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**INTERNAL AFFAIRS  
REPORT  
ON CONSTABLES**

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POWERS AND DUTIES OF  
CONSTABLES IN PENNSYLVANIA

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Powers and duties of  
constables in Pennsylvania

# CONSTABLES IN PENNSYLVANIA

## Their Powers and Duties

BY KATHLEEN A. LOOS

### First of a Series

THE OFFICE OF CONSTABLE predates the birth of the Commonwealth by many hundreds of years. Not much has been written defining the office as it exists in Pennsylvania today. This article is mainly concerned with the manner in which constables are to discharge the obligations of their office. It is intended only as an outline of the requirements for election to the office, the duties and responsibilities connected with the office, and the various civil and criminal proceedings to be used and not as an authoritative legal guide. A glossary of terms is included, as are sample forms with which constables might wish to become familiar.

**History Of The Office.** According to **Bouvier's Law Dictionary**, the term constable is derived from the French word "comestable," (count of the stable) who was an officer second only to the king. He was authorized to take charge of the army whenever the king was not

present and had charge of military matters such as marching the troops, their encampment, and provisioning.

In England, it appears that the office was of Norman origin and the primary duty was that of keeping the king's peace. In addition, constables were to serve warrants and perform other judicial duties, such as apprehending criminals and preventing crimes.

The office of constable in Pennsylvania may be traced to the English office of constable. This institution, along with many other present practices in Pennsylvania, were brought to this country by the early English settlers. Except for a year of Dutch rule, the area which became Pennsylvania operated under the Duke of York's Laws from 1664 to 1681. These laws provided for the first constables who managed the affairs of the towns or parishes, the principal unit of government during the 1600's. During this period constables also appraised property, collected taxes, and served on the town court. Constables have remained preservers of the peace

throughout the Commonwealth's history. The principal purpose of the office has been to provide for a peace officer within easy reach of every citizen.

**Election Requirements.** Constables serve for a six-year term in all municipalities in the Commonwealth. In second class, second class A and third class cities constables are elected one for each ward. This is also the case in boroughs that are divided into wards. In those boroughs not divided into wards and in first and second class townships, one constable is elected. In first class townships an additional constable may be elected.

Philadelphia elects 122 constables who serve as executive officers of the Magistrates' Courts. Constables in Philadelphia are elected by wards; three each from the 22nd and 27th wards and two from each of the other wards. The term of office is also for six years. Each of the Philadelphia Magistrates' Courts has at least one constable attached to it to serve processes and perform other judicial duties. Some constables not attached to a court concern themselves mainly with landlord and tenant matters, collecting rents and attending to distraints and dispossession proceedings.

In order to be placed on the ballot for election, an applicant for the office of constable must file a petition, signed by ten qualified electors of the district in which he is to be elected, with the Board of County Elections. This petition must be filed at least 44 days prior to the day on which the primary election is to be held.

Constables are required to appear before the term of the court of quarter sessions held immediately after their election to accept or decline the office. In cities and bor-

oughs there is a penalty of \$16.00, to be paid to the Commonwealth by court order, if a constable-elect fails to appear before the court of quarter sessions. In townships this penalty is \$40.00. The person elected as constable would not be liable for the penalty if he obtains a deputy to assume the duties or if, during the 15 years previous to his election he has either served as a deputy or paid the penalty for some previous election to the post of constable.

**Bond Required.** Before any constable may discharge his duties and obligations, bond must be given of not less than \$500.00 or more than \$3,000, as the court directs. This bond is given to the clerk of the court in the name of the Commonwealth of Pennsylvania and protects an individual who might be injured by a constable's neglect or by an illegal act he performed. For example, if a constable collects money on a landlord's warrant and does not pay it over, the sureties are liable on the bond. If a constable obtains money from the county by false pretense, the sureties are also liable. However, any illegal act committed by a constable not connected with his duties would not be covered by his bond.

Any constable who owns real estate in his own name, clear of all encumbrances, and worth at least \$1,000 is not required to file bond with the court.

**Filling Vacancy in Office.** Law provides that when a vacancy occurs in the office of constable in any borough, town or township for any reason, such as the failure to elect a constable or his failure to qualify, his incompetency, his death, his resignation, or his removal for any cause, the court of quarter sessions, upon petition, may appoint a suitable person to serve as constable

for the unexpired term. The courts have ruled that a vacancy does not exist in the office of constable if no proceedings have been initiated to remove the constable.

**Appointment Of Deputy.** The constable has the authority to appoint a deputy subject to approval by the court of quarter sessions. Any appointed deputy must reside in the same district as the constable who deputizes him and the deputy constables' authority is terminated if he moves from the district.

In Philadelphia, a deputy constable must be a resident and qualified elector of the ward in which the constable was elected, and if he ceases to be a resident of the district the court is required to revoke his appointment, upon petition and proof of his removal. Law does not provide for a separate office of

deputy constable. If a vacancy occurs in the office of the regularly elected constable, the deputy's appointment is also terminated.

Special circumstances must exist before a deputy constable may be appointed. Such circumstances would include the regular constable's inability to attend to the duties of his office himself, or a volume of business sufficient to warrant additional personnel.

Any constable who appoints a deputy must file a certification of such appointment with the clerk of the court of quarter sessions and receive approval of the appointment. Illustrated below is a sample form for this.

In Re:  
Appointment of  
Deputy Constable

In the Court of Quarter  
Sessions of \_\_\_\_\_  
County, Pennsylvania.

\_\_\_\_\_, 1965

KNOW ALL MEN BY THESE PRESENTS that I \_\_\_\_\_  
constable of the township of \_\_\_\_\_ in said County,  
subject to the approval of the court, do hereby nominate, constitute and  
appoint, \_\_\_\_\_ of said township  
as my deputy to serve writs, execute processes, and act in my place and  
on my behalf generally in all matters relating to the duties of my office,  
until the expiration of my term or the revocation of this appointment.

\_\_\_\_\_  
Constable

By the Court,

\_\_\_\_\_  
President Judge

NOW \_\_\_\_\_, 1965,  
the above appointment approved.

A certification of appointment must also be filed if a vacancy occurs in the office of deputy constable.

The court of quarter sessions is responsible for the removal of any constable from his office, due to incompetence or neglect of duty.

**Compatible And Incompatible Offices.** Constables may not serve as aldermen or justices of the peace, township or borough auditors, school directors, district attorneys or as officers of the executive, legislative or judiciary departments of

the United States, except for military service.

