Atlantic Terra Cotta Co. v. Carson, 248 Pa. 417; 94 A. 72; aff. 53 Super. 91.

Milk containers, re-filling, Act 1911.—As title to Act June 15, 1911, P. L. 975 (73 PS §§ 31–36), makes no reference to anything except refilling of, or dealing or trafficking in milk containers, provisions of act making anything else an offense are unconstitutional and conviction before magistrate under act for possessing containers with intent to use must be set aside. Com. v. Uram, 7 Wash. 24.

Milk inspection:
Municipalities — Police Power (Milk).

Mines, anthracite, Act 1921.—Title of Act May 27, 1921, P. L. 1198 (52 PS §§ 661–671), regulating mining of anthracite coal is sufficient to cover its provisions. Mahon v. Coal Co., 274 Pa. 489; 118 A. 491.

Minors, employment of, Act 1915.—Act May 13, 1915, P. L. 286 (43 PS § 41 et seq.), covers broad subject—employment of minors—and necessarily its title is not so simple as many others which deal with much narrower subjects, but act does not contain more than one subject, and title contains sufficient to give notice of subject-matter. Wormser v. Com., 66 Pitts. 143.

Minors, employment of, Act 1905.—Section 2 of Act of May 2, 1905, P. L. 352, regulating employment of children in industrial establishments is constitutional, notice of its provisions being given in title. Stehle v. Jaeger Co., 225 Pa. 348; 74 A. 215.

Mothers' pension, Acts 1913, 1915.—Titles of Acts April 29, 1913, P. L. 118, and June 18, 1915, P. L. 1038, are not defective as giving no notice that payment of money shall be made by county. Com. v. Schlager, 18 Lack. 16; 14 Del. 256.

Motion pictures, board of censors, Act 1911.—Subject-matter of Act June 19, 1911, P. L. 1067, regulating moving-picture exhibitions and providing for examination and approval by state board of censors of films or reels and stereopticon views, is sufficiently set forth in its title. Buffalo Branch Mut. Film Corp. v. Censors, 23 Dist. 837.

Motor vehicles, Act 1913.—Section 10 of Act July 7, 1913, P. L. 672, regulating motor vehicles, is germane to subject expressed in its title. Com. v. Powell, 249 Pa. 144; 94 A. 746.

Motor vehicles, certificates of title, lien, Act 1925.—Sec. 2, Act April 27, 1925, P. L. 286, relating to certificates of title to motor vehicles and liens thereon is unconstitutional because purpose of section is not referred to in title of act. Hoffman Motor Co. v. Hess, 10 D. & C. 179.

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Motor vehicles, justices' courts, jurisdiction, damages, collision, Acts 1919, 1923.—Sec. 30, Act June 14, 1923, P. L. 718, amending sec. 36, Act June 30, 1919, P. L. 678, so as to give justices of peace jurisdiction in actions for damages arising from use and operation of motor vehicles, is unconstitutional because its title, which lists particular subjects respecting which it was proposed to amend Act 1919, does not include matters which body of amending act undertakes to insert in sec. 36, so that title is misleading. Spangler v. Heilman, 41 York 181; Harden v. Scheib, 76 Pitts. 158; 11 D. & C. 231.

Municipal claim, exemption, Acts 1901, 1903.—Section 5 of Act June 5, 1901, P. L. 364, as amended by Act March 19, 1903, P. L. 41 exempting burial places from taxation for municipal claims except in certain cases, is sufficiently expressed in title. Carrick v. Canevin, 243 Pa. 283; 90 A. 147.

Municipal claims, recovery, assumpsit, retroactive provisions, Act 1919.—Title of Act July 8, 1919, P. L. 786, providing for recovery of municipal claims by action of assumpsit, is sufficient to lead to inquiry into body of act and to cover its retroactive provisions. Scott Twp. v. Davis, 68 Pitts. 217.

Municipal improvements, streets dividing municipalities, assessment outside city limits, Act 1907.—Title of Act May 28, 1907, P. L. 287 (53 PS § 741), authorizing municipalities or townships to make assessments for municipal improvements outside of their corporate limits, under certain conditions, is not ambiguous. Mt. Lebanon Twp., 64 Pitts. 741.

Municipalities, affidavits of defense, amendment, Act 1913.—Act May 8, 1913, P. L. 172 (12 PS § 513), relating to municipal corporations and affidavits of defense in actions of assumpsit against same, provides different remedy from any suggested in title of act, namely a new forum for trial of case—court, without jury, and on testimony of witnesses taken on depositions. Smith v. Trustees, 18 Luz. 194.

Municipalities, eminent domain, sewer construction.—Act of April 10, 1905, P. L. 125 (53 PS §§ 941–943), giving cities right to take land for purpose of building sewers either within or without their corporate limits, is not unconstitutional because body of act does not expressly declare that land can be taken "within or without their corporate limits," whereas these words are used in title of act. City of Lancaster's Case, 27 Lanc. 233.

In body of act cities are authorized to enter on such lands as are necessary and they are not thereby confined to limits of municipality so that title used and act itself are equally comprehensive. Id.

Municipalities, inspection of gas conduits, license fee.—Sec. 1 of Act of July 26, 1913, P. L. 1371 (72 PS §§ 6161 et seq.), conferring on court power to reduce license fee for inspection of gas conduits is covered by title of act. Pa. Gas Cos., Pet., 258 Pa. 234; 101 A. 996.

Municipalities, payment for work done under void contract, Act 1921.—Title of Act May 20, 1921, P. L. 1045, authorizing cities to provide payment for public work accepted by city where no valid contract had been made as required by law, is insufficient in that it does not give notice of mandatory character of the Act. Com. v. Bearstler, 85 Super. 228.

Municipalities, refunding voluntary payment, Act 1917.—Since title to Act of July 5, 1917, P. L. 682 (53 P S § 631), which simply authorizes cities to refund moneys mistakenly paid into their treasuries, does not contain clear suggestion that it is mandatory, a construction will not be put on statute itself so as to require such payment, where municipality has not authorized it to be made. Investor's Realty Co. v. Harrisburg, 281 Pa. 200; 126 A. 236; rev. 82 Super. 26.

Municipalities, refunding voluntary payment, Act 1917.—Act July 5, 1917, P. L. 682 (53 PS § 631), relating to repayment to abutting prop-

erty owners of money paid under claims erroneously assessed against them, is not defective in title because terms of act are broader than enacting clause. Rubinsky v. Pottsville, 81 Super. 105.

Municipalities, third class, assessments for local improvements, Act 1913.—Clause 10 of section 3, article 5 of Act June 27, 1913, P. L. 568, 583 (53 PS § 11010), permitting cities of third class to provide for payment of street improvements is not in violation of sec. 3, art. 3 of constitution because plan and scheme by which individuals are taxed is not same as taxes for general purposes. York v. Eyster, 29 York 193; 30 York 29.

Municipalities, third class, government of, Act 1913.—Title to act June 27, 1913, P. L. 568 (53 PS § 10811 et seq.), which sets forth that it is an act providing for government of cities of third class, is sufficient, as how legislation shall be passed is within scope of title. Com. v. Ward, 12 Del. 521; 5 Leh. 396.

Act June 27, 1913, P. L. 568 (53 PS § 10811 et seq.), providing for regulation and government of cities of third class, sufficiently refers to subject matter in its title. York City v. Eyster, 68 Super. 104.

Municipalities, third class, hospital, establishment, Acts of 1889, 1903.—The title of the Act of March 30, 1903, P. L. 115, § 2, "amending clause 22 of section 3, Article 5," of the Act of May 23, 1889, P. L. 277, "providing for the incorporation and government of cities of the third class," gives sufficient notice of an extension of the power vested by the Act of 1889, in such cities to establish hospitals. Allentown v. Wagner, 214 Pa. 210; 63 A. 697; affirming 27 Super. 485.

Ordinance.—Art. 3, Sec. 3 of the Constitution, relating to title of statutes, does not apply to municipal ordinances. Donahue v. Boro., 86 Super. 337.

Ordinance, violation, penalty, Acts 1913, 1925.—Act April 7, 1925, P. L. 179 (53 PS § 11054), amending clause 46, sec. 3, art. 5, of Act June 27, 1913, P. L. 568 (53 PS § 11054), is not unconstitutional because in its title no reference is made to proposed increase of maximum penalties for violation of ordinances. Bothwell v. York, 40 York 161; 75 Pitts. 270; 18 Mun. 167.

Pandering, Act 1911.—Act June 7, 1911, P. L. 698 (18 PS §§ 807–812), relating to the crime of pandering, sufficiently states its subject in its title. Com. v. Lavery, 57 Super. 154.

Parkways, compensation, Act 1915.—Act June 7, 1915, P. L. 894 (53 P S §§ 3763, 3765), relating to plotting of parks and parkways, and compensation for taking, is sufficiently expressed in its title. Phila. Parkway Opening, 295 Pa. 538; 145 A. 600.

Partners, appropriation of assets, beneficial society, Act 1885.—Title of Act June 3, 1885, P. L. 60 (72 PS § 4083 et seq.), "to punish co-partners for fraudulently appropriating the property . . . of the co-partnership, corporation or association," is sufficient to sustain indictment under act against member of beneficial society for converting association's money to his own use. Com. v. Gowsewski, 21 Luz. 61.

Partnership Act of 1915.—Not decided whether title of Uniform Partnership Act of March 26, 1915, P. L. 18 (59 PS § 1 et seq.), is good. Hall's Est., 266 Pa. 312, 313, 317; 109 A. 697.

