

Court to proceed to business, then and in such case the senior Special Justice of the said county present, shall sit in the room of one of those absent, with the two of the standing Justices present, and shall have all the powers and authorities in such case, as a standing Justice hath by the laws of the State.

His powers.

Writ to bear test of his name, when all the standing Justices shall be parties.

The three senior Special Justices to sit when all the Justices are interested.

And so many of them as shall make a quorum where only a part of the standing Justices are interested.

And be it further enacted, That when all the standing Justices of the Court of Common Pleas within any county, shall be parties in a cause at the time of bringing the suit, the writ shall bear test of the name of the senior Special Justice of the county; and when all the said standing Justices shall be interested in the event of any suit brought in the Court whereof they are Justices, and thereby shall be rendered unsuitable to sit and give judgment in such suit, then the three senior Special Justices present, who shall not be interested in the event of each suit, shall take the seat of Justice, and have all the power and authority in such suit as the standing Justices have in any other case; and when such cause shall be decided, the standing Justices shall reassume their seat, and proceed to the other business of the county, without any formalities of opening the Court anew. And when so many of the standing Justices of the Court of Common Pleas in any county, shall be interested in the event of any suit, or related to any person interested therein, and thereby shall be rendered unsuitable to sit and give judgment in such suit, then in such cases so many of the senior Special Justices present, as may be necessary to make a quorum of the said Court, shall take the seat of Justice, and with him or them who are not interested in such suit, or related to any person interested therein, shall proceed to try the cause whereon such suit is brought, and give judgment in the same manner as the Court of Common Pleas are authorized to do in other suits.

March 16, 1784.

1783. — Chapter 50.

[January Session, ch. 26.]

Chap. 50 AN ACT IN ADDITION TO THE ACT PROVIDING FOR THE PAYMENT OF COSTS IN CRIMINAL SUITS.

Preamble.

Whereas in the said act, no provision is made for the payment of costs, when the party or parties prosecuted, decease before the time of trial, or shall depart in contempt

of the Court, before trial or sentence, notwithstanding by such departure the party charged hath incurred or may incur a forfeiture of his recognizance:

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That when any person charged on a criminal prosecution in the Supreme Judicial Court, or in any Court of General Sessions of the Peace in any county within this Commonwealth, hath deceased, or shall decease before the time of trial or sentence; or has departed or shall depart in contempt of the Court, and thereby avoid trial or sentence; or the Attorney General or other person prosecuting in the name and behalf of the Commonwealth, hath discontinued, or shall with the advice of the Court discontinue the prosecution; in every such case the Court may tax costs for the witnesses and others necessarily concerned in such prosecution, as the case shall appear to require, not exceeding the fees that are or may by law be stated, to be paid in the same manner the costs mentioned in the said act are directed to be paid.

March 16, 1784.

When any person under prosecution shall die, or depart in contempt of the Court, or the prosecution be discontinued, the Court may tax legal costs for witnesses and others.

1783. — Chapter 51.

[January Session, ch. 27.]

AN ACT VESTING CERTAIN POWERS IN JUSTICES OF THE PEACE
IN CRIMINAL CASES.

Chap. 51

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same. That it shall be within the power, and be the duty of every Justice of the Peace within his county, to punish by such fine as is by the statute law of the Commonwealth provided, all assaults and batteries that are not of a high and aggravated nature, and to cause to be stayed and arrested all affrayers, rioters, disturbers and breakers of the peace, and to bind them by recognizance to appear at the next Supreme Judicial Court or Court of General Sessions of the Peace, to be held within or for the same county, at the discretion of the Justice; and also to require such persons to find sureties for their keeping the peace, and being of good behaviour until the sitting of the Court they are to appear before, and to commit such persons as shall refuse so to recognize and find such surety or sureties. And the Justices of the Peace shall

Duty of Justices of the Peace.