Constables may serve as borough policemen and may receive all costs and fees to which he is entitled as constable, except that those costs and fees derived from borough ordinance violations are to be collected by the borough mayor and paid into the borough treasury.

There is no provision in the laws governing Philadelphia permitting constables to serve as policemen, however, nothing would seem to prohibit this.

In Pittsburgh and Scranton (second class and second class A cities respectively), the law is also silent concerning the question of a constable serving as a policeman. Second class city law does provide that all city employes are to receive a fixed salary, which would seem to be in conflict with the fee system of the office of constable. However, in a lower court case, *City of Pittsburgh v. Edwards*, 58 Pitts. 102, 1909, it was held that the second class city provision of fixed salaries does not apply to fees collected for services performed under other state statutes. Thus, it would appear that constables serving in Pittsburgh and Scranton could also be policemen and receive their fees.

Third class city law specifically prohibits a constable being appointed as a policeman.

In first class townships a constable may be appointed a policeman, however, he may not receive compensation for his duties as a policeman.

Second class township law provides that a policeman is an ex officio constable. He would not be entitled, however, to the fees of the constable except for the allowable traveling expenses. But, in most

second class townships the elected constable performs all police functions and this compensation problem is thereby eliminated.

**The Fee System.** Constables are compensated by the fee system. The fees that are to be charged for the major duties of constables are found in the Constables Fee Bill (Act of 1917, P. L. 1158, as amended). The following list indicates fees charged in criminal and civil actions. Certain miscellaneous fees are also included.

### FEES CHARGED BY CONSTABLES IN PENNSYLVANIA

#### Fee Bill Act

For executing a warrant on behalf of the Commonwealth, for each defendant. ----- \$2.50

For conveying defendants, except vagrants, to jail on mittimus or warrant, for each defendant. ----- 2.50

For each mile going and returning. ----- .10

For arresting persons guilty of a breach of peace, riotous or disorderly conduct, drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or violating any ordinance of any borough for the violation of which a fine or penalty is imposed, or offending or suspected of offending against the laws of this Commonwealth, protecting timberlands, or the violation of any other law of this Commonwealth authorizing arrest by constable without process, and bringing such offender before a justice of the peace, for each defendant. ----- 1.00

For every act in or about the arrest or commitment of vagrants, for each vagrant so arrested and committed. . . . 2.50

For levying a fine or forfeiture on a warrant. . . . .50

For taking a defendant into custody on a mittimus, entered before delivery of the defendant to the jailer. . . . . 2.50

For executing discharge to jailer. . . . . 2.50

For executing bail piece. . . . 2.50

For executing a search-warrant, and making return thereon. . . . . 1.00

For making returns to the court of quarter sessions . . . 2.50

For serving summons, notices or referees, suitor or tenant, either personally or by leaving copy, for each person served. . . . . 2.50

For serving subpoena, for the first witness. . . . . 1.50

For each additional witness served. . . . . .75

For executing attachment for each defendant and garnishee served. . . . . 1.50

For arresting on a capias, for each person arrested. . . . 1.00

For taking bail on a capias, or for delivery of goods. . . .50

For notifying plaintiff where defendant has been arrested on capias, to be paid by the plaintiff . . . . . .25

For serving capias execution. . . . . 2.50

For executing landlord's warrant. . . . . 3.00

For taking inventory of goods, each item. . . . . .02

For levying or distraining goods . . . . . 3.50

For advertising personal property to public sale. . . . . 2.50

For selling goods levied or distrained and when the same continues longer than three hours . . . . . 5.00 per day

For clerk hire at goods sales, when necessary . . . 5.00 per day

For watchmen taking charge of property levied on, when necessary. Also reasonable expenses of insurance, arranging goods for sale, heat, light, storage, rent, transportation, feeding live-stock, and similar expenses incurred in caring for and keeping goods and chattels levied upon, when the same is necessary and advantageous, or when requested by the plaintiff or defendant to incur such expense. . . . . 5.00 per day

For receiving and paying over money paid after a levy, without sale. . . . . 1.50

For copy of vendue paper, when demanded, each item. .02

For putting up notice of distress at mansion-house, or at any other place on the premises. . . . . .50

For serving scire facias, either personally or by leaving a copy for each person served, for the first copy. . . . . 2.50

For each additional copy. . . . .75

For executing order of removal of a pauper, for each pauper 2.00

For making return of nulla bona or non est inventus or any writ. . . . . 1.50



For executing writ of restitution. ----- 5.00  
 For executing writ of possession ----- 5.00  
 For serving summons in landlord and tenant proceedings 2.50  
 For taking inventory of goods on execution, each item. -- .02  
 For holding appraisal where exemption is claimed by defendant (out of where the constable shall pay to each appraiser \$1.00). ----- 4.00  
 For traveling expenses in the performance of any other duty or service required by law, each mile going and returning (To be computed by the route usually traveled in going from points and places where the constable may reside, or where he receives any paper to be executed, to the points or places required to be traveled, whether that route be by highways, railroads, or otherwise). ... .10

### Miscellaneous Fees

#### Dogs

Seizing and detaining unclaimed dogs. Destroying unclaimed dog. (Both ears to be sent to the Department of Agriculture). ----- 2.00

#### Elections

Preserving peace at elections not less than ----- 5.00  
 (fee to be fixed and paid by the county commissioners of each county). Not more than 10.00  
 For serving notices of their election upon township or borough officers. ----- .15

#### Executions

For serving executions. -- .50  
 Sales on judgments on affidavits of claim: sales amounting to less than \$50.00 ----- 3%  
 Sales less than \$100.00 --- 2%  
 Sales above \$100.00 ----- 1%

### Juvenile Court

Delivery of arrested juvenile under sixteen years to juvenile court. (In addition \$.03 per mile actually traveled and \$.03 per mile for transportation of each juvenile and necessary expenses). ----- .75

### Liquor Regulations

Delivery of persons in soldiers encampment or reunion guilty of disorderly or riotous behavior, breach of peace or intoxication before justices' court, for each day in attendance in encampment to be paid by county ----- 3.00

### Paupers

Executing an order of relief of a pauper (for each mile traveled \$.06). ----- .75

### Quarantine Districts

Seizing any animal, except dogs running at large in quarantine districts, each animal. --- 1.00

### Stray Animals

Impounding animal, each animal. ----- 1.00  
 Selling impounded animals each animal (In no one case may the fee for impounding and selling amount to more than \$4.00). ----- 2.00

Constables are the executives and field officers of the justices' courts and are expected to be aware of the happenings in their districts. They have the same authority, duties, and responsibilities as sheriffs, that is to maintain the local peace, to arrest violators of the statutory or common criminal code, and to serve writs under the civil code.