Penalties, appeals, more than one subject, Acts of 1876, 1905.—It seems that the Act of April 17, 1876, P. L. 29, and its amendment of April 22, 1905, P. L. 284, are bad in so far as they relate to appeals from judgments for penalties, inasmuch as their title indicate that they relate solely to appeals in cases of summary conviction. Beaver Falls Boro. Schl. Dist. v. Weir, 4 Just. 145. Contra Com. v. Stokes, 4 Just. 163.

It seems that they are also bad as containing more than one subject. Beaver Falls Boro. Schl. Dist. v. Weir, supra.

Penalties of act, notice of, city employee participating in political campaign, Act 1919.—Act June 25, 1919, P. L. 581 (53 PS § 2901 et seq.), entitled "Act for better government of cities of first class," contains sufficient

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notice in its title of creation of offense of employees taking part in political campaigns and assisting electors at polls, as title of act does not have to give notice of penalties or other provisions for violation. Com. v. Baldwin, 12 D. & C. 98.

Personal injuries to deceased, actions for, by executors, Act 1917.—Under Section 35 of Act June 7, 1917, P. L. 447 (20 PS §§ 771–782), giving executors and administrators power to prosecute "all personal actions which decedent . . . might have commenced and prosecuted except actions for slander and libel" executor has no authority to begin action for personal injuries to decedent which was not begun in latter's lifetime, and to so construe the act would make it unconstitutional as containing subject matter not expressed in its title. Strain v. Kern, 277 Pa. 209; 120 A. 818.

Physicians, license, penal offense, Act 1893.—Act May 18, 1893, P. L. 94, providing for licensing of physicians is not unconstitutional merely because its title does not expressly declare violation of act to be penal offense. Com. v. Clymer, 217 Pa. 302; 66 A. 560; affirming 30 Super. 61.

Plumbing, nuisance, equity, jurisdiction, Act 1901.—Act of June 7, 1901, P. L. 493 (53 PS §§ 2551–2630), relating to plumbing, is not unconstitutional because it enlarges jurisdiction of equity to abate a nuisance without enlargement being mentioned in its title, since title indicates penalties were imposed in violation of act and body of act shows that if nuisance is created it could be abated by proper court proceeding. New Castle v. Withers, 291 Pa. 216; 139 A. 860.

Pollution of stream:
Watercourse (Pollution).

Poor districts, consolidation of laws, right of one not affected by act, Act 1925.—Act of May 14, 1925, P. L. 762 (62 PS § 1 et seq.), relating to government of poor districts and consolidating law with reference thereto, does not violate article 3, section 3 of constitution, since title gives notice that all laws governing poor districts may be affected thereby. Com. v. Reese, 293 Pa. 398; 143 A. 127.

One not affected by provisions of act cannot question its constitutionality. Id.

Practice Act, accounting, Act 1915.—Practice Act May 14, 1915, P. L. 483 (12 PS § 382 et seq.), is sufficient in title to cover provisions of sec. 11, permitting plaintiff to ask for accounting from defendant. Miller v. Rubber Co., 268 Pa. 51; 110 A. 802.

Practice, unconstitutionality of part of act, Act 1915.—Part of act not within subject stated in title may be unconstitutional, leaving rest of act to stand. Therefore, question of unconstitutionality of sections 11 and 19 of practice Act May 14, 1915, P. L. 483 (12 PS §§ 393, 737), which allow a plaintiff to require defendant to state an account, cannot be raised in suit in trespass which does not involve any accounting. Tennant v. Township, 26 Dist. 370.

Sections 11 and 19 of Act May 14, 1915, P. L. 483, providing for accounting are not unconstitutional as not being within title of act. Thornton v. Graham, 65 Pitts. 409; Chisholm v. Building Co., 65 Pitts. 425.

Prison inspectors, Acts 1909, 1913.—Act May 21, 1913, P. L. 279 (61 PS §§ 403–406), amending act April 27, 1909, P. L. 262, is in conflict with sec. 3 of art. 3 of constitution. Its chief purpose of creating different class of counties than that to which former act applied is not expressed in title. Title is also misleading in that it imports notice only of legislation concerning counties affected by earlier act. Com. v. Thomas, 15 Lack. 130.

Nor does amending act fulfill requirements of rule applying to supplementary acts, because its provisions are not germane to subject of original act; in order to be so they must be germane both in scope and purpose. Id.

Process, service, insurance companies, Act 1921.—Act of May 17, 1921, P. L. 682, Sec. 334 (40 PS § 457), is unconstitutional in that the title fails to give notice of the provision there-

in establishing a method of serving process against insurance companies by the sheriff of another county. Spector v. Ins. Co., 285 Pa. 464; 132 A. 531.

Public school, Act 1911.—School code of May 18, 1911, P. L. 309 (24 PS § 1 et seq.), is not defective in title. Minsinger v. Rau, 236 Pa. 327; 84 A. 902; Com. v. School District, 241 Pa. 224; 88 A. 481.

Public schools, appropriations for sectarian schools, Act of 1911.—Act of May 18, 1911, P. L. 309 (school code; 24 PS § 1 et seq.), is not unconstitutional either as being deficient in title or as being local or special law, or as appropriation act improperly appropriating public moneys for support of sectarian schools or of schools other than public schools. Com. v. Altoona Sch. Dist., 39 C. C. 385; Com. v. Plummer, 21 Dist. 182.

Public schools, districts, accounts, audit, Act 1923.—Act June 29, 1923, P. L. 949 (24 PS §§ 2203, 2251, 2341), providing for audit of accounts of school districts, is not defective in title. Com. v. Tice, 282 Pa. 595; 128 A. 506.

Public schools, high schools, attendance from another district, Act 1905.—Act of March 16, 1905, P. L. 40, relating to tuition of children in high schools outside of districts in which children reside, is not defective in title as not indicating by whom tuition of non-resident pupils is to be paid. Hughesville Boro. Sch. Dist. v. Dist., 40 Super. 311; Lansdale Boro. School District v. School District, 35 C. C. 88; 24 Montg. 81; 6 Just. 270.

Public schools, religious dress of teachers, Act 1895.—Act of June 27, 1895, P. L. 395 (24 PS §§ 1129, 1130), entitled, "An act to prevent wearing in public schools of this commonwealth, by any of teachers thereof, of any dress, insignia, marks or emblems indicating fact that such teacher is adherent or member of any religious order, sect or denomination, and imposing fine on board of directors of any public school permitting same," is sufficient to cover provisions relating to suspension and disqualifying of teachers who violate act, and to cover provisions relating to fining of individual directors, of deprivation of directors of their office or their disqualification for office. Com. v. Herr, 229 Pa. 132; 78 A. 68; aff. 39 Super. 454.

Statement in title that fine is to be imposed on board of directors, whereas penal provision contained in body of act is directed against director or directors who offend, does not render act unconstitutional. Id.

Public schools, scholars, attending other districts, high school, costs of tuition and books, Act 1905.—Act March 16, 1905, P. L. 40, permitting children of one school district to attend high school in another and providing for payment of costs of tuition and books, is not defective because title does not say who is to be liable for such costs. Muncy Boro. Sch. Dist. v. Dist., 5 Just. 185; Honesdale Sch. Dist. v. Bethany Dist., 16 Dist. 996.

Public schools, vocational schools, state aid, Act 1913.—Title of Act May 1, 1913, P. L. 138 (24 PS § 1651 et seq.), defining vocational education and providing for vocational schools, is not misleading, because it tends to belief that state will reimburse school district wholly, not partially as act provides, for tuition paid to another district. Benton Boro. Sch. Dist. v. Dist., 50 C. C. 399.

Public service, grade crossings, municipalities, Act 1913.—Public service company Act July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), is not unconstitutional in that title does not sufficiently indicate its purpose to include grade crossings in municipal corporations. "Municipal corporations" are specifically mentioned as within contemplation of act by referring to them in connection with expenses and damages of construction, etc., of railroad crossings. Pittsburgh Rys. Co. v. City, 66 Pitts. 73; 9 Mun. 198.

Race and color, discrimination, Act 1887.—Title of Act May 19, 1887, P. L. 130 (18 PS § 2341), to provide civil rights to all people regardless of race or color, is sufficient to cover all of its provisions. Com. v. George, 42 C. C. 587; 18 Dauph. 40.

Railroad, eminent domain.—Title of act which shows that purpose of act

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was to authorize company to build railroad, gives sufficient notice of provision in body of act giving company right of eminent domain. Olyphant Boro. v. Del. & Hudson Co., 225 Pa. 147; 73 A. 1101.

Railroads, operation of trains, Act 1911.—Title of Act June 19, 1911, P. L. 1053, gives sufficient notice of provisions for heating of trains and for means of exit from rear platform and steps of mail and express cars. Pennsylvania R. R. v. Ewing, 241 Pa. 581; 88 A. 775.

Railroads, passenger train equipment, Act 1911.—The title of Act June 19, 1911, P. L. 1053, relating to proper equipment and manning of passenger trains, is sufficient to cover provision requiring rear car to be equipped with free exit and platform at rear end. Penna. R. R. v. Public Service Commission, 67 Super. 575, 581.

Real estate brokers, license tax, amendment by reference, Act 1905.—Act of April 14, 1905, P. L. 161, requiring real estate brokers to pay license tax or fee, is not defective in title, under Art. 3, § 3 of constitution, nor under Art. 3, § 6, relating to amendments. Com. v. Black Co., 223 Pa. 74; 72 A. 261; aff. 34 Super. 431.

