

Committees of either house of the legislature, to have power to summon witnesses and employ secretaries and counsel.

Witness fees.

Chairman of committees to certify bills, and state treasurer shall pay them.

committee of either house, or any special committee which shall have been, by resolution, directed to enter upon any investigation or inquiry, the pursuit of which shall necessitate sending for persons and papers and the examination of witnesses, shall have power to summon before them such persons as they may deem necessary and proper to testify in the matter under investigation, and shall also be authorized to employ such legal and clerical assistance as they may deem necessary, and the persons so testifying shall be entitled to receive the like witness fees and mileage as are now allowed to persons summoned to testify in the courts of this state; and the treasurer of this state is hereby authorized and directed to pay upon the warrant of the comptroller, such fees and compensations for the above-named purposes as shall be certified to have been correct and necessary by the chairman of the committee under whose authority and by whose order such expenses shall have been incurred, and approved by the governor.

An act to define the powers of legislative committees of investigation.

Approved March 11, 1875.

P. L. 1875, p. 26.

Committees empowered to compel attendance of witnesses.

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Proviso.

May issue warrant of arrest.

54. SEC. 1. That any joint committee of the legislature, any standing committee of either house, or any special committee which shall have been or may be by resolution, directed to enter upon any investigation or inquiry, the pursuit of which shall necessitate sending for persons and papers and examination of witnesses, shall have power to compel the attendance before them of such person or persons as they may deem necessary and proper, to testify in the matter under investigation, and any member of said committee may swear any person who shall come to testify before said committee; and any person who shall have been so sworn, and who shall swear falsely shall be guilty of perjury; and said committee shall be authorized to employ such legal and clerical assistance as they may deem necessary; and the treasurer of this state is hereby authorized and directed to pay, upon the warrant of the comptroller, such fees and compensation for the above named purposes, and for the expenses of the sergeant-at-arms in the execution of the warrant mentioned in section two of this act, as shall be certified to as correct and necessary by the chairman of the committee, under whose authority and by whose order such expenses shall have been incurred; *provided*, such certificate be first approved by the governor.

55. SEC. 2. That if any person or persons shall be summoned in writing, by order of any such committee, to testify before it and shall refuse or neglect to obey said summons, it shall be lawful for the speaker of the house of assembly or the president of the senate, upon application to him, by warrant under his hand, to order the sergeant-at-arms of the house over which he shall preside to arrest such person or persons and bring him, her, or them before said committee; and it shall be the duty of the sergeant-at-arms to whom such warrant shall be directed to execute the same.

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An act respecting executions.

R. S. 335, 660, 976, 979.

Revision—Approved March 27, 1874.

I. Form of and recording.

1. That in every writ of execution, which shall be issued against lands, tenements, hereditaments and real estate, the sheriff or other officer to whom the said writ may be directed, shall be commanded, that of the goods and chattels in his county, of the party against whom such execution issues, he cause to be made the debt, damages and costs or sum of money mentioned in the said execution; and if sufficient goods and chattels of the said party cannot be found in his county, that then he cause the whole or the residue, as the case may require, of the said debt, damages and costs or sum of money, to be made of the lands, tenements, hereditaments and real estate, whereof the said party was seized on the day when the said lands, tenements, hereditaments and real estate became liable to such debt, damages and costs or sum of money, specifying the day particularly, or at any time afterwards, in whose hands soever the same may then be; (a) but when such execution shall be issued terre tenants, or heirs or devisees (unless they shall have made their estate liable by false pleading or otherwise), it shall only command the sheriff or other officer, that of the lands, tenements, hereditaments and real estate, whereof the ancestor, testator or person deceased, was seized on the day when the said lands, tenements, hereditaments and real estate became liable as aforesaid, or at any time afterwards, or at the time of his or her death, as the case may require, he cause to be made the debt, damages and costs or sum of money in the said writ mentioned.