Justices function in their offices and court rooms and constables function in the field. In this respect constables do not have concurrent jurisdiction in any matters with which justices are concerned.

## Constables In Pennsylvania—Glossary

### Action of Damages

To recover a pecuniary compensation or an indemnity, which may be recovered in court by any person who has suffered loss, detriment, or injury whether to his person, property, or rights through the unlawful act or negligence of another.

### Bail Piece

A certificate issued by a judge or other court officer authorized to keep records. The certificate must contain the fact that the bail is in a certain sum and in a particular case.

### Capias

The general name for several kinds of writs, the common characteristic of which is that they require the officer to take the body of the defendant into custody; they are writs of attachment or arrest.

### Dispossession Proceedings

Summary process by a landlord to oust the tenant and regain possession of the premises for nonpayment of rent or other breach of the conditions of the lease.

### Distrain

Seizure; act of making a distress.

### Distress

Seizure and detention of the goods of another as security to obtain satisfaction of a

claim, as for rent, taxes, or an injury, by sale of the goods seized.

### Encumbrance

A claim, lien, charge, or liability attached to and binding real property.

### Execution

Carrying some act or course of conduct to its completion.

### Garnishee

A person who has money or property in his possession belonging to a defendant. He is warned to keep the money or property in his hands and not to deliver it to the defendant until the result of the suit is ascertained.

### Mittimus

The name of an order in writing, issued by a court or magistrate directed to a sheriff, constable, or other officer commanding him to convey the person named to prison.

### Non Est Inventus

"He is not found"; the constables return to a writ requiring him to arrest the defendant when the latter is not found within his jurisdiction.

### Nulla Bona

"No goods"; the name of the return made by the constable for a writ of execution when he has not found any goods of the defendant within his jurisdiction which he could seize.

### **On View**

An offense may take place within view of an officer so as to authorize arrest without a warrant when the officer has knowledge that an offense is being committed.

### **Precept**

An order, emanating from an authority, to an officer commanding him to do some act within the scope of his powers.

### **Principal**

A person who is competent in his own right to do a particular act for his own benefit and who contracts with another person to do the particular act for him.

### **Process**

The means of compelling the defendant in an action to appear before the court.

### **Referees**

A person to whom a cause pending in a court, is referred, by the court, to take testimony, hear the parties, and report thereon to the court.

### **Scire Facias**

A judicial writ, founded upon some matter of record, such as a judgment or recognizance, and requiring the person against whom it is brought to show cause why the person bringing it should not have the advantage of such record.

### **Warrant**

A writ issued by a magistrate, justice, or other authority addressed to a sheriff, constable or other officer, requiring him to arrest the person named therein and bring him before the court to answer for some offense which he is charged with having committed.

### **Writ**

A mandatory precept issued from court or magistrate.

### **Writ of Habeas Corpus**

A writ directed to the person detaining another, which commands him to produce the body of the prisoner or person detained and to do whatsoever the judge or court directs.

### **Writ of Possession**

A writ of execution employed to enforce a judgment to recover the possession of land. It commands the constable to enter the land and give possession of it to the person entitled to it under the judgment.

### **Writ of Restitution**

A writ which is issued on the reversal of a judgment, commanding the constable to restore to the defendant the thing seized if it has not been sold, and if it has been sold, the proceeds; a writ which lies, after the reversal of a judgment, to restore to a party all that he has lost by the occasion of the judgment.

# Constables In Pennsylvania

## Criminal Duties and Responsibilities; Execution of Processes

### Second in a Series

By KATHLEEN A. LOOS

**I**T IS THE CONSTABLE'S DUTY to execute processes which require the arrest or restraint of persons charged or convicted of any offense. If the constable permits an individual to escape because of his failure to execute a process, he may be imprisoned for a period not to exceed two years or pay a fine not to exceed \$1,000 or both.

**Weeds.** Constables are required to notify the owner of lands for which Canada Thistles, chicory or marihuana are growing, to cut and destroy the weeds. If such an owner fails to destroy the weeds within five days of notice, the constable shall cause the weeds to be cut down. The constable is entitled to employ persons and machinery to help destroy the weeds, and the constable and any helpers are to collect from the owner of the land the costs of the labor, with a fee of \$ .50 plus \$ .06 a mile circular for doing the work.

**Labor Laws.** It is the duty of the constable, when issued a warrant, to investigate and arrest any person

violating the laws which govern the employment of children.

**Complaints to the Court of Quarter Sessions.** Whenever complaints are made to the court of quarter sessions for violation of law or conditions which under the law the constable of the district is required to report to the court, the court may summon the constable to appear before it and direct him to make a report of the investigations.

**Cruelty to Animals.** Constables are required to arrest upon view any person violating the cruelty to animal laws.

**Dance Halls.** All public dance halls, ballrooms and academies in townships are subject to inspection by the constables. Constables have the authority to close a place where a public dance is being held if violation of provisions of law or ordinances governing dances or if disorder takes place.

Boroughs have their own laws concerning the regulation of dance halls and are therefore not subject to the foregoing provisions.

**Disorderly Conduct and Regulation of Sale of Liquor.** Upon written application by the commandant of any encampment or reunion of soldiers, the constable shall arrest on view any person guilty of disorderly conduct, riotous behavior, breach of peace, or intoxication. Such persons arrested are to be taken to any justice of the peace of the county for hearing.

**Dogs Running at Large.** Constables are authorized to seize any dog which might be running at large and dispose of the dog if it has no license. If the dog has a license the constable shall keep and feed the dog and notify the owner who shall pay for the keeping and feeding.

**Election Duties.** It is the constable's duty to maintain order around the election polls on election day and to keep a clear path to enter the polls. Failure to do so carries a fine of \$500.00 or imprisonment of not less than three months nor more than two years, or both.

**Fireworks and Combustibles.** Constables are authorized to seize and remove at the expense of the owner, all stock of fireworks or combustibles offered for sale or stored in violation of the fireworks laws.

**Fish Laws.** Constables are directed to enforce the fish laws by destroying illegal fishing devices and making arrests on Sunday. If the constable refuses or neglects to enforce the fish laws he may be fined \$50.00.