Realty, incumbrance, liability of purchaser, Act 1878.—Act June 12, 1878, P. L. 205 (21 PS §§ 655, 656), defining the liability of purchasers of realty for the incumbrances thereon, sufficiently sets forth the subject matter in its title. Sloan v. Klein, 230 Pa. 132; 79 A. 403.

Repeal, incidental, Acts 1911, 1913.—Constitution does not make obviously impracticable requirement that every act shall recite all other acts that its operation may incidentally affect by repeal. Com. v. Bushnell, 18 Dauph. 287, S. C.

Repeal of prior act.—Repeal of previous acts on same general subject is always germane to title of repealing act. Lutz v. Matthews, 37 Super. 354.

Retroactive effect of constitutional provision.—Prohibition that no bill shall be passed containing more than one subject, which shall be clearly expressed in its title has to do with legislation subsequent to adoption of constitution. Com. v. Rapp, 23 Dist. 145; 5 Mun. 238; 12 Just. 225.

Road tax, payment by work, submission to voters, repeal of local law, Acts of 1866, 1909.—Provision of Act of May 13, 1909, P. L. 752, § 2, that a system of paying road taxes by work may be adopted by majority vote of township electors, is unconstitutional because title of act gives no notice of such subject matter. Spaulding v. Twp., 59 Pitts. 532.

Local Act of March 16, 1866, P. L. 208, applying to Crawford county, which provides that road tax may be levied and collected partly in cash and partly in labor, is not repealed by Act of 1909. Id; Robb v. Twp., 38 C. C. 469.

Sales, choses in action, goods exceeding $500 in value, stock, as chose in action, Act 1915.—Since title of Sales Act of May 19, 1915, P. L. 543 (69 PS § 1 et seq.), does not clearly express its inclusion of subject of choses in action, sec. 4, which forbids suits on oral contracts for sales of goods or choses in action exceeding $500 in value, it is unconstitutional as to choses in action. McMullin v. Phillips, 4 D. & C. 650.

Stock is chose in action. Id.

Sec. 4 of Sales Act May 19, 1915, P. L. 543 (69 PS § 1 et seq.), is unconstitutional so far as relates to choses in action, because its title does not clearly show that sales of corporate stock are included. Guppy v. Moltrup, 281 Pa. 343; 126 A. 766.

Sec. 4 of Act May 19, 1915, P. L. 543 (69 PS § 42), making oral contract to sell goods of value of $500.00 or upwards unenforceable where there has been no acceptance of goods or payment on account, is germane to title of act, and not unconstitutional. Gano v. Coal Co., 28 Dist. 825; 48 C. C. 163.

Sales in bulk, creditors, notice, Act 1905.—Act March 28, 1905, P. L. 62, requiring notice to creditors of sales in bulk of stock of merchandise and fixtures, is not defective in title in regard to giving notice of duties imposed on purchasers to whom it applies. Wil-

son v. Edwards, 32 Super. 295; Ferngold v. Sternberg, 33 Super. 39.

Sales of provisions, Act 1889.—Act of May 4, 1889, P. L. 87, entitled "An act relating to sale of provisions by description," is not defective, because title does not specify the several articles of merchandise commonly understood as being within term "provisions"; nor is it defective because it does not give notice of new and additional contractual liability imposed on vendor on sale of provisions to middleman, who buys not for consumption, but for sale to others. Weiss v. Swift, 36 Super. 376.

Secret societies, emblems, wearing with intent to deceive, Act 1907.—Act March 28, 1907, P. L. 35 (18 PS §§ 2719, 2720), prohibiting fraudulent use of emblems of secret organizations, and fixing penalty for violation of act, is sufficient in title under Const. Art. 3, § 3. Com. v. Martin, 35 Super. 241.

Sentence, habitual offenders, Act 1909.—It seems that Act May 10, 1909, P. L. 495 (19 PS §§ 1081–1086; 61 PS §§ 291–301), providing maximum sentence of 30 years in case of habitual offenders, is sufficient in title. Com. v. Curry, 285 Pa. 289; 132 A. 370.

Sewing machines, exemption from execution and distress, notice to landlord, Act 1895.—Act of June 25, 1895, P. L. 282 (12 PS § 2169), entitled "Act to exempt sewing machines, etc., leased or hired, from levy or sale on execution or distress for rent," which act contains a proviso that owner must give notice to landlord, is not defective as to title. Singer Sewing Mach. Co. v. Tonkay, 35 C. C. 483; 18 Dist. 963.

Sewing machines, exemption from execution or distress, Act 1895.—Title to Act June 25, 1895, P. L. 282 (12 PS § 2169), viz.: "An act to exempt sewing machines and typewriting machines, leased or hired, from levy or sale on execution or distress for rent," is sufficient to cover proviso in body of act in regard to notice to landlord. Singer Sewing Mach. Co. v. Tonkay, 5 West. 37.

Sheriffs, costs, Act 1911.—Act April 21, 1911, P. L. 76 (16 PS § 2661), relating to costs to be charged by sheriffs, is sufficient in title. Mayer v. Franklin Co., 85 Super. 463.

Sheriff, salary, Act 1895.—Act of July 2, 1895, P. L. 424 (16 PS § 2321), contains no reference to sheriff's salary in its title and is in conflict with Art. 3, § 3, of constitution in so far as it attempts to fix salaries of sheriffs in counties having more than 150,000 and less than 200,000 inhabitants. Zeigler v. County, 26 Lanc. 377.

Sheriff, sales, costs, stay, Act 1901.—Section 3 of Act July 11, 1901, P. L. 663 (16 PS § 2663), relating to sheriffs' sales, is unconstitutional in that its subject matter is not clearly indicated in title. This section refers to sheriffs' costs chargeable on writ, whereas title has reference to fees. United Security Life Ins. & Tr. Co. v. Kline, 16 Luz. 295; 22 Dist. 976.

Sheriff, solicitor, employment, salary, Act 1923.—Title of Act May 10, 1923, P. L. 183, authorizing sheriffs in counties of fourth class to appoint solicitors and fixing their salary, is sufficient to give notice of provision that payment was to be made by the county. Graeff v. Schlottman, 287 Pa. 342; 135 A. 308; rev. 87 Super. 387.

Sheriff, solicitor, salary.—If title to act fairly gives notice of subject of act so as to reasonably lead to inquiry into body of bill, it is all that is necessary (salary of sheriff's solicitor); it need not be index to contents. Graeff v. Schlottman, 21 Sch. 398.

Soda water fountains, exempting from distress, Act 1899.—Act of April 28, 1899, P. L. 117, exempting soda water fountains and apparatus when leased or hired from sale on distress for rent is unconstitutional. Becker v. Rosenblum, 35 C. C. 179.

Soldiers' monument, Gettysburg memorial, variance between act and title, Act 1907.—Act June 13, 1907, P. L. 635, is not unconstitutional because title refers to soldiers, sailors and marines, while act itself refers only to soldiers. Gettysburg Memorial, 34 C. C. 237.

Said act was intended to appropriate funds for purpose of erecting monument at Gettysburg to commemorate services of volunteer soldiers, sailors

Constitutional Law—Statutes, Title —(Cont'd).

and marines from Pennsylvania who served in civil war. Id.

Soldiers' monument, memorial building, Acts 1895, 1903.—The title of Act April 3, 1903, P. L. 136, amending Act May 22, 1895, P. L. 96, which provides for erection of monuments by counties to soldiers of civil war, gives sufficient notice of its purpose to allow erection of memorial hall in certain counties. Yoho v. Allegheny Co., 218 Pa. 401; 67 A. 648.

The word "monument" in title of both acts may include a memorial building. Id.

Soldiers, widows of, burial, Acts 1915, 1917.—Act April 12, 1917, P. L. 78, amending Act April 15, 1915, P. L. 132, which provides for burial of indigent widows of soldiers at expense of county, by including in its provisions soldiers' widows who are not indigent, is unconstitutional because its title gives no notice of new legislation not germane to subject of original act. King v. Diller, 36 Lanc. 205; 28 Dist. 1008.

Street railway, connecting with railroad, Act 1901.—Section 8 of Act June 7, 1901, P. L. 514, forbidding street railways to connect its tracks with those of railroad, or from interchanging cars, is unconstitutional in that provisions of this section are not mentioned in title of act. Willis v. Ry., 234 Pa. 120; 82 A. 1117; Baldwin Twp. v. Rys. Co., 58 Pitts. 199; Commissioners v. Railways Co., 56 Pitts. 415.

Street railway, connecting with railroad:
Street Railways—Rights and Liabilities (Connecting).

Street railways, eminent domain, right of way, fencing, Act 1907.—Act June 1, 1907, P. L. 368 (67 PS §§ 1221–1227), which gives street railways right of eminent domain, is not defective in title merely because no reference is made to provisions of § 7 (67 PS § 1227), requiring right of way to be fenced where it crosses private property. Daugherty's Case, 51 Super. 120.

Street railways, eminent domain, supplement, amendment, Act 1907.—Title to Act June 1, 1907, P. L. 368 (67 PS §§ 1221–1227), conferring on street railway companies right of eminent domain, is sufficient. Morris v. Ry. Co., 41 C. C. 69.

Supplement or amendment to act of assembly, in so far as its provisions affect or are in conflict with provisions of other supplements or amendments, is valid without its being specifically stated in title of last adopted supplement or amendment that it is supplement or amendment of original act, designating it by title, and to amendments and supplements thereof. Id.

Street railways, location, repeal of act, Acts 1866, 1901.—Title of Act of June 7, 1901, P. L. 514 (67 PS § 1111 et seq.), relating to right of street railways to occupy streets, is sufficient to cover repeal of Act March 23, 1866, P. L. 299 (53 PS §§ 7132, 7133), prohibiting laying of railway tracks on Broad street, Philadelphia. Com. v. Broad St. Ry., 219 Pa. 11; 67 A. 958.