P. L. 1850, p. 301.
 " 1851, p. 278.
 " 1852, p. 36.
 " 1854, p. 108.
 " 1855, p. 283.
 " 1858, p. 409.
 " 1863, p. 31.
 " 1869, p. 498.

Form of the writ against goods and lands.

R. S. 660, § 4.

Form, when against terre tenants, heirs or devisees.

2. Every writ of execution which shall be sued forth against lands, tenements, hereditaments and real estate, shall, before it be delivered to the sheriff or other officer, be recorded in a book by the clerk of the court out of which the same was issued; and the record of such writ so made, shall be as good evidence as the writ itself. (b)

Execution against lands to be recorded. Ib. § 2.

II. What may be levied on.

3. Money belonging to a defendant in execution may be levied on and returned by virtue of such execution, as so much money collected, without exposing the same to sale.

Money. R. S. 976, § 6.

4. Bank notes, bills, or other evidence of debt, circulated as money, or any share or interest in any bank, insurance company or other joint stock company, that is or may be incorporated under the authority of this state, or incorporated or established under the authority of the United States, belonging to the defendant in execution, may be taken and sold by virtue of such execution, in the same manner as goods and chattels. (c)

Notes, stock, etc. Ib. § 7. P. L. 1869, p. 498. May be sold as goods, &c.

(a) A levy may be made on lands acquired after the date of the judgment, or which have been conveyed to other persons before the date of the execution, *Den, Green v. Steelman*, 5 Hal. 293.

(b) It must be actually recorded. A mere entry of the title and date of entry in the book of executions, is not sufficient, *Voorhees v. Choffers*, 4 Zab. 507. *Elmer v. Burgin*, Pen. *186. The clerk's certificate endorsed on the execution, is sufficient evidence that it was recorded before it was delivered, *Den, Vandervere v. Gaston*, 4 Zab. 818; 1 *Dutch*. 615. Although the plaintiff can prove that an execution delivered to and endorsed by the sheriff, previous to the delivery of the

plaintiff's execution, was not recorded until after his was delivered, *Johnston v. Davrah*, 3 Hal. 282. The one first actually recorded, is entitled to priority, *Ibid. Clement v. Kaighn*, 2 *McCart*. 48. Without such recording the sheriff has no authority to levy or sell, *Den, Vandervere v. Gaston*, 4 Zab. 818.

(c) Shares of stock in a bank, or other incorporated company, are not bound by the delivery of a *fi. fa.* to the sheriff against their owner, but may be transferred before an actual levy, *Princeton Bank v. Crozer*, 2 Zab. 383. *Rogers v. Stevens*, 4 Hal. Ch. 167.

Clerk or cashier of company to give certificate, etc.
R. S. 976, § 8.

Proceedings when clerk, cashier, etc., of joint stock company is non-resident.

P. L. 1858, p. 409, § 1.

Sheriff to mail notice and set notice on company's place of business.

Transfer by defendant in execution there-after void.

Such clerk, etc., to return statement and certificate, etc.
Ib. § 2.

For refusal of, or false certificate liable to double damages.

How proprietary rights levied on and sold.

R. S. 660, § 13.

Executions to issue out of supreme court to sheriff of Burlington or Middlesex.

Sale of, how advertised.

5. The clerk, cashier, or other officer of such company, who has at the time the custody of the books of the company, shall upon exhibiting to him the writ of execution, give to the officer having such writ a certificate of the number of shares or amount of the interest held by the defendant in such company; and if he shall neglect or refuse so to do, or if he shall wilfully give a false certificate thereof, he shall be liable to the plaintiff for double the amount of all damages occasioned by such neglect or false certificate, to be recovered in an action on the case against him.