Also, it is the duty of the constable to seize oysters and rockfish offered for sale between the 10th of May and the 1st of September in any year.

Constables are further directed to seize illegal nets and devices used and arrest persons violating the provisions of law governing the catching of tadpoles, bullfrogs and terrapins.

**Habeas Corpus.** It is the constable's duty to execute any writ of habeas corpus which is given to him. Failure to execute such a writ subjects the constable to a fine of 100 pounds\* and forfeiture of his office.

**Violation of Ordinances.** Constables in Philadelphia are authorized to arrest on view any person who violates any ordinance. Such offender may be taken directly to a magistrate for hearing.

Constables in boroughs are authorized to arrest on view any persons guilty of a breach of peace, riotous or disorderly conduct, drunkenness, commission of any unlawful act which would imperil the personal security or endanger the property of citizens or violation of any borough ordinance, for which a fine or penalty is imposed. All actions and proceedings on borough ordinances commenced by complaint and information require issuance of a warrant, which either a policeman or constable of the borough is required to serve.

**Pollution.** Constables are empowered to arrest, on view, any person who enters upon enclosed land which contains a dam, reservoir, pond, or other artificial means for storing water used by the public for drinking purposes, and attempts to pollute or pollutes the water.

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\*The Congress of the United States adopted the dollar on April 2, 1792. The law which sets forth this penalty was passed by the Pennsylvania General Assembly on February 18, 1785 and has never been repealed. It is not known how the 100 pounds would be converted to adjust to the present U. S. dollar rate.

**Trespassing on Railroad Property.** Constables shall on notice or on view arrest any person trespassing on a railroad engine or car or on any railroad contrary to the rules of the railroad owners. It is also his duty to arrest any person attempting to ride without paying a fare, committing larceny, violence or destroying property, threatening passengers or other persons on the train. The constable shall take any such offender of these provisions to a justice of the peace for prosecution.

**Renovated Butter.** Constables are required to make returns in their quarterly report to the court of quarter sessions the name of any person violating the laws concerning renovated butter. The report must include the names of any witnesses.

**Trees and Shrubs.** It is the constable's responsibility to arrest without a warrant any person who cuts down, injures, destroys or removes any trees or shrubs from any forest reserve of the Commonwealth.

The constable also has authority to arrest any person on view who trespasses on state forest or timber land and against whom there is reasonable suspicion that a violation against the forest and timber laws has been committed.

**Vagrants.** Upon notice by any citizen or on view, any vagrant or person found loitering shall be apprehended by the constable and taken before a justice of the peace to be examined for vagrancy.

**Certificate Stating Offense.** It is the duty of the constable after he performs an arrest to issue a certificate to an accused which states his name, the charge on which he has been arrested and the amount of bail demanded, if any. This certifi-

cate is to be issued without cost upon demand by the accused or anyone on his behalf. Failure to issue such a certificate subjects the constable to a fine of \$500.00 or imprisonment not exceeding one year, or both.

**Riots in Philadelphia.** In Philadelphia, it is the constable's duty to protect property threatened by a riot or mob violence. If the constable has knowledge of the riot and fails to act, he is liable for damages done to the property and is guilty of a misdemeanor which is punishable by voiding the constable's commission.

**Special Laws.** Constables are authorized to arrest on view any professional thief, pickpocket or burglar found at any steamboat landing, railroad depot, church, banking institution, brokers office, place of amusement, auction room or common thoroughfare in the cities of Erie, Corry, Meadville or Titusville and in Erie and Crawford counties.

#### **CIVIL DUTIES AND RESPONSIBILITIES**

**Collecting Money on an Execution — Concealment of Goods.** Any person who possesses any goods and chattels belonging to another and conceals such goods with the intent of preventing the constable from taking them on a writ of execution is guilty of a misdemeanor and if convicted is subject to a fine of \$500.00 or imprisonment not exceeding one year, or both.

**Execution and Return.** Constables are required to state an account of the debt and costs on the back of executions received and shall make a legal return of the service of the execution. If the constable fails to make a legal return or makes a false return he is liable in an action

against himself and his bondsman for the amount of the original execution.

**Money Collected on an Execution — Misdemeanor.** Constables are required to pay over all monies collected on an execution. Failure to do so constitutes a misdemeanor and carries a penalty of \$100.00. Any constable convicted shall stand committed until the money is paid, together with interest, fines and costs and shall be prohibited from holding the office of constable for seven years.

**Administering Oaths.** Constables are authorized to administer oaths to appraisers who appraise and set aside property claimed on exemptions from levy and sale on execution.

**Service of Process.** Constables are authorized to serve processes and perform duties which coroners perform when the sheriff of any county is a party in a suit and there is no coroner to serve the processes.

**Actions for Violation of Ordinances.** The constable is required to serve summons and warrants for violation of borough ordinances when directed to him by the borough mayor or justice of the peace.

#### **Process Against Constables.**

When a summons, warrant of arrest or execution in a civil suit is issued against a constable, another constable to whom the summons, warrant or execution is issued is required to execute it. On his neglect or refusal to do so he is subject to payment of the whole amount lost.

#### **Landlord and Tenant Proceedings.**

After a distraint has been made under a landlord's warrant for rent, a constable or his deputy are authorized to proceed with appraisalment and sale of the tenant's goods if the landlord demands it.

**Liabilities.** In addition to the liability of being subject to removal of office, constables are personally liable in actions of damages to any person who might be injured by their negligence or misconduct in the performance of their duty.

Constables may also be prosecuted for willfully and fraudulently taking any fee to execute and perform their duties other than those fees allowed by law. If convicted a constable could be subject to a \$500.00 fine or be imprisoned for one year, or both.

## Constables in Pennsylvania—Glossary

### Action of Damages

To recover a pecuniary compensation or an indemnity, which may be recovered in court by any person who has suffered loss, detriment, or injury whether to his person, property, or rights through the unlawful act or negligence of another.

### Bail Piece

A certificate issued by a judge or other court officer authorized to keep records. The certificate must contain the fact that the bail is in a certain sum and in a particular case.

### Capias

The general name for several kinds of writs, the common characteristic of which is that they require the officer to take the body of the defendant into custody; they are writs of attachment or arrest.

### Dispossession Proceedings

Summary process by a landlord to oust the tenant and regain possession of the premises for nonpayment of rent or other breach of the conditions of the lease.

### Distraint

Seizure; act of making a distress.

### Distress

Seizure and detention of the goods of another as security to obtain satisfaction of a

claim, as for rent, taxes, or an injury, by sale of the goods seized.