Surveyor, road law, Act 1873.—Act Feb. 24, 1873, P. L. 155, relating to duties of surveyor and civil engineer in Allegheny county, in regard to laying out roads, is not defective in failing to give notice of its provisions in its title. Kennedy Twp. Road, 50 Super. 619.

Tax assessors, compensation, Act 1913.—Act May 20, 1913, P. L. 264, providing for compensation of assessors in townships of first class at $10 a day is unconstitutional, in that its title is defective in not referring to provisions shifting to township commissioners jurisdiction over assessors and making their certificate final. Kowalski v. County, 2 Northum. 214.

Taxes, corporations, mistake in reference to date of Act 1907.—Act June 7, 1907, P. L. 430, entitled "an act to further amend § 21 of an act entitled 'an act to provide revenue by taxation,' approved June 27, 1879," violates Const. Art. 3, § 3, of the constitution in failing to clearly express its subject in its title, inasmuch as no acts were approved on that date and the title specified is borne by two different acts passed in different years, but neither of which had a 21st section. Provident

L. & T. Co. v. Hammond, 230 Pa. 407; 79 A. 628.

The fact that there was in the pamphlet laws a marginal note explaining what act was meant to be amended does not alter the case for the reasons that such note was inserted without authority and also after the passage of the act. Id.

Taxes, excess, return of, Act 1889.—Act April 19, 1889, P. L. 37 (72 PS § 5241), gives sufficient notice in its title of provision of act relating to return of excess tax payments. Kaemmerling v. Sch. District, 297 Pa. 44; 146 A. 144.

Taxes, exemption, charities, Act 1901, 1911.—It seems Act May 29, 1901, P. L. 319, relating to exemption of public charities from taxation, fails to properly express its subject in its title. Mercersburg College v. Boro., 53 Super. 388.

Act of June 13, 1911, P. L. 898, removing the exemption from taxation of certain lands of charitable institutions is unconstitutional in that the subject is not clearly expressed in title. Williamson Free School, 12 Del. 259; 22 Dist. 824.

Taxes, exemption, charities, water rent, Acts 1901, 1915.—Act of June 4, 1901, P. L. 364, as amended by Act May 28, 1915, P. L. 599, providing institutions of purely public charity shall not be subject to taxes or municipal claims, is defective in title insofar as it attempts to legislate upon municipal liens for water rents, since water rents are not taxes. Pittsburgh v. Phelan, 85 Super. 548.

Taxes, exemption, church, Act 1911.—Title of Act June 13, 1911, P. L. 898, viz.: "An act to amend § 1 of an act approved, etc. . . . by removing the exemption from certain lands, therein exempted, not necessary for the enjoyment of the same and providing for the taxing of said land," is sufficient to give fair notice of subject of act. Parnassus Boro. v. Church, 43 C. C. 142; 4 West. 155.

Taxation, exemption, savings institutions, Act 1909.—Title of Act May 1, 1909, P. L. 298, gives sufficient notice of contents of proviso 4 relating to exemptions of savings institutions from taxation on securities issued free and clear of taxes. Com. v. R. R., 244 Pa. 241; 90 A. 564.

Taxes, horses, mules, Act 1927.—Purpose of Act April 28, 1927, P. L. 491 (72 PS § 4781), discontinuing tax on horses, mares, geldings, mules and neat cattle over age of four years is sufficiently disclosed in its title. Moore v. Commissioners, 10 D. & C. 466.

Word "horse" is generic and comprehends geldings, mares and mules. Id.

Even if act were unconstitutional in so far as it relieves mules from taxation, it would still be valid as to horses and neat cattle. Id.

Taxes, liens, validating, Act 1917.—Act May 10, 1917, P. L. 162, validating tax liens, gives no notice that it authorized filing of liens under provisions of Act June 4, 1901, P. L. 364, for three months after its approval and to that extent is unconstitutional. Keystone State B. & L. Ass'n v. Butterfield, 74 Super. 582.

Telegraph, telephone and electric wires, Act 1883.—Act April 19, 1883, P. L. 13 (15 PS § 3001), is invalid, in that its title fails to properly disclose subject-matter of act and conflicts with sec. 3, art. 3, of constitution. Amer. T. & T. Co. v. Thomas, 64 Pitts. 690.

Tenant, dispossession proceedings, Act 1905.—Act March 31, 1905, P. L. 87 (68 PS §§ 366, 367), relating to recovery of possession where tenant for less than year holds over, sufficiently states its purpose in its title. McHendry v. Shaffer, 58 Super. 171.

Tickets, sale on streets, Act 1883.—Act June 13, 1883, P. L. 96 (18 PS §§ 892, 893), entitled "An act to prevent selling and vending of theatre tickets on public streets," is in conflict with art. 3, sec. 3 of constitution, in so far as it attempts to prohibit sale of tickets for admission to places of amusement other than theatres, since such prohibition is not covered by title of act. Com. v. Burke, 24 Dist. 1073.

Tipstaves, salaries, Act 1911.—Purpose of Act March 30, 1911, P. L. 30—fixing of salaries of court criers and tipstaves—is clearly set forth in its title. Search v. County, 16 Luz. 330; 22 Dist. 1079.

Constitutional Law—Statutes, Title —(Cont'd).

Toll bridges, condemnation, appeal, supplemental act, Act 1878.—Though supplemental act gives no notice that its provisions embody clause relating to appeal, it is not unconstitutional as having defective title where right of appeal is germane to subject matter, as in Act of May 3, 1878, P. L. 41, relating to price to be paid on condemnation of toll bridge. Bellevernon Bridge, 58 Pitts. 412.

It seems that title to supplementary Act need only say that it is supplementary to original Act. Id.

Townships, annexation of, Act 1921.—Title of Act April 26, 1921, P. L. 282, relating to annexation of townships and repeal of prior acts gives sufficient notice of contents of act. Upper Merion Twp. v. Bridgeport, 44 Montg. 129.

Townships, classification, Acts 1893, 1901.—Act May 24, 1901, P. L. 294, extending to townships of first class the provisions of § 7 of Act June 12, 1893, P. L. 451, relating to the classification and government of townships, does not violate art. 3, § 7 of constitution by failing to express its purpose in its title. McKeown's Petition, 237 Pa. 626; 85 A. 1085; affirming 51 Super. 277.

Townships, fire engine, authority to purchase, general act, Acts 1917, 1921.—Act May 20, 1921, P. L. 959 (53 PS § 16972), amending Sec. 421 of Act July 14, 1917, P. L. 840 (53 PS § 16972), modifying law as to townships, is sufficient in title to cover provisions for purchase of fire apparatus for township fire companies, since title of Act of 1917 covers whole field of township affairs. Blanchard v. McDonnell, 286 Pa. 283; 133 A. 505.

Title of original Act must be treated as part of original title of supplement and if provisions of latter are germane to subject of original it is sufficient. Id.

Townships, treasurer, poor taxes, Act 1917.—Sec. 274 of General Township Act July 14, 1917, P. L. 840 (53 PS § 16675), providing that treasurers of townships should collect poor taxes is sufficiently expressed in its title. Com. v. MacElwee, 294 Pa. 569; 144 A. 751.

Trade marks, penalties, Acts of 1895, 1901, 1903.—The Act of May 21, 1895 P. L. 95 (73 PS §§ 101–108), as amended by the Acts of May 2, 1901, P. L. 114 (73 PS §§ 101–108), and April 3, 1903, P. L. 134 (73 PS §§ 104, 105), entitled "An act to provide for the adoption of trade marks, etc., and to regulate the same," is not bad because its title does not specifically state that a violation of the act is a misdemeanor. Com. v. Meads, 29 Super. 321.

Turnpikes freed from tolls, repairs, Acts 1905, 1907.—Acts of April 20, 1905, P. L. 237, and April 25, 1907, P. L. 104 (53 PS § 569), providing for maintenance by proper municipality of condemned turnpikes are sufficient in title. Clarion County v. Twp., 222 Pa. 350; 71 A. 543; aff. 36 Super. 302; Com. v. Van Bowman, 35 Super. 410.

Turnpikes, repair, Acts 1905, 1907.—Act April 25, 1907, P. L. 104 (53 PS § 569), amending Act April 20, 1905, P. L. 237, providing for repair and maintenance of abandoned turnpikes sufficiently expresses its subject in its title. Somerset Township v. Commissioners, 251 Pa. 164; 96 A. 121; Winters v. Koontz, 60 Super. 134.

Vital statistics, registrar, compensation, payment, Act 1905.—Act May 1, 1905, P. L. 330, requiring compensation of registrar of vital statistics to be paid by county treasurer, is not defective in title. Com. v. Light, 35 Super. 366; Bennett v. County Treasurer, 21 York 109.

Wages, preference, Act 1878.—Act June 12, 1878, P. L. 207 (43 PS § 230), which is supplement to Act April 9, 1872, P. L. 47 (43 PS § 221 et seq.), does not offend against art. 3, sec. 3 of constitution, which directs that no bill shall contain more than one subject, which shall be clearly expressed in its title. Brown v. Mehrten, 27 Dist. 919.

Warehousemen, receipts, Act 1909.—Act March 11, 1909, P. L. 19 (6 PS § 23 et seq.), is sufficient in title to give notice of penalty for disregarding receipt issued by him. Com. v. Rink, 267 Pa. 408; 110 A. 153; aff. 71 Super. 579.