6. When the clerk, cashier, or other officer of any joint stock company that is or hereafter may be incorporated under the authority of this state, who has the custody of the books of registry of the stock thereof, shall be non-resident in this state, it shall be the duty of the sheriff or other officer, receiving a writ of execution issued out of any court of this state against the goods and chattels of a defendant in execution holding stock in such company, to send by mail a notice in writing, directed to such non-resident clerk, cashier or other officer, at the post office nearest his reputed place of residence, stating in such notice that he, the said sheriff or other officer, holds such writ of execution, and out of what court, at whose suit, for what amount, and against whose goods and chattels, such writ has been issued, and that by virtue of said writ, he, the said sheriff or other officer, seizes and levies upon all the shares of the stock of such company held by the defendant in execution on the day of the date of such written notice; and it shall also be the duty of such sheriff or other officer, on the day of mailing such notice, as aforesaid, to affix and set up upon any office or place of business of such company, within his county, a like notice in writing, and on the same day to serve like notice in writing upon the president and directors of said company, or upon such of them as reside in his county, either personally or by leaving the same at their respective places of abode; and the sending, setting up, and serving of such notices in the manner aforesaid, shall constitute such levy taken, a valid levy of such writ upon all shares of stock in such company, held by the defendant in execution, which have not at the time of the receipt of such notice by the said clerk, cashier or other officer, who has custody of the books of registry of the stocks thereof, been actually transferred by the defendant; and thereafter any transfer or sale of such shares by the defendant in execution, shall be void as against the plaintiff in said execution, or any purchaser of such stock at any sale thereunder.

7. The non-resident clerk, cashier, or other officer in such company, to whom notice in writing is sent, as prescribed in the preceding section, shall thereupon send forthwith, by mail or otherwise, to the officer having such writ, a statement of the time when he received such notice, and a certificate of the number of shares held by the defendant in such company at the time of the receipt by him of such notice, not actually transferred on the books of said company; and the said sheriff or other officer shall, on receipt by him of such certificate, insert the number of such shares in the inventory attached to said writ; and if such clerk, cashier, or other officer in such company, neglect to send such certificate, as aforesaid, or if he shall wilfully send a false certificate, he shall be liable to the plaintiff for double the amount of all damages occasioned by such neglect or false certificate, to be recovered in an action on the case against him; but the neglect to send, or miscarriage of such certificate, shall not impair the validity of the levy upon the stock.

8. All proprietaries, rights, share and shares of propriety, and rights to unlocated lands, shall be and hereby are made liable to be levied upon and sold by executions, to be issued on judgments, for the payment of the debt or damages, and costs or sum of money thereby recovered, in the same manner as lands, tenements, hereditaments and real estate are made liable to be levied upon and sold; but every such execution shall issue out of the supreme court, and if the said shares or rights be within the western division, shall be directed to the sheriff of the county of Burlington, and if within the eastern division, shall be directed to the sheriff of the county of Middlesex; and further, that the said sheriff shall give notice by advertisements, signed by himself and put up in five or more public places in the said county, and by an advertisement in one of the newspapers published

in this state, of the time and place of exposing such shares or rights to sale, at least two months before the time appointed for selling the same.

9. Whenever a writ of execution shall be issued against the inhabitants of any township, city, or borough of this state, by any court authorized to issue the same, in case there should be no property belonging to said township, city, or borough, sufficient to satisfy the same, whereon to levy, then the officer authorized to execute said process shall serve a copy of the same on the collector of said township, city, or borough, who is hereby required to pay and satisfy the same out of the first moneys belonging to said township, city, or borough, which shall come into his hands.

Executions against townships, cities, etc. R. S. 979.

III. Property exempt from.

10. Goods and chattels of every kind, not exceeding in value (exclusive of wearing apparel) the sum of two hundred dollars, and all wearing apparel (a) the property of any debtor having a family residing in this state, (b) shall be reserved, as well after as before the death of the debtor, for the use of his family, and shall not be liable to be seized or taken by virtue of any execution or civil process whatever, issued out of any court of this state, except the same be issued on a judgment founded on a contract made before the fourteenth of March, eighteen hundred and fifty-one; provided, that nothing herein contained shall be deemed or held to protect from sale under execution or other process, any goods, chattels, or property, for the purchase whereof the debt or demand for which the judgment on which such execution or process was issued shall have been contracted; (c) or to apply to process issued for the collection of taxes.