### Encumbrance

A claim, lien, charge, or liability attached to and binding real property.

### Execution

Carrying some act or course of conduct to its completion.

### Garnishee

A person who has money or property in his possession belonging to a defendant. He is warned to keep the money or property in his hands and not to deliver it to the defendant until the result of the suit is ascertained.

### Mittimus

The name of an order in writing, issued by a court or magistrate directed to a sheriff, constable, or other officer commanding him to convey the person named to prison.

### Non Est Inventus

"He is not found"; the constables return to a writ requiring him to arrest the defendant when the latter is not found within his jurisdiction.

### Nulla Bona

"No goods"; the name of the return made by the constable for a writ of execution when he has not found any goods of the defendant within his jurisdiction which he could seize.



### **On View**

An offense may take place within view of an officer so as to authorize arrest without a warrant when the officer has knowledge that an offense is being committed.

### **Precept**

An order, emanating from an authority, to an officer commanding him to do some act within the scope of his powers.

### **Principal**

A person who is competent in his own right to do a particular act for his own benefit and who contracts with another person to do the particular act for him.

### **Process**

The means of compelling the defendant in an action to appear before the court.

### **Referees**

A person to whom a cause pending in a court, is referred by the court, to take testimony, hear the parties, and report thereon to the court.

### **Scire Facias**

A judicial writ, founded upon some matter of record, such as a judgment or recognizance, and requiring the person against whom it is brought to show cause why the person bringing it should not have the advantage of such record.

### **Warrant**

A writ issued by a magistrate, justice, or other authority addressed to a sheriff, constable or other officer, requiring him to arrest the person named therein and bring him before the court to answer for some offense which he is charged with having committed.

### **Writ**

A mandatory precept issued from court or magistrate.

### **Writ of Habeas Corpus**

A writ directed to the person detaining another, which commands him to produce the body of the prisoner or person detained and to do whatsoever the judge or court directs.

### **Writ of Possession**

A writ of execution employed to enforce a judgment to recover the possession of land. It commands the constable to enter the land and give possession of it to the person entitled to it under the judgment.

### **Writ of Restitution**

A writ which is issued on the reversal of a judgment, commanding the constable to restore to the defendant the thing seized if it has not been sold, and if it has been sold, the proceeds; a writ which lies, after the reversal of a judgment, to restore to a party all that he has lost by the occasion of the judgment.

# Constables In Pennsylvania

## Criminal Procedures

Third in a Series

BY KATHLEEN A. LOOS

### Arrest

**A**N ARREST IS THE SEIZING of a person and holding him to answer a criminal charge or civil demand.

Pennsylvania courts have ruled that it is not necessary to actually touch the person to make an arrest. A valid arrest may be made either with or without touching the body.

An officer may use as much force as is necessary in making an arrest; however, the use of guns is limited to cases where the arresting officer knows the accused has committed a felony and there is no other way to arrest him except to shoot. Mere suspicion that the accused has committed a felony does not justify shooting him to prevent his escape. An officer who shoots on the basis of mere suspicion does so at his own risk and becomes liable if it is proved that no felony was committed. Under no circum-

stances may an arresting officer shoot an escaping party when the charge is a misdemeanor.

An arresting officer is not required to show his right to make an arrest; however, it is wise for him to do so.

Once he is in custody, the accused must be informed of the nature of the charge against him and the authority of the officer to make the arrest. In fact, any arresting officer who refuses or neglects to certify the charges to the accused, or to someone acting in behalf of the accused, is guilty of a misdemeanor and is subject to a fine of \$500.00 or to imprisonment of one year, whichever the court may direct.

In accordance with Commonwealth law, arrests may not be made on Sunday, except in cases of treason, felony, breach of peace (this includes assault and battery), or violation of the fish laws. In addition, the Motor Vehicle Code does not authorize constables to

make Sunday arrests for violation of vehicle laws, although the Pennsylvania State Police may do so.

Constables are authorized to require bystanders to assist them in making an arrest. Any bystander who when asked refuses to assist the constable in the execution of his duties in any criminal case, in preserving the peace, or in apprehending and holding a person for a breach of peace charge is guilty of a misdemeanor and upon conviction may be fined \$500.00, undergo imprisonment for one year, or both. This same penalty is applicable to any bystander who obstructs, opposes, or interferes with a constable serving a process or making an arrest.

**Arrest on View.** Law violators may be arrested on view when the violation occurs within sight of the constable. If the charge is a felony, only suspicion that a felony occurred is required to permit an arrest. A constable may also arrest on view a party committing a misdemeanor in his presence, but case law precludes an arrest on view for an ordinary misdemeanor not committed in the constable's presence.

The Motor Vehicle Code authorizes arrests on view for felonies, misdemeanors, and accidents resulting in personal injuries. In such arrests, an information should be made immediately and filed with the proper magistrate. A copy should also be given or sent to the arrested party.

In other summary conviction cases and in cases where city ordinances are violated the constable is authorized to arrest on view. The exception to this is where the law or ordinance being violated contains a provision to the contrary.

## Arrest in Civil Actions Writs of Capias

A writ of capias is a warrant of arrest used in civil actions, such as certain kinds of suits, and actions for recovery of money collected by a public officer or for official misconduct of an officer. In addition, it may be used in the case of payment of fines and penalties under borough ordinances.

There are two types of writs of capias, a capias ad respondendum and a capias ad satisfaciendum. A capias ad respondendum is similar to a summons. Its purpose is to notify the defendant to defend his action and to procure the defendant's arrest until bail has been furnished. The constable serves this writ the same way he serves any warrant of arrest and takes the defendant before a magistrate for trial. If the defendant offers bail, the constable may take it and not bring the defendant before the magistrate. The constable should be extremely careful about taking bail under a writ of capias ad respondendum for he may be held liable for failure to take sufficient bail if the defendant fails to appear.

A capias satisfaciendum is issued for collection of damages or debt and damages in certain civil actions. It may be used for the collection of fines and penalties under borough ordinances. Bail is not acceptable under this writ.

**Attachments and Bench Warrants.** These are processes issued by the court itself, or "from the bench" for the attachment or arrest of a person for contempt of court or for failing to obey court orders. They may be used in cases of failure to file accounts or turn over monies, of failure by officials

to perform their duties after the court has directed them to do so, or in cases where persons refuse to answer a subpoena or to answer when brought to a hearing. Attachments or bench warrants are executed in the same way as a warrant of arrest and no bail may be taken from the defendant arrested. He is subject to the court's order after arrest.