Water companies, merger, eminent domain, Acts 1905, 1907, 1921, 1923.—Act of May 20, 1921, P. L. 1010 (15 PS §§ 1421, 1422), and Act May 17, 1923, P. L. 251 (15 PS §§ 1471, 1472), authorizing merger of water companies, sufficiently indicate in their titles omission of requirement of Act of June 7, 1907, P. L. 455 (15 PS § 1401 et seq.), providing that all water companies thereafter formed by merger and consolidation or by purchase of one company by another must accept the provisions of that act and the Act of April 13, 1905, P. L. 152 (15 PS § 1446), which take away from water companies the right of eminent domain. Reeves v. Water Co., 287 Pa. 376; 135 A. 362.

Water meters, inspection, cities of third class, Act 1913.—Clause 31 of section 3, article 5 of Act June 27, 1913, P. L. 568, 587 (53 PS § 11035), is unconstitutional, because title of act, viz.: "An Act, Providing for the incorporation and regulation, and government of cities of the third class," does not give sufficient notice of subject of water measurements and meter inspection, by cities of third class. York Water Co. v. City, 28 York 193.

Water, pollution, refuse from anthracite coal-mines, Act 1913.—Title of Act June 27, 1913, P. L. 640 (52 PS §§ 631, 632), viz.: "An Act to preserve the purity of the waters of the State, for the protection of the public health and property," does not clearly express its subject. Com. v. Lehigh Coal & Nav. Co., 13 Sch. 149; 45 C. C. 271; 26 Dist. 1076.

Water, supply, cities and boroughs, condemnation, springs, Acts 1887, 1907.—Act April 15, 1907, P. L. 90 (53 PS § 1205), amending Act May 25, 1887, P. L. 267, authorizing cities and boroughs to condemn property and rights, for purposes of obtaining and supplying water, so as to include springs, is constitutional. Stein v. Boro., 5 Leh. 22; 4 Mun. 12.

Title gives sufficient notice, notwithstanding that it does not refer to proviso that no waters or springs appropriated shall be used so as to deprive owner of certain rights. Id.

Waterworks commissions in boroughs, Act 1913.—Title of Act June 5, 1913, P. L. 445 (53 PS §§ 15911–15920), providing for commission of water-works in boroughs, etc., is sufficient to cover provision for issuance of bonds for extension of works and for joint action by boroughs or borough and township. Com. v. Krebs, 43 C. C. 425; 11 Sch. 371.

Workmen's compensation, employee of sub-contractor, Act 1915.—Act June 2, 1915, P. L. 736 (77 PS § 1 et seq.), providing for workmen's compensation, is sufficiently entitled to cover liability of contractor to pay damages to employee of sub-contractor. Qualp v. Stewart Co., 266 Pa. 502; 109 A. 780.

Workmen's compensation, subrogation, rights against third persons, Act 1915.—Workmen's Compensation Act of June 2, 1915, P. L. 736 (77 PS § 1 et seq.), gives sufficient notice of provisions for subrogating employer to rights of employee where injury requires payment from third persons by reason of their negligence. Smith v. Yellow Cab Co., 87 Super. 143.

Under Sec. 319 of the Act (77 PS § 671), employer is vested with right and remedies necessary to enforce right of subrogation. Id.

Constitutional Law—Taxation.

Discount, county taxes, residents of cities and boroughs, penalties, Acts 1885, 1909.—Under tax uniformity clause of state constitution and 14th amendment, federal constitution, payers of county taxes in cities are entitled to 5 per cent discount for prompt payment allowed to payers of county taxes in townships and boroughs by Acts June 25, 1885, P. L. 187, and May 1, 1909, P. L. 305, and are subject also to same penalties for delayed payment. Keator v. Commissioners, 28 Lack. 121.

Acts of 1885 and 1909, supra, are not discriminatory. Id.

Estates, transfer tax, rate, classification, Act 1927.—Act May 7, 1927, P. L. 859 (72 PS § 2303), enacted to give this commonwealth benefit of credit allowed states on federal taxes imposed on estates, does not adopt graded scheme of taxation of federal act and is

Constitutional Law — Taxation — (Cont'd).

therefore not unconstitutional as improper classification. Knowles' Est., 295 Pa. 571; 145 A. 797.

Exemption, churches, colleges, Act 1909.—Act March 24, 1909, P. L. 54, exempting churches, colleges and other institutions from taxation, providing the entire revenue be applied to its maintenance and increase of grounds and buildings, does not violate art. 9, § 1, of the constitution. Mercersburg College v. Boro., 53 Super. 388.

Exemption, church property, municipal claims, Acts 1901, 1903.—Section 5 of Act of June 4, 1901, P. L. 364, as amended by the Act of March 19, 1903, P. L. 41, exempting places of religious worship from special assessment for benefits, in this case grading of alley on which church abutted, is not unconstitutional as offending against constitutional provisions as to uniformity of taxation and exemption therefrom. Proctor Alley, 57 Pitts. 262.

Exemption, collateral inheritance tax, classification, step-children, Act 1905.—Act of April 22, 1905, P. L. 258, exempting step-children from collateral tax on devises and bequests to them from step-parents does not offend against constitutional requirement as to uniformity. Com. v. Randall, 225 Pa. 197; 73 A. 1109.

Exemption, rebate, timber land, Act 1905.—Act April 20, 1905, P. L. 246 (72 PS §§ 5583–5589), providing for rebate of taxes on timber land of 500 acres or less, violates Art. 9, § 1, of constitution in that it is based solely on difference in quantity of same kind of property. Christley v. Butler Co., 37 Super. 32.

It is also void under § 2 of Art. 9, forbidding exemption from taxation except that held for certain purposes mentioned in § 1. Id.

Exemption, removal from charitable institutions, Act 1911.—Act June 13, 1911, P. L. 898, removing the exemption from taxation of certain lands of charitable institutions is unconstitutional because it provides for taxation which would not be uniform. Williamson Free School, 12 Del. 259; 22 Dist. 824.

Exemption, territory annexed to city, Act 1903.—Act April 28, 1903, P. L. 332 (53 PS §§ 91–96), relating to annexation of new territory to cities and exempting such territory from liability for existing indebtedness of city, does not violate the uniformity clause of constitution. Higgins v. Price, 8 Lack. 333.

Lien, priority, discrimination, gasoline tax against corporations, debt due commonwealth, Acts 1811, 1911, 1921, 1923.—Act June 15, 1911, P. L. 955 (72 PS § 3342), making a prior lien money collected by corporations under gasoline tax Acts of May 20, 1921, P. L. 1021, and June 15, 1923, P. L. 834, is unconstitutional as being unreasonable and an unjust discrimination, since no priority of lien is given where tax has been collected by individuals. Schoyer v. Oil Co., 284 Pa. 189; 130 A. 413.

After taxes are paid into hands of collector whether corporations or individuals, they cease to be tax but an amount due commonwealth as a debt as well as a public account within Act March 30, 1811, P. L. 145, making balance of every account settled a lien on real estate of person indebted from date of settlement. Id.

There is no reasonable distinction between holders of indebtedness against a corporation and against individuals where tax collected is based on same subject. Id.

Act of June 30, 1885, P. L. 193 (72 PS §§ 1913, 2162), relating to real estate tax on corporate indebtedness does not apply to money due commonwealth under gasoline tax acts. Id.

Municipal debt, assessment to pay.—Art. 9, sec. 10 of constitution, which prohibits creation of municipal debt in advance of tax levy to discharge it as therein specified, does not apply to case where sufficient fund is available, having previously been regularly provided and appropriated by ordinance for that particular purpose. McAndrew v. Boro., 14 Lack. 81.

Municipal debt, assessment to pay.—Sec. 10, art. 9 of constitution which provides that, "Any county, township, school district or other municipality incurring any indebtedness shall at or be-

fore the time of so doing provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years," does not apply to incidental and ordinary expenses of making and repairing township roads. Indebtedness contemplated by constitution is such as may arise from some contract of municipality itself, payment of which is deferred to fixed future period. Com. v. Straban Twp., 19 Dauph. 302; 8 Mun. 58.

Municipal debt, assessment to pay, inter-county bridges, Act 1923.—Counties may build inter-county bridges and provide for payment of tolls, but when they borrow for construction of such bridges they must provide for taxation and if Act June 28, 1923, P. L. 875 (16 PS §§ 3641–3644), attempts to dispense with this feature it to that extent violates art. IX, sec. 10 of the constitution. Myers v. Zimmerman, 40 Lanc. 223; 40 York 85; Ruler v. Commissioners, 40 York 133; 40 Lanc. 321.

Representations, absence of, annexation of territory to district, Act 1858.—Act of April 22, 1858, P. L. 472, entitled "Act to annex sub-district No. 1, of Donegal township to borough of Claysville for school purposes," is not unconstitutional, as taxing electors in territory annexed without representation; nor construed in light of circumstances under which it was passed, is it "so vague, indefinite and uncertain in its terms and descriptions, that it cannot be understood, applied or enforced." Claysville Boro. School Dist. v. Worrell, 37 Super. 10.

Representation, absence of, school district, payment of tuition in another district, Act 1905.—Act March 16, 1905, P. L. 40, permitting children of one school district to attend high school in another and providing for payment of tuition by former district is not open to objection that it taxes home district in aid of another without giving home district voice in election of directors or employment of teachers. Honesdale Sch. Dist. v. Bethany Dist., 16 Dist. 996.

Uniformity:
Common Schools—High Schools (Attendance).