Property reserved to debtor having a family in this state. P. L. 1851, p. 278, § 1, 5. " 1852, p. 36. Amended.

Not applicable to contracts before March 14, 1851.

11. If any sheriff or other officer shall have an execution or civil process against any defendant entitled to exemption as aforesaid, it shall be the duty of such sheriff or other officer to make a careful and particular inventory of the goods and chattels of every kind and description of such defendant which shall be subject to levy under an execution, and thereupon to appoint, in writing, three discreet and judicious persons of his county, indifferent between the parties in said execution, to make a just and true appraisement of the goods and chattels so levied upon; which persons shall, before they enter upon the duties of their appointment, be severally sworn before said sheriff or other officer, or before any person authorized to administer an oath, faithfully, honestly and impartially to appraise such property, according to the true and intrinsic value thereof, and without reference to what the same might be supposed to bring at a sale by vendue under said execution or process, which said oath shall be endorsed upon said appointment and filed, together with the same, in the clerk's office of the court of common pleas of said county.

Proceedings to set off. P. L. 1851, p. 278, § 2. " 1854, p. 108. Amended.

Sheriff to make inventory.

And appoint appraisers.

Oath of appraisers.

12. The said appraisers shall appoint a time and place when they will proceed to make the appraisement aforesaid, and shall cause at least five days' notice, in writing, thereof to be given to the plaintiff in said execution, or to his attorney; and shall at the time and place so appointed, proceed to make the appraisement aforesaid, in the presence of the plaintiff in such execution, or his attorney, if he shall see fit to attend, and shall set down in writing a particular account of the articles and things appraised with their respective values annexed, and sign the same; and if the said appraisement shall not exceed the sum of two hundred dollars, the said sheriff or other officer shall suffer the same to remain in the possession of the defendant for the use of himself and his family; but in case the amount of said appraisement shall exceed two hundred dollars, then the defendant may select from such inventory articles to the amount of two hundred dollars to be reserved for the use of himself and his family, and shall annex a written statement thereof signed by himself to said inventory; and the said sheriff or other officer shall proceed and sell the residue of such goods and chattels or tools of trade or other property in payment, or towards payment of said execution; and in either case it shall be the duty of such sheriff or other officer to annex the said inven-

Duty of appraisers.

P. L. 1851, p. 278, § 2.

Notice of plaintiff.

Statement of goods selected.

Residue to be sold.

(a) A lace shawl is wearing apparel and exempt from execution—rings and jewelry are not, *Frazier v. Barnum*, 4 C. E. Gr. 316.

(b) If the family reside here, the goods of an absconding debtor are exempt, *Bonnel v. Dunn*, 5 Dutch. 435.

(c) The articles must have been purchased with the purpose of defrauding the plaintiff, or the credit therefor obtained by false or fraudulent representations, *Stoutenburg v. Konkle*, 2 *McCart*. 33.

tory and account made by said appraisers, and the debtor's statement if any, to the execution or process, and return the same to the court from which it was issued.(a)

Fees of sheriff and appraisers. Ib. § 5.

Paid by defendant.

Exemption in case of executions into different counties.

By whom selection made if defendant absent.

How set off in case of death of defendant.

Ninth section of act of 1846 repealed except as to contracts before March 14, 1851.

Binds goods from time of delivery.

R. S. 976, § 3.

Note of time endorsed.

Priority of.

Priority as to lands. Ib. § 4.

Time received to be endorsed.

13. The sheriff or other officer having the execution or process, shall be entitled to the sum of fifty cents for making the inventory aforesaid, and for the appointment of the appraisers and drawing and administering to them the oath aforesaid, the sum of fifty cents; the clerk for filing the same, eight cents; and the said appraisers for the services required of them, the sum of fifty cents each, to be paid by the defendant.