The constable should make a return after he has served a writ of *capias* or a bench warrant in the same manner as he does for any warrant of arrest. Usually the return is made on the back of the writ and states how and when the writ was served. If the constable cannot find the accused, the return should say so; and if the accused has escaped and been helped by others, the names of those who helped him escape, if known, should be noted on the return.

### The Information or Complaint

An information may be made by anyone. The crime charged need not have been seen committed and the information may be made upon knowledge received from others. If the person who makes an information swears that he believes what he has been told, it is sufficient. A minor who is old enough to understand the oath required may make an information. It is for the justice to decide if the minor understands the meaning and seriousness of taking the oath.

An information must contain certain essential elements. These are:

(1) the time of the crime — to show it is not barred by the statute of limitations; (2) the place of the crime — to show jurisdiction of the magistrate, (3) it must be in writing

—this is required by law, (4) a description of the crime — the specific crime must be charged (This is very important. The crime is "robbery" not "suspicion of robbery"; "suspicion" is not a crime). (5) the defendant must be named (6) there must be an oath swearing that the complaint is true—this is required by the Constitution, (7) the information must contain the statement that the crime is against the "peace and dignity of the Commonwealth of Pennsylvania."

**The Warrant.** If the magistrate decides that the charge on the information is probable, he then issues a warrant of arrest to the constable or other peace officer.

Both the state and federal constitutions prohibit the seizure of any person without the issuance of a warrant that shows probable cause why the person should be arrested. The only exception to this guarantee is that fleeing felons and persons who commit misdemeanors in the presence of an officer may be arrested without a warrant. The arresting officer, however, should make out an information as soon as it is possible after such an arrest.

A valid warrant of arrest must name a specific person. If the name of the person is not known, then a nickname or alias should be used with a description sufficient to permit identification. John Doe warrants are not acceptable because they are not a description of anyone. The warrant should also contain the name of the crime charged.

A warrant may be served anywhere in the Commonwealth; however, if it is served outside of the county in which it was issued, the constable or other arresting officer

is required to take the defendant before a local magistrate to allow the defendant to enter bail. If the crime charged is not one where bail is permitted, or if the defendant cannot enter bail, the constable

should take him to the magistrate who issued the warrant. Illustrated below are sample information or complaint and warrant of arrest and return forms:

FORM OF INFORMATION OR COMPLAINT  
COMMONWEALTH OF PENNSYLVANIA

v.

Defendant

I, the undersigned, do hereby state under oath (affirmation)

(1) My name is \_\_\_\_\_ and I live at \_\_\_\_\_;

(2) I accuse \_\_\_\_\_, who lives at \_\_\_\_\_, with violating the penal laws of the Commonwealth of Pennsylvania, or,

(I accuse an individual whose name is unknown to me but who is described as \_\_\_\_\_ and who bears the nickname or popular designation of \_\_\_\_\_ with violating the penal laws of the Commonwealth of Pennsylvania), or,

(I accuse an individual whose name, nickname, or popular designation is unknown to me but who is described as \_\_\_\_\_ with violating the penal laws of the Commonwealth of Pennsylvania and, therefore, I have designated him herein as John Doe);\*

(3) The date (and day of the week) when the accused committed the offense was on or about \_\_\_\_\_;

(4) The place where the offense was committed was in the County of \_\_\_\_\_;

(5) The acts committed by the accused were

\_\_\_\_\_, all of which were against the peace and dignity of the Commonwealth of Pennsylvania (and contrary to the Act of Assembly \_\_\_\_\_);

(6) I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made; and

(7) I swear to or affirm the within complaint upon my knowledge, information and belief, and sign it on \_\_\_\_\_, 19\_\_\_\_\_, before \_\_\_\_\_ whose office is that of \_\_\_\_\_

Affiant

\*Does not make the arrest invalid because a description of the accused is included.

FORM OF WARRANT OF ARREST AND RETURN  
COMMONWEALTH OF PENNSYLVANIA:

County of \_\_\_\_\_  
To \_\_\_\_\_, or any other authorized person, in the name of the  
Serving Officer  
Commonwealth of Pennsylvania, you are commanded to take into custody  
\_\_\_\_\_, \_\_\_\_\_, if (he) (they) be  
Name, If unknown, description Address  
found in the said Commonwealth, and bring (him) (them) before us at  
\_\_\_\_\_, to answer the Commonwealth  
Address  
upon the complaint of \_\_\_\_\_ charging (him)  
(them) with \_\_\_\_\_, and further to be dealt with accord-  
ing to law, and for such purposes this shall be your sufficient warrant.  
Witness the hand and official seal of \_\_\_\_\_, this date, \_\_\_\_\_, 19\_\_\_\_.  
Issuing authority  
\_\_\_\_\_ (SEAL)

Title  
Bail to be demanded: \$ \_\_\_\_\_

RETURN WHERE DEFENDANT IS FOUND

By authority of this warrant on \_\_\_\_\_, 19\_\_\_\_, I took into cus-  
tody the within named \_\_\_\_\_, and he is now  
(at liberty on bail, posted before \_\_\_\_\_) (in the \_\_\_\_\_  
jail) (before you for disposition).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

RETURN WHERE DEFENDANT IS NOT FOUND

After careful search I cannot find the within named defendant.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**The Search Warrant.** Pennsylvania's Constitution guards against unreasonable searches and seizures and stipulates that warrants may not be issued without a description of the place to be searched and the property to be seized. The search warrant must also indicate that there is reasonable cause to believe the property sought is on the premises to be searched. The search warrant must also be supported by an oath or affirmation sworn to by

the affiant.

It is imperative that the search warrant specifically and carefully name the person or place to be searched and the articles sought. The courts have consistently ruled that a warrant for the search of one person or place and the seizure of certain articles cannot be used for the search of another person or place and the seizure of other articles. In fact, the courts have considered proper warrants so im-

portant that if a warrant is issued for 315 Reservoir Road which does not exist and the constable searches 317 Reservoir Road, the court will quash the warrant and refuse the evidence to be used in the case.

The warrant itself permits the constable to use force in searching a place if necessary.