Uniformity, anthracite coal, classification, Act 1921.—Act May 11, 1921, P. L. 479 (72 PS §§ 2501–2503), imposing state tax on anthracite coal does not violate Art. 9, Sec. 1 of Constitution requiring uniformity of taxation on same class of subjects, since anthracite is proper subject for classification. Heisler v. Colliery Co., 274 Pa. 448; 118 A. 394.

Uniformity, anthracite and bituminous coal, classification, Acts 1913, 1921.—Act June 27, 1913, P. L. 639, taxing anthracite coal violates sec. 1 art. 9 of Constitution relating to uniformity of taxation on same class of subjects, because it makes arbitrary distinction between anthracite and bituminous coal. Com. v. Alden Coal Co., 251 Pa. 134; 96 A. 246; reversing 18 Dauph. 212; 16 Lack. 93; 2 Corp. 656; 43 C. C. 353. Com. v. St. Clair Coal Co., 251 Pa. 159; 96 A. 254; reversing 43 C. C. 367; 2 Corp. 654.

Classification of anthracite and bituminous coal for purpose of taxation under Act of May 11, 1921, P. L. 479 (72 PS §§ 2501–2503), is proper and this view is not affected by production of additional evidence to show that there is no real basis for classification since question of classification is one for legislature and courts will not interfere unless they can say with reasonable certainty that classification adopted by the legislature is without proper foundation, and only effect of proving additional facts to show similarity is to raise a question of doubt in mind of court which is not sufficient to warrant interference. Com. v. Hudson Coal Co., 287 Pa. 64; 134 A. 413.

Uniformity, assessments for local improvements, cities of third class, Act 1913.—Clause 10, section 3 of article 5 of Act June 27, 1913, P. L. 568, 583 (53 PS § 11010), permitting cities of third class to provide for payment of street improvements either in whole or in part by city or by owners, is not in violation of article 9, sec. 1 of constitution of state which provides that all taxes shall be uniform, as constitutional provision has no application to assessments for local improvements. York v. Holtzapple, 29 York 134; York v. Eyster, 29 York 193; 30 Id. 29.

Constitutional Law — Taxation — (Cont'd).

Uniformity, classification, discount for prompt payment in boroughs and townships, special laws, Act 1885.—Act June 25, 1885, P. L. 187, providing that in boroughs and townships tax payer shall be entitled to 5% reduction if paid before certain time is not unconstitutional as violating uniformity clause of constitution or provision forbidding local and special legislation merely because it does not apply to cities, since it is proper to classify districts where ordinarily collections are more difficult and expense greater than in more compact or built up sections, and where need for prompt collection of revenue is greater. Keator v. Lackawanna Co., 292 Pa. 269; 141 A. 37.

In classifying municipalities the legislature cannot be held to exact lines either as to population or scope of territory but all that is necessary is that division be based on reasonable grounds having some substantial relation to subject matter. Id.

Uniformity, corporations, capital stock, valuation.—Taxation of corporation on valuation of capital stock made on basis different from that applied to other corporations of same class is in violation of art. 9, sec. 1 of constitution. Com. v. Provident L. & T. Co., 40 C. C. 380.

Uniformity, corporations, taxicab companies, classification, due process of law, Act 1889.—Act June 1, 1889, P. L. 420, construed as imposing tax on taxicab companies, is not unconstitutional as violating provisions relating to uniformity of taxation, nor does it violate Fourteenth Amendment to Federal Constitution relating to due process of law merely because individuals engaged in taxicab business are not taxed, since legislature has right to classify for purpose of taxation and may place corporations in class separate from individuals. Com. v. Quaker City Cab Co., 287 Pa. 161; 134 A. 404.

Uniformity, corporations, title and trust companies, capital stock, valuation, Act of 1907.—Act of June 13, 1907, P. L. 640, relating to taxation of trust companies, and providing that value of each share of stock shall be determined by adding together capital paid in, surplus and individual profits, and dividing by number of shares outstanding is constitutional exercise of taxing power of state; and fact that method of ascertaining value of shares does not take into account selling value on stock exchange or in open market is immaterial. Com. v. Mortg. Trust Co., 227 Pa. 163; 76 A. 5.

Fact that selling value is not included is legislative and not judicial question. Id.

Act of 1907 is not retroactive in its operation. Id.

Uniformity, direct inheritances, federal tax, deduction, Act 1919.—Provision of Act June 20, 1919, P. L. 521 (72 PS § 2301 et seq.), imposing tax on direct inheritances, that "no deduction whatever shall be allowed for or on account of any taxes paid on such estate to the government of the United States or to any other state or territory," conflicts with art. 9, sec. 1, of constitution requiring all taxes to be uniform on same class of subjects, and is void. Smith's Est., 29 Dist. 917.

Uniformity, farm land, Act 1870.—Provision of Act Feb. 25, 1870, P. L. 242, which directs council of Erie to discriminate in laying city taxes in favor of "farm land" as defined in act does not offend against art. 9, sec. 1, of constitution, providing that all taxes shall be uniform on same class of subjects. Davison v. Erie, 3 Erie 147.

Uniformity, forest lands, rebates, Act of 1905.—The Act of April 8, 1905, P. L. 118 (72 PS §§ 5581, 5582), providing for a rebate of taxes levied on forest lands, violates Art. IX, section 1, of the constitution, which requires uniformity of taxation. Tubbs v. Twp., 32 C. C. 504.

Uniformity, gas companies, license tax, Acts 1889, 1901.—Act May 23, 1889, P. L. 277, 287, as amended by section 6 of Act May 16, 1901, P. L. 224, 228, giving to third class cities right to levy and collect license taxes on business and professions, does not create want of uniformity in taxation because it assesses gas companies without regard to quantity of business done by each. Altoona City v. O'Leary, 60 Super. 159.

The above acts refer to power of taxation and not to police power of city. Id.

Uniformity, highways, maintenance, Act 1909.—Act May 11, 1909, P. L. 506, relating to construction and maintenance of highways, does not violate Const. art. 3, sec. 7, relating to uniformity of taxation. Allegheny County Commissioners' Case, 61 Super. 591.

Uniformity, junk dealers, classification, license fee.—Municipal ordinance, imposing license fee on junk dealers does not violate Art. 9, Sec. 1, of constitution, which requires all taxes to be uniform on same class of subjects, because it compels dealers having fixed places of business to pay higher fee than those who conduct their business by means of wagons or pushcarts and buy from house to house and sell to larger dealers; such classification is proper and if license fee may be called a tax, it is uniform on same class of subjects. Penna. Auto Wrecking Co. v. Pittsburgh, 67 Pitts. 183.

Uniformity, liquid fuels, Acts of 1923.—Acts June 15, 1923, P. L. 834, and June 29, 1923, P. L. 969, imposing tax on liquid fuels, do not violate article IX, sec. 1 of constitution requiring uniformity of taxation on same class of subjects. Com. v. Sun Oil Co., 290 Pa. 539; 139 A. 156.

Uniformity, local improvements, assessments for, exemption, cemetery, Acts 1901, 1903.—Sections 1 and 2 of article nine, apply to ordinary taxation for maintenance of government, and do not concern local enactments for municipal improvements. Pittsburg v. Cemetery Ass'n., 44 Super. 289; Proctor Alley, 44 Super. 239; affirming, 57 Pitts. 262.

Act of June 4, 1901, P. L. 364, as amended by Act March 19, 1903, P. L. 41, relating to exemption of cemeteries, not used for profit, does not offend against uniformity. Id.

Uniformity, mercantile licenses, classification.—An ordinance imposing a mercantile license tax but distinguishing between persons soliciting orders from merchants and those soliciting from other persons, is valid classification. Harrisburg v. Stahl, 11 Dauph. 18, 20.

Uniformity, mercantile tax, police power, Act 1889, 1901.—Act May 23, 1889, P. L. 277, as amended by Act May 16, 1901, P. L. 224, giving cities of third class right to levy tax on business and professions, is an exercise of taxing power and not police power of city and does not create want of uniformity because it assesses goods without regard to quantity of business done. Altoona v. O'Leary, 254 Pa. 25; 98 A. 798.

Uniformity, personal property, classification, Act 1913.—Act June 17, 1913, P. L. 507 (72 PS § 4821 et seq.), relating to taxation of personal property for county purposes, does not violate uniformity clause of constitution, or provision against exemptions from taxation, since the selection and classification of subjects for taxation are exclusively for the legislature. Dupuy v. Johns, 261 Pa. 40; 104 A. 565.

Uniformity, sewer districts, creation, townships of first class, benefits, assessments by different methods, Act 1905.—Act February 23, 1905, P. L. 22, relating to construction of sewers in townships of first class, giving such townships power to divide townships into sewer districts and assess by front foot rule in densely populated districts and according to benefits in sparsely settled districts, does not violate Art. 9, § 1 of constitution, requiring uniformity of taxation. Anderson v. Lower Merion Twp., 217 Pa. 369; 66 A. 1115.

Said section applies only to taxes of general nature and not such as are levied for local improvements. Id.

Uniformity, streets, paving, assessment, abutting owners, front foot rule, Act 1913.—Act of June 27, 1913, P. L. 582, art. 5, cl. 10, § 3 (53 PS § 11010), providing that grading and paving of street be paid by city or by abutting owners according to front foot rule, does not violate constitutional provision requiring equality in taxation. Altoona v. Laughlin, 73 Super. 482.

Uniformity, street, repaving, assessment, abutting owners, petition for repairs, estoppel, Act 1915.—Act of June 3, 1915, P. L. 807 (53 PS §§ 15711, 15887), authorizing assessments for cost of repaving street is unconstitutional in that it constitutes unequal tax-

Constitutional Law — Taxation — (Cont'd).

ation, and this is true even though cost of original paving had been paid out of city treasury. Towanda Boro v. Swingle, 90 Super. 92.