14. When several executions into different counties shall issue on the same judgment, the proceedings to set off the property under the preceding sections for the benefit of the family of the defendant, shall be had in the county in which his family resides, and not in any other county to which execution shall have issued, except for the deficiency of goods and chattels of the defendant in the former county, to make the amount which is reserved by law.

15. If the defendant in execution shall be absent from his place of residence when the appraisalment by the said appraisers is completed and cannot readily be found, or shall refuse to make selection from the goods and chattels inventoried and appraised, as above required, such selection may be made by the wife or family of the defendant, or by the appraisers, and the statement annexed to and returned with the execution, shall be signed accordingly.

16. In case the defendant in execution shall die after execution issued, and a levy and sale of goods and chattels be made thereafter, the selection of goods and chattels to be reserved for the use of his family shall be made by the person or persons entitled to make the selection under the act entitled "an act respecting the orphans' court, and relating to the powers and duties of the ordinary, and the orphans' court and surrogates;"(b) *provided*, that if the property reserved for the benefit of the family of the deceased shall be set off under the provisions of the latter act, the property so set off shall also be the property exempted from sale under such execution.

17. The ninth section of an act entitled "an act respecting executions and regulating the sale of personal estate by virtue thereof," revision, approved April sixteen, one thousand eight hundred and forty-six, is hereby repealed, except so far as relates to contracts made before the fourteenth of March, one thousand eight hundred and fifty-one.

IV. From what time binds property.

18. No writ of execution shall bind the property or the goods of the person against whom such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under-sheriff, coroner or other officer, his deputy or agent, to be executed; and for the better manifestation of the said time, such sheriff, under-sheriff, coroner or other officer, his deputy or agent, shall, upon the receipt of any such writ, endorse thereon, without fee for so doing, the day of the month and year when he received the same; and if two or more writs of execution shall be delivered against the goods of the same person on the same day, that which was first delivered shall be first executed and satisfied.

19. Where sundry writs of execution shall be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the same person, and sufficient cannot be found to satisfy all the sums commanded to be made, then the like priority and preference shall be given in such cases as is given by the preceding section in writs of execution against the goods only, and all disputes respecting the same shall be adjudged and determined accordingly; and for that purpose the like endorsement, as aforesaid, shall be made on the said writs, by the proper officer, of the time that he shall have respectively received the same.(c)

(a) The officer has a right to seize and hold the goods of the debtor until an appraisalment can be made, and will not be liable in trespass although their value be less than \$200, *Bonnel v. Dunn*, 5 *Dutch*. 435. See *Kirkpatrick v. Cason*, 1 *Vt*. 332.

(b) See ORPHANS' COURT, § 52.

(c) An *alias* execution first delivered to the sheriff, is entitled to priority over an *alias* upon an older judgment

delivered subsequently, as against land acquired by the defendant after the date of both judgments and before the issue of either *alias*, *Rammel v. Watson*, 2 *Vt*. 282. After judgment by default entered, execution issued and placed in the sheriff's hands, but before levy made, the defendants were allowed to come in and plead, and proceedings on the execution were stayed; and the execution against the defendants meanwhile came to the sheriff's hands,

20. If any person shall purchase, in good faith, of a defendant in execution, any goods or chattels, and pay for the same prior to the actual levy of such execution, and without notice thereof, the title of such purchaser shall not be divested by the fact that such execution had been delivered before such purchase was made.(a)

When purchase of goods before levy good. Ib. § 5.

V. Where prisoner for debt escapes or dies.

21. If any person who is or shall be committed, in execution, to any prison, shall escape therefrom, the creditor or creditors, at whose suit such prisoner was charged in execution at the time of such escape, may retake such prisoner by any new *capias*, or *capias ad satisfaciendum*, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution.