Illustrated below are forms for the search warrant and the return:

### FORM OF SEARCH WARRANT

COMMONWEALTH OF PENNSYLVANIA:

County of \_\_\_\_\_:

To \_\_\_\_\_, Constable of \_\_\_\_\_

WHEREAS, information and complaint have this day been made to \_\_\_\_\_, one of our justices of the peace in and for said county, upon the oath of \_\_\_\_\_, that the following articles, to wit (the specific articles and their value should be inserted here) were feloniously taken, stolen, and carried away from his house, at (municipality) aforesaid, and that there is just cause to suspect that the said goods, or some part thereof, are concealed in the house of \_\_\_\_\_ of the said (municipality). These are, therefore, to command you and each one of you, to make diligent search in the daytime, in the house of said \_\_\_\_\_, at \_\_\_\_\_, for the said stolen goods, and if you find the same, or any part thereof, that then you secure the said stolen goods, and bring the said goods, and also the person or persons in whose custody you find the same, before our said justice of the peace, to be examined concerning the premises, and further to be dealt with according to law.

WITNESS the said \_\_\_\_\_, who hath hereto set his hand and seal.

\_\_\_\_\_  
Justice of the Peace

My Commission Expires \_\_\_\_\_

### FORM OF RETURN OF SEARCH WARRANT

PURSUANT to the within warrant, I made search for the goods therein described, at the place mentioned, but found the following; to wit: (list goods found); which said goods, so found, together with the body of (person having goods), I have in custody.

So answers

\_\_\_\_\_  
Constable,  
Or,

PURSUANT to the within warrant, I made search for the goods therein described, at the place mentioned, but could not find any of them.

So answers

\_\_\_\_\_  
Constable

**Search Without a Warrant.** Pennsylvania's Constitution protects "persons, houses, papers, and possessions" from unreasonable search

and seizure, thus if a constable is making an arrest and notices illegal goods on the person or property,

such goods may be taken without a warrant and the seizure will not be deemed unreasonable. Of course the courts have final say as to what is an unreasonable search and seizure.

### CIVIL PROCEDURES

In civil matters, constables are required to serve writs, collect small claims and enforce the rights of landlords against delinquent tenants.

**Summons.** The main civil process with which a constable is concerned is the summons which notifies the defendant or accused that an action has been started and that a judgment will be given against him if he does not answer the complaint. The summons tells the time and place the accused is to appear to defend himself and must be served not less than five nor more than eight days after the date it was issued and not later than four days before the hearing. If the defendant fails to appear and a judgment is rendered, the constable will be issued an execution

which commands him to collect on the goods of the accused by selling them for the debt which the accused owes.

Constables are to serve a copy of the summons to the defendant personally, to an adult member of his family, or to an adult member of the family where he resides. The summons may also be served to the clerk of the apartment house, boarding room or hotel, or other place of lodging where the defendant might reside. The summons should be served on persons only in the county in which the suit is begun, however, if, upon inquiry, the constable cannot ascertain the residence of the defendant in the county, the summons may be served at his place of business to his partner, agent or other person in charge of his business.

After the constable has served the summons he is required to make a return of the fact in writing in enough detail that it will show that the magistrate has jurisdiction of the case. The following is a sample form of return:

#### CONSTABLE'S RETURN OF SERVICE

NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared \_\_\_\_\_ Constable, who being duly sworn states that he

Name of Constable \_\_\_\_\_  
served the within summons on \_\_\_\_\_, defendant, at \_\_\_\_\_  
Name of Defendant \_\_\_\_\_  
\_\_\_\_\_ o'clock, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_  
Place where Served \_\_\_\_\_

How service was made:  
Personally, at Dwelling Place, Etc.  
So answers

SWORN and subscribed to before \_\_\_\_\_ Constable  
me this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_.

Justice of the Peace



**Subpoena.** A subpoena is a writ which requires a witness to appear at a hearing and give testimony. It commands the witness to lay aside all excuses and pretenses he might have for not appearing in court. The names of several witnesses might appear on one subpoena and it is only necessary for

the constable to read it to the witness or witnesses, as the case may be. Of course, the constable must make a return of his service of the subpoena. The return should be printed on the back of the subpoena and may be made in the following form:

**RETURN OF SERVICE OF SUBPOENA  
COMMONWEALTH OF PENNSYLVANIA:**

On the \_\_\_\_\_ day of \_\_\_\_\_ County, SS:  
I served the within subpoena on the  
within named \_\_\_\_\_ by reading the same to each of them.  
No. \_\_\_\_\_ services \_\_\_\_\_ \$ \_\_\_\_\_  
miles actually traveled direct,  
at \_\_\_\_\_ per mile

**TOTAL \$ \_\_\_\_\_**

Personally appeared before me, the subscriber \_\_\_\_\_, who being duly sworn deposes and says that he made the number of services and they are true as stated, and that he traveled the number of miles above set out in making services of this subpoena and that said miles were necessarily traveled.

\_\_\_\_\_  
Constable

SWORN and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, A.D.

\_\_\_\_\_  
Justice of the Peace

Sometimes constables are required to serve subpoenas which have been issued by courts of quarter sessions or common pleas. Such subpoenas are to be served the same way subpoenas issued from magistrates are served.

If a witness refuses to answer a subpoena, the constable will be issued a writ of attachment which instructs him to personally bring the witness before the court. This is called an attachment for contempt of court and is served in the same manner as a warrant of arrest.

**Writ of Execution.** The judgment of the court is enforced by execution procedures. An execution writ is issued by the court to the

constable and instructs him to collect the debt owed by the defendant by selling his goods. The first step in an execution proceeding is to make a levy, which is the actual taking of the defendant's goods and holding them for sale. Usually the plaintiff only requires that the officer make a list of the goods levied upon and will not demand the goods be actually impounded. The constable may levy on the defendant's personal property but not on "fixtures" that are attached to real estate. In addition, the defendant is entitled to \$300.00 worth of property to be exempted from sale. It is the constable's duty, if requested by the defendant, to get three per-

sons disinterested in the case to appraise the property the defendant wishes to keep under the \$300.00 exemption. When appraised, such property is exempted and cannot be sold. Clothing, Bibles and school books are also exempt from sale. When the constable makes a levy he must list the goods on the back of the execution or attach a list of the goods levied upon to the execution writ. The levy is then good for 20 days and the sale must be completed within that time or the magistrate will have to continue the lien by issuing an alias execution, which extends the original levy.

When a defendant wishes to have time in which to pay his debt and if he owns land free of all incumbrances or gives bond, a stay of execution may be given and the constable may not proceed to sell the defendant's goods. The stay of execution is as follows: From \$5.33 to \$20.00—3 months stay; from \$20.00 to \$60.00—6 months stay; from \$60.00 to \$300.00—9 months stay.