Petition by taxpayers and citizens complaining of condition of the street and asking that it be repaired cannot be construed as suggestion that cost of work shall be assessed against abutting owners so as to estop petitioners from questioning constitutionality of act. Id.

Uniformity, turnpikes, repairs, Acts 1905, 1907.—Acts April 20, 1905, P. L. 237 and April 25, 1907, P. L. 104 (53 PS § 569), requiring counties to repair abandoned turnpikes, do not violate provisions of constitution relating to uniformity of taxation. Winters v. Koontz, 60 Super. 134; Com. v. Commissioners, 7 D. & C. 2; Com. v. Van Bowman, 35 Super. 410; Clarion Co. v. Twp., 222 Pa. 350; 71 A. 543.

Constitutional Law—Treaties.

Construction, non-resident aliens, Italy, personal rights, negligence, action for death, Act 1855.—The treaty between United States and Italy providing that citizens of each shall receive in territory of other the same protection and security, and enjoy same rights and privileges as shall be enjoyed by natives of each country, applies only to such citizens who, with respect to their persons or property, are within jurisdiction of other, and does not give non-resident alien right to maintain action under Act April 26, 1855, P. L. 309 (12 PS §§ 1602, 1603), to recover damages for death of her husband. Maiorano v. R. R., 216 Pa. 402; 65 A. 1077.

Italy:

Constitutional Law — Equal Protection of Law (Aliens).

Constitutional Law — Personal Rights (Workmen).

Constitutional Law—Trial by Jury.

Arbitration, compulsory, capital and labor disputes, Act of 1893.—Act of May 18, 1893, P. L. 102 (43 PS §§ 721–726), providing for arbitration of disputes between capital and labor is unconstitutional, in that it provides for compulsory arbitration on initiation of one party only, and thus contravenes § 6 of Art. 1 of state constitution, by infringing right of trial by jury, and also § 1 of Art. 5 by attempting to inaugurate tribunal, vested with judicial powers, not authorized by constitution. Wise v. Car Co., 19 Dist. 112; 57 Pitts. 442; 23 York 175.

Assault and battery, discharge of defendant, imposing costs, Act 1919.—Act of May 27, 1919, P. L. 306 (19 PS §§ 21, 22), is unconstitutional in so far as it provides for imposition of costs on discharged defendant, and is in conflict with art. 1, sec. 6, of Constitution, which guarantees to defendant right to trial by jury. Com. v. Reynolds, 26 Lack. 133; 39 York 15; Com. v. Webster, 23 Luz. 359; Com. v. Bossler, 12 Berks 4; Com. v. Cooper, 21 Luz. 264; 69 Pitts. 519; 15 Del. 550; Anderson v. Com., 70 Pitts. 68. Contra, Com. v. Brown, 1 D. & C. 609; Com. v. Berella, 9 West. 165.

Attorney, misappropriation by:

Attorneys — Disbarment (Misappropriation).

Attorneys, misconduct:

Attorneys — Disbarment (Subornation).

Automobile laws, summary conviction, new offense, creation of, Act 1913.—Provision of constitution of Pennsylvania that "trial by jury shall be as heretofore, and the right thereof shall remain inviolate," does not prevent legislature from creating new offenses or prescribing mode of ascertaining guilt of offender, as for violating motor vehicle Act July 7, 1913, P. L. 672. Com. v. Becker, 19 Luz. 23; 34 Lanc. 66.

County court, Allegheny, Act 1913.—Allegheny County Court Act of May 23, 1913, P. L. 310 (17 PS §§ 636–640), is constitutional. Findley v. Bryans, 58 Super. 399.

Courts, jurisdiction, crime committed in other county, jury of vicinage, long acquiescence in statute, Act 1860.—Act March 31, 1860, P. L. 427, secs. 48–49 (19 PS §§ 524, 525), giving courts jurisdiction of certain crimes committed in another county is not unconstitutional as depriving person accused of crime of trial by jury of vicinage. Com. v. Magnelli, Dauph. 1922, 297.

While fact that statute has been acquiesced in and unchallenged for over sixty years does not of itself establish constitutionality, yet it is clearly persuasive that act is not so clearly unconstitutional as to make duty of court to set it aside. Id.

Courts, jurisdiction, crime committed near county line, jury of, vicinage, Act 1860.—Section 48, Act March 31, 1860, P. L. 427 (19 PS § 524), providing that where crime is committed within 500 yards of boundary between two counties it may be tried in either county does not violate section 6 of declaration of rights providing that trial by jury shall remain as heretofore, or section 9 which gives to an accused right to trial by jury of vicinage. Com. v. Collins, 268 Pa. 295; 110 A. 738.

Word "vicinage" as used in constitution does not mean county, but is used is sense of neighborhood. Id.

Under above act it is immaterial that location of crime is definitely fixed by evidence, so long as it is within 500 yards of boundary. Id.

Cruelty to animals, new offense not indictable at common law, Acts 1869, 1909.—Act March 29, 1869, P. L. 22 (18 PS §§ 3104-3109), relating to cruelty to animals creates a new offense not indictable at common law and it was competent for legislature to prescribe particular mode for trial of persons violating act. Allen v. Com., 77 Super. 244.

Fact that word misdemeanor was used in act does not necessarily mean crime was an offense indictable at common law. Id.

Legislature may create new offence and provide for trial by alderman, magistrate or justice of peace without transgressing upon right of trial by jury. Com. v. Kieffer, 19 Dauph. 25; 14 Just. 236; 44 C. C. 409.

Fact that Act May 6, 1909, P. L. 443 (18 PS § 3110 et seq.), declares that violation of its provisions shall be a misdemeanor does not necessarily entitle one so charged to trial by jury. Id.

Cruelty to children, summary conviction, Act 1879.—Act June 11, 1879, P. L. 142, § 1 (18 PS § 2156), which provides that any person who shall cruelly ill-treat, abuse or inflict unnecessary cruel punishment upon any infant or minor child, shall be guilty of misdemeanor, and upon conviction thereof before any justice of peace, etc., shall be fined by such justice, etc., is not unconstitutional. Com. v. Sutton, 44 C. C. 51; 64 Pitts. 175; 25 Dist. 712; Com. v. Mountain, 64 Pitts. 340; 14 Just. 281; 25 Dist. 714; 44 C. C. 429.

Disorderly house, summary conviction before mayor.—Municipal ordinance providing against keeping disorderly house and for trial before mayor is not void because it denies defendant right of trial by jury, as offense was not indictable at common law. Easton v. Cericola, 11 North. 252.

Divorce, public morals, Act 1911.—Act April 20, 1911, P. L. 71, giving court power to refuse trial by jury in divorce cases, when such would prejudice public morals, is constitutional. Tschirky v. Tschirky, 7 Leh. 154; 14 Del. 373; M'Pherson v. M'Pherson, 6 Leh. 382; 44 C. C. 297; Espey v. Espey, 62 Pitts. 201; 42 C. C. 107; Mellon v. Mellon, 59 Pitts. 650; 39 C. C. 204.

Eminent domain:
Boroughs — Streets (Improvement).
Eminent Domain (Jury).

Eminent domain, sewers, construction, expenses.—The right to appeal to jury applies only where the property is taken, injured or destroyed, and does not extend to expenses of constructing a sewer. Wheeler Ave. Sewer Case, 8 Lack. 217.

Federal proceedings, federal constitution.—Requirement of seventh amendment to constitution of United States that trial by jury shall be according to rules of common law applies only to suits in federal courts and does not affect procedure in state courts. Pittsburgh & L. E. R. R. v. Grimm, 46 C. C. 630; 28 Dist. 419.

Gambling, summary conviction, magistrate.—City ordinance declaring it unlawful "for any person either as proprietor, lessee, agent or employe to conduct games played for money," and providing penalty of fine and imprisonment for violation is constitutional, and summary conviction before magistrate of licensed saloon keeper who permit-

Constitutional Law—Trial by Jury —(Cont'd).

ted men to play cards for money in his bar-room was sustained by divided court. Scranton v. Tatarunas, 36 Super. 205.

Insolvency, Act 1901.—Act of June 4, 1901, P. L. 404 (39 PS § 1 et seq.), is not unconstitutional because it deprives debtor of right to trial by jury of question of his insolvency and validity of claims presented against him. Steinruck's Case, 35 C. C. 228; 11 Dauph. 146.

Judgment non obstante veredicto: Practice — Judgment Non Obstante Veredicto (Trial).

Judgment n. o. v., Act 1905.—Act April 22, 1905, P. L. 286 (12 PS §§ 681–683), authorizing court to enter judgment n. o. v. on whole record, does not deny right of trial by jury. Stryker v. Boro., 57 Super. 100; American W. & V. Co. v. Lumber Co., 57 Super. 608.

Jury fee, requiring payment in advance, Act 1911.—Act May 5, 1911, P. L. 198 (17 PS §§ 621–651), establishing a county court in Allegheny county, does not abridge right of trial by jury merely because it requires payment of jury fee in advance. Gottschall v. Campbell, 234 Pa. 347; 83 A. 286.

Liquor, manufacture, permit, revocation, new offense, Acts 1923, 1926.—There is no provision in Acts March 27, 1923, P. L. 34 (47 PS § 1 et seq.), and February 19, 1926, P. L. 16 (47 PS §§ 121–144), or rules of alcohol permit board providing for jury trial in proceeding to revoke permit, and acts are not unconstitutional because no provision is made for jury trial. Premier Cereal & Beverage Co. v. Permit Board, 9 D. & C. 554; 75 Pitts. 681.