If a debtor escapes from prison, plaintiff may have a new execution. R. S. 335.

22. The party or parties, at whose suit, or to whom any person doth or shall stand charged in execution for any debt or damages recovered, his, her or their executors or administrators, may, after the death of the said party so charged and dying in execution, lawfully sue forth and have new execution against the goods and chattels, lands and tenements, or any of them, of the person so deceased, in such manner and form, to all intents and purposes, as he, she or they, or any of them might have had by the laws of this state if such person so deceased had never been taken or charged in execution; *provided always*, that no person or persons, his, her or their executors or administrators, at whose suit or suits any party shall be in execution, and die in execution, shall have or take any new execution against the lands, tenements or hereditaments of such party so dying in execution, which shall, at any time after the judgment or judgments against such party so dying, and by reason whereof such party was taken or charged in execution, be by him or her sold, *bona fide*, for the payment of any of his or her creditors; and the money, which shall be paid for the lands so sold, either paid or secured to be paid to any of his or her creditors, with their privity and consent, in discharge of his, her or their debts, or of some part thereof, nor against any lands, tenements or hereditaments of such party so dying in execution, which shall have been sold by reason of any other judgment against him or her so dying in execution.

If debtor die in prison, upon a ca. sa., plaintiff may have execution against his estate;

but such execution not to affect any estate bona fide sold for payment of debts.

VI. Discovery in aid of.

23. When an execution against the property of any debtor, upon a judgment recovered or docketed in the supreme court, or in the circuit court, or court of common pleas for any county in this state, or which now is or hereafter shall be docketed in the court of common pleas from any of the courts for the trial of small causes of this state, shall be returned by the officer to whom it is delivered unsatisfied, in whole or in part, it shall be lawful for any judge of the court out of which said execution issued, in term time or vacation, on application by the judgment creditor in the manner hereinafter provided, to make order requiring the judgment debtor to appear and make discovery on oath concerning his property and things in action before said judge or a commissioner of the supreme court, to be designated in said order, at a time and place in said order specified; *provided, nevertheless*, that no such order shall be made when the amount due on such judgment shall be less than fifty dollars.

Order for, if execution returned unsatisfied.

P. L. 1850, p. 301.
" 1863, p. 31.

No order to be made if less than fifty dollars due.

24. The judgment creditor, before he shall be granted such order, shall present to said judge a petition, verified by oath, in which he shall state the amount due on said execution, the return made thereon by the officer to whom it was issued, and his belief that said judgment debtor hath property or money, or things in action due to him, or held in trust for him, where the trust has been created by or the fund held in trust has proceeded from himself(b) over and above such property as is or may be reserved by law, to an amount exceeding fifty dollars, on presentation

Proceedings to obtain order.

P. L. 1850, p. 301, § 2.

under which he sold defendant's property. The proceeds were ordered to be first applied in satisfaction of the first judgment and execution, *Richards v. Morris Canal Co.*, *Spen.* 136. Where a subsequent execution gains priority through the *laches* or fraud of the first execution creditor, *Cook v. Wood*, 1 *Harr.* 254. *Cumberland Bank v. Hann*, 4 *Harr.* 167. *Williamson v. Johnston*, 7 *Hal.* 86. *Sterling v. Vanclave*, 7 *Hal.* 285.

(a) The goods of the defendant are bound, even against subsequent *bona fide* purchasers, unless sold under circumstances equivalent to a sale in market overt, *James v. Burnet*, *Spen.* 635. *Newell v. Sibley*, 1 *South.* *381.

(b) Where the trust has proceeded from any person other than the debtor himself, it is exempt, *Frazier v. McWilliams*, 4 *C. E. Gr.* 317.

- whereof said order shall be made; and the said judge shall further, on allegation in said petition, or in one supplementary thereto, and proof by the oath of the party, or any other person, of facts and circumstances, showing that any person owes the said debtor otherwise than for his labor or personal services, or the labor or personal services of any member or members of his family, or holds money or property in possession or action in trust for him or for his use as aforesaid, make order forbidding the payment of such debt, or the transfer of said property or money by or to the said debtor, or any third person, until further order to be by him made; affidavits verifying said petitions, may be taken before any officer authorized by law to administer oaths; and if any person, in any affidavit or examination taken under this act, shall wilfully and corruptly swear falsely, he shall be deemed guilty of perjury.
- Injunction.**
- False swearing perjury.**
Ib. § 8.
- Witnesses subpoenaed.**
Ib. § 3.
- Examination certified to judge.**
Ib. § 4.
- Receiver.**
- Duty of receiver.**
- Order for conveyance.**
- Petition dismissed.**
Ib. § 5.
- Costs taxed.**
- Penalty for disobeying subpoena.**
Ib. § 6.
- Papers when filed.**
Ib. § 7.
- Proceedings amended on certiorari.**
P. L. 1853, p. 283.
- Fees of commissioner.**
25. Witnesses may be required to appear and testify concerning said matters, by either party, by process of subpoena *ad testificandum* issued out of the court wherein such judgment shall be recovered or docketed; and the judge or commissioner may adjourn the examination from time to time at the instance of either party as may be needful.
26. When such examination of a judgment debtor or of witnesses shall be taken by a commissioner, it shall be certified to the judge making said order under the hand of said commissioner; and thereupon, after considering the evidence of said party and witnesses, taken before said commissioner, or by himself, it shall be lawful for said judge to make order appointing a receiver^(a) of the property and things in action belonging or due to or held in trust for such debtor as aforesaid, at the time of the issuing said execution, or at any time afterwards, who thereby shall receive authority to possess, receive, and if need be, in his own name as such receiver, sue for such property or things in action; and it shall be the duty of such receiver to apply the same in payment of the said judgment, and the costs of the proceedings thereon and the reasonable compensation of said receiver to be taxed by the judge, and to pay the rest into said court wherein said judgment was recovered or docketed, to be there disposed of according to law; and such judge shall order said judgment debtor to convey and deliver to such receiver all such property and rights in action and the evidence thereof; and said receiver shall be subject to the authority and orders of said court from time to time to be given, and shall on the fulfilment of his duties, or at other times when called upon, make report in writing to said court of his doings in the premises.
27. In case the judgment creditor shall not appear and examine the debtor at the time and place specified, or after examination of the party and witnesses, no such property or things in action shall be discovered, the petition of such judgment creditor shall be dismissed, with costs, to be taxed by said judge, which shall be allowed either party after the rates provided in actions at law; *provided*, that no attorney's fees shall be taxed or recoverable on either side.
28. If any party or witness disobey any order of the judge, or any subpoena issued as above authorized, and duly served, and the fees of such witness paid, or refuse on attendance to answer and testify, such party or witness may be punished by the judge as for a contempt of the court whereof he is such judge.
29. The petitions, orders, examinations and reports, made and taken as above provided, shall be filed with the clerk of the court whence the unsatisfied executions issued; and whenever a *certiorari* shall be brought to remove any of the proceedings, the court out of which the *certiorari* issued may amend the proceedings in matters of form, and shall give such judgment and make such order as the judge before whom the proceedings were had ought to have given or made.
30. The commissioner shall, for every certificate under this act, be allowed the sum of fifty cents, and shall be allowed for taking examinations the same fees as are allowed in the court of chancery to masters and examiners in chancery for the like services.

(a) The allegations must be established by proof, but if there is any evidence, the decision of the judge appointing a receiver will not be reversed, *Journeay v. Brown, 2 Dutch*. 111. Equity will not interfere after the appointment of a receiver, where only questions of law are involved, *Newkirk v. Morris, 1 Beas. 62*. A *ca. sa.* can not be issued while the proceedings are depending, *Bowne v. Scudder, 1 Vr. 340*.