Legislature may withhold trial by jury from new offenses and new jurisdictions created by statute and clothed with no common law power, and also from proceedings in common law courts out of course of common law. Id.

Liquor, permit, revocation, Act 1926.—Under Act Feb. 19, 1926, P. L. 16 (47 PS §§ 121–144), relating to manufacture of alcohol, one whose permit has been revoked cannot demand trial by jury since it is within power of legislature, in creating new offense, to prescribe mode of trial other than by jury. Premier Cereal Co. v. Pa. Permit Board, 292 Pa. 127; 140 A. 858.

Liquor, sale, padlocking premises, nuisance, due process of law, Act 1923.—Act of March 27, 1923, P. L. 34 (47 PS § 1 et seq.), providing that possession and sale of intoxicating liquor on any premises contrary to law is a nuisance and detriment to health of the people, and giving courts power to enjoin for one year the use of such premises, does not interfere with due process of law or trial by jury. Com. v. Dietz, 285 Pa. 511; 132 A. 572; Com. v. Artz, 285 Pa. 521; 132 A. 575; Com. v. Guzzi, 27 Lack. 106.

Right of trial by jury exists only in cases belonging to class not originally within equity powers of court and legislature has power to provide relief or punishment without trial by jury when dealing with matters not within common law but defined by statute since the adoption of the constitution. Id.

Lunatics, claim by commonwealth for maintenance, Act 1915.—Act June 1, 1915, P. L. 661 (71 PS §§ 1781–1788), providing equitable proceeding for collection by commonwealth of claims for maintenance of lunatics, is not in conflict with art. 1, sec. 6 of constitution, as impairing right of trial by jury. Duerr's Case, 25 Dist. 406.

Municipal contracts, dispute, arbitration, engineer's decision.—Not decided whether a contract interferes with the right to jury trial, where an arbitration clause provides that the decision of the city engineer shall be final but another clause provides that the engineer's payment certificates shall be subject to review and correction by a board representing the city. Ahrens v. Reading, 261 Pa. 100, 105; 104 A. 511.

Municipalities.—Municipality does not belong to class whose rights to trial by jury are guaranteed by Art. 1, § 6, of constitution. Pittsburg & Allegheny Tel. Co. v. Boro., 43 Super. 456.

Murder trial, penalty, right of jury to fix, one not affected by act, right to complain, Act 1925.—Act May 14, 1925, P. L. 759 (18 PS § 2222), pro-

viding that in murder cases jury shall fix penalty, does not violate art. 1, sec. 6, of constitution providing that right of trial by jury shall remain as heretofore. Com. v. Loftus, 292 Pa. 395; 141 A. 289.

In such case one convicted of first degree murder has no standing to contest constitutionality of Act, since he is not injured or affected by it and he would have nothing to gain by having it declared unconstitutional. Id.

New offense, creation of.—Constitutional right of trial by jury only pertains to right of trial by jury as it existed at common law, and not to cases where legislature in pursuance of its police power creates offense. Com. v. Fedyna, 14 Del. 73; 14 Del. 177; 25 Dist. 985.

Legislature may provide any system of settlement or trial without coming into conflict with constitution, if trial by jury did not exist in such case theretofore. Buffalo Branch Mut. Film Corp. v. Censors, 23 Dist. 837.

The right of trial by jury does not apply to new remedies provided by statute or matters purely within jurisdiction of court of equity. Pottash v. Albany Oil Co., 274 Pa. 384; 118 A. 317; Pottash v. Red River Oil Co., 274 Pa. 392; 118 A. 320.

Perjury:
Contempt of Court (Perjury).

Practice, charging jury in absence of defendant and counsel.—It is error for trial judge in criminal case to give jury further instructions in absence of defendant or his counsel, as such course amounts to denial of defendant's constitutional right to be heard by himself or counsel. Com. v. Grove, 91 Sup. 553.

Prostitution, building used for, nuisance, Act 1913.—Act July 26, 1913, P. L. 1369 (68 PS §§ 461–466), declaring building used for purpose of prostitution to be nuisance, providing method for abating same and establishing liability of owner or agent, is not unconstitutional as depriving defendants of right of trial by jury. Alderdice v. Gordon, 67 Pitts. 356; 28 Dist. 492; 33 York. 61.

Public service commission, appeal from order of, Act 1915.—Act June 3, 1915, P. L. 779 (66 PS § 351 et seq.), requiring appeals from orders of Public Service commission to be taken to Superior Court, does not violate article 1, sections 6 and 9, securing right of trial by jury where one is deprived of property, nor article 16, section 8, relating to compensation for property taken, injured or destroyed. West Va. Paper Co. v. Public Service Commission, 61 Super. 555.

Public service hearings:
Appeals—Jurisdiction (Public).

Public service law, due process of law, equal protection of law, Act 1913.—Public Service Company Act of July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), does not deprive defendant of right of trial by jury or due process by law or equal protection of law. New York Co. v. R. R., 267 Pa. 64; 110 A. 286.

Replevin, damages, equity, jurisdiction, return of stock, Act 1893.—Constitutional right of defendant to have case tried by jury in action of replevin, or for damages, prevents plaintiff from securing return of stock certificates by bill in equity for specific performance; Act May 4, 1893, P. L. 29 (17 PS § 285), can only be applied to cases where equitable rights under chancery jurisdiction are involved as distinguished from legal rights. Miller v. Miller, 13 West. 217.

Summary conviction, right of appeal.—Right of trial by jury, preserved by declaration of rights, is not impaired by summary conviction, for art. 5, sec. 14, of conviction gives right of appeal to any person so convicted. Com. v. Ulrich, 71 Pitts. 153.

Summary proceedings:
Common Schools—Scholars (Attendance).
Criminal Law—Practice (Summary).
Vicinage, jury of:
Criminal Law—Rape (Jurisdiction).

Waiver by defendant in criminal case, legislature, power of.—Under constitution of Pennsylvania, court of quarter sessions has no power in criminal case, where defendant pleads not guilty, to try case without a jury nor is jurisdiction conferred by fact that de-

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fendant waives jury trial. Com. v. Hall, 291 Pa. 341; 140 A. 626.

Not decided whether legislature has power to permit trial judge to try criminal case where jury trial is waived by defendant. Id.

Waiver, damages, assessment.—One who petitions to be made party to proceedings before auditor appointed to assess damages caused by opening street, cannot subsequently repudiate action of auditor on ground that there had been no agreement to dispense with jury trial. Pittsburg's Petition, 243 Pa. 392; 90 A. 329.

Waiver, fiduciaries, Act of 1874.—Section 27, Art. V., of the constitution giving the right to dispense with trial by jury, applies to fiduciaries, and the Act of April 22, 1874, P. L. 109 (12 PS §§ 688-692), excepting such persons, is bad. Stilwell v. Smith (No. 3), 20 York 18.

Waiver, less than twelve:
Criminal Law—Trial, Generally (Jury).

Weak-minded persons, guardian, Act of 1895.—The Act of June 25, 1895, P. L. 300, providing for appointment of guardians for weak-minded persons, gives respondent the right to demand a trial by jury and is not bad. Colt's Case, 215 Pa. 333; 64 A. 597.

Women as jurors, qualified electors, Act 1867.—Constitutional provision that trial by jury shall be as heretofore refers to causes to be tried and not to qualification of jurors and under 19th Amendment to Federal Constitution women are eligible to serve as jurors in state courts. Com. v. Maxwell, 271 Pa. 378.

The term "qualified electors" used in Act April 10, 1867, P. L. 62 (17 PS § 941 et seq.), relates to selection of jurors, and includes not only those who were qualified at the time but those who may be added to the electorate from time to time. Id.

Workmen's compensation Act 1915.—Sections 301, 302 and 303 of art. 3 of Workmen's Compensation Act of June 2, 1915, P. L. 736 (77 PS §§ 411, 461, 462, 481), does not deprive citizens of right of trial by jury, since right is not taken away except by consent of parties indicated in manner provided by act. Anderson v. Steel Co., 255 Pa. 33; 99 A. 215.

Workmen's compensation, Act 1913.—In cases where parties had right to trial by jury before workmen's compensation Act of July 26, 1913, P. L. 1374 (66 PS § 1 et seq.), they have it still. St. Clair Boro. v. Ry., 259 Pa. 462; 103 A. 287.

Workmen's compensation, municipality, Act 1915.—Municipal corporation, being creature of legislature, has no constitutional guarantee of trial by jury, and therefore deprivation of that right contained in Workmen's Compensation Act June 2, 1915, P. L. 736 (77 PS § 1 et seq.), does not violate constitution. Minser v. County, 29 Dist. 121.

CONSTITUTIONAL OFFICERS:
Boroughs—Council (Constitutional).

CONSTITUTIONAL QUESTION:
Appeals—Parties (Party).
Appeals—Practice (Superior).
Appeals—Review, Generally (Constitutional).

CONSTITUTIONAL RIGHTS:
Appeals—Review, Generally (Fundamental).
Generally (Injunction).
Beneficial Societies—Membership (Forfeiture).

CONSTITUTIONALITY:
Attachment Execution—Practice (Judgment).
Bankruptcy (Funds).
Beneficial Societies — By-Laws (Constitutionality).
Conflict of Laws (Foreign).
Constitutional Law — Executive Power (Constitutionality).
Constitutional Law—Special Laws (Minors).

CONSTRUCTION:
Affidavit of Defense—Sufficiency, Generally (Construction).
Affidavit of Defense—Supplemental (Construction).
Arbitration—Submission (Construction).
Beneficial Societies — By-Laws (Construction).