VII. Sale under.

31. No sale of any goods or chattels shall be made by virtue of any execution, unless previous notice of the time and place of such intended sale shall have been given by the officer making the levy, by advertisements, signed by himself, and put up in three or more of the most public places in the township where they were taken, at least five days before the time appointed for sale.

Advertisement of sale of goods.

P. L. 1858, p. 409, § 10.

VIII. Proceedings on claim of property.

32. In all cases where any sheriff shall by virtue of any writ of execution, issued out of any court in this state, levy on or take into his possession any goods or chattels, which shall be claimed by notice in writing, delivered to said sheriff, by any other person than the defendant, he shall, immediately upon such claim, delay his sale of the same for the space of ten days, that the said claimant may within the said term apply to one of the judges of the court of common pleas, in the county where the goods and chattels were so seized, for a venire to summon a jury of twelve men, to try the right of said claimant to said property; and it shall be lawful for such judge to issue the same, and direct a return thereof to be to him made, and to proceed therein as in other cases of trial by jury; but the claimant shall in all cases give at least eight days' previous notice in writing to the plaintiff or his attorney, of the time and place of the said trial; and either party shall be entitled to process of subpoena, out of the court from which such execution issued, to compel the attendance of witnesses; and the judge before whom such inquest may be held shall have power to adjourn, upon the application of either party, for a reasonable time, upon good cause shown for such adjournment.^(a)

On claim of property in writing, sheriff to adjourn and apply to a judge for a venire.

Ib. § 11.

How right tried.

33. The verdict of such jury shall be reduced to writing, and signed by the jury and judge before whom the matter shall be tried, and shall be filed in the office of the clerk of the court out of which the said execution issued; and the inquisition so taken shall protect the said sheriff from any action, for taking and seizing such property or delivery thereof to the claimant; and if the said property shall be found to belong to the claimant, the sheriff shall proceed no further with the same; but if it shall be found to belong to the defendant, he shall proceed to dispose thereof as is directed in such process; and the costs attending such trial shall be taxed by the said judge as in other cases, and shall be paid by the plaintiff at whose suit the said property was taken and seized, if the claimant obtain a verdict in his favor, and by such claimant, if the verdict is found against him; *provided*, that if the plaintiff, upon notice being given to him as aforesaid, shall indemnify the sheriff against the command of the claimant, then he shall suspend any further proceedings therein, and proceed to sell.

Verdict shall protect sheriff.

Ib. § 12.

Costs by whom paid.

Sheriff to sell, if indemnified.

^(a) The sheriff has authority to reject unlawful evidence, *Obart v. Latson*, 2 *Harr.* 78. See also *Harris v. Kirkpatrick*, 6 *Fr.* 392; 7 *Fr.* 526. *Cox v. Dunham*, 4 *Hal. Ch.* 594.

Executors and Administrators.

1. All bona fide acts of administrators, before notice of a will, good.
2. Executor of executor shall not represent first testator.
3. Of executors in their own wrong.
4. Executors and administrators may have trespass.
5. Action of trespass against.
6. Liability for waste or conversion.
7. Administrators to recover and be liable as executors.
8. Appointment of debtor executor, not discharge debt.
9. Administration in case intestate shall leave no relatives.
10. Power to sell to survive in case of executors.
11. And so of administrators with will annexed.
12. Sale directed, but no executor named.
13. Property which may be claimed by widow.

An act concerning executors, and the administration of intestates' estates.

R. S. 345, 350, 358.

P. L. 1855, p. 340.
" 1868, p. 1190.

Revision—Approved March 27, 1874.

1. That all lawful acts done *bona fide*, by any administrator, before notice of a will, and all purchases made of such administrator *bona fide*, before such notice, shall remain good, and shall not be impeached or altered by any executor or executors, on such will afterwards appearing; R. S. 358, § 5.

All bona fide acts of administrators, before notice of a will, good.