If a stay of execution is not given, the constable proceeds with the sale. Six days notice of the sale by posting at least 6 handbills in

noticeable public places is required. After the sale, the constable is required to make a return to the magistrate and pay over the money to him. The constable should have the magistrate issue a receipt for the money paid.

It should be noted that only selected criminal and civil procedures have been described here. Constables are urged to familiarize themselves with all procedures of civil and criminal law. The district attorney is the constable's best friend. He should be consulted if the constable is in doubt about any procedure.

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## GLOSSARY

**Affiant**

the person who makes an information or complaint

**Felon**

a person who commits a felony

**Felony**

serious crimes such as murder, manslaughter, robbery, rape, embezzlement and counterfeiting.

**Misdemeanor**

lesser crimes, crimes which are not felonies. The term is used to describe all crimes and offenses for which the law has not provided a particular name.

# Constables In Pennsylvania

## Part IV—Preparation of the Case

(Last in a Series)

BY KATHLEEN A. LOOS

**I**NVESTIGATION INTO THE FACTS SURROUNDING a case is a vital part of the constable's duties. A prosecutor is effective only if he has been supplied with reliable facts on which to base his case. A criminal case can be won or lost on the type of investigation conducted by the constable.

An investigation should only contain facts. Beliefs, opinions, or ideas about a case have no place in an investigation and the only duty a constable has is to present the facts.

A constable should be properly equipped with a notebook and pen or pencil for his investigative work. He should write every bit of information he gets concerning the case in his notebook, including the date and time of his observations, interviews with witnesses, and any fact he receives that might be pertinent to the crime.

In addition to his notebook, a constable should have a writing tablet or pad for recording statements that witnesses might make. Often a witness to a crime will give his facts freely at a first interview, but when a typed statement is prepared for the witness to sign, he will have second thoughts about appearing in court. To avoid such complications, the constable should record the statement of the witness immediately and have him sign it. Then the prosecutor has a very good chance of the witness sticking to his statement when the case goes to court.

During an investigation the constable obtains objects which are to become important evidence in the case. If an object taken is small, it should be placed in an envelope or folder and sealed. The name of the object, the date, time and place where it was found should be recorded on the face of the envelope. In addition, the constable should sign his name on the envelope. The constable should also have some labels or tags which could be at-

tached to large objects. Some objects of evidence might be so valuable that they have to be wrapped and completely sealed so they cannot be tampered with.

Any object connected with an investigation should be recorded in the constable's notebook. This recording should include the date, time, place found and where the object is being kept. Without such record keeping the constable will have to rely upon his memory when giving testimony. It can be easily understood how recorded identification of evidence is far superior to verbal identification.

Each entry the constable makes in his notebook should begin with the hour of the day or night (3:30 A.M. or 3:30 P.M.). The date should be recorded, as well as the day of the week (Wednesday, February 10, 1965). The third fact to be recorded is the location of where the information was taken. Finally, the facts surrounding the case should be entered. If any doubt exists concerning the recording of some fact it should be put down, whether or not the constable considers it important. A conviction can depend on the most minute detail (whether the night was clear or foggy, whether a neighbor's car was parked in front of his house or not, whether a street was blocked or not blocked). Facts such as these may not seem important to the constable at the time of investigation, but if it is related to the crime in any manner, it may be of vital importance to conviction of the criminal and should, therefore, be recorded. On the other hand, the innocent must also be protected and a minor detail may immediately clear an innocent party and allow the constable to pursue the guilty one.

HERE ARE SEVERAL PITFALLS a constable should avoid when he is investigating a case. One danger to avoid is prejudice and making up one's mind about the case. A constable is not entitled to an opinion, only a jury has this right. Furthermore, an investigative report that is slanted in any way could cause the case to be lost. Constables should take utmost care in reporting their facts impartially.

Another danger to avoid in making an investigation is inaccurate reporting. This can only be a result of carelessness and may easily result in the case being lost or the arrest of the wrong person. Knowledge of the laws to be enforced is the only way a constable can be sure he is not missing some essential required before arresting a wrongdoer.

Failure of observation can also lead to a faulty report. Investigations can be adequate on the surface but lack sufficient detail to give the jury a complete picture of the crime. A constable should be able to train himself to determine what and how many facts are needed to make his report complete. For instance, if a constable is called upon to investigate a crime at a certain location, merely a statement that a crime took place at a particular spot is not enough. If the crime took place on a road or highway the exact spot should be located (as between Carlisle and Shippensburg and how many miles north and south of these two points). If an individual was seen committing the crime, his exact description should be recorded, his height, weight, color of hair, eyes and complexion, his build — heavy or thin, a description of the clothes he was wearing and any other characteristics which might lead to an identification.

Constables who desire to sharpen

their observation powers can do so by several simple methods. For example, a constable can walk down the street, look at various objects around him and after getting back to his office test his memory by writing down his observations. A constable will be able to improve his observation powers by making a few such trips and testing his memory. A constable should also learn to approximate height and weight. This can be done by asking acquaintances their height and weight. After some experimentation the constable will be able to judge the height and weight of any individual fairly.

**Types of Evidence.** Evidence is whatever tends to prove or disprove a point in question or to influence the belief about it. Volumes have been written about evidence and the admissibility of evidence in law suits. Constables need not concern themselves with all the laws pertaining to evidence but they should be familiar with a few of the general rules.

General rules of evidence include: (1) relevancy — evidence must tend to prove the issue of the case and must be confined to the case at hand. If evidence is not relevant it is not admissible in a case. For example, if a man is accused of stealing a car, it would not be relevant to prove that he is a habitual drunkard; (2) hearsay — this type of evidence is based upon what a person has heard from others, not what he knows of his own knowledge. Hearsay evidence is generally not acceptable because it is not made under oath in a court of law. In this respect, constables should be particularly careful when investigating a case to make certain that a witness who makes a statement is telling what he knows

of his own knowledge and not what he has heard from others; (3) best evidence — the general rule here is that parties testifying are to produce the best evidence available to the case. If several grades of evidence are available the best of these grades should be presented. This rule does not necessarily mean that only the best evidence is acceptable in court. If only secondary evidence is available it should be presented; (4) admissions — here, if a person makes a statement against his own interest and the statement can be proved by the person who heard it, it can be admitted as evidence; (5) circumstantial evidence — this type of evidence is used when there are no witnesses to a crime nor actual evidence of the commission of a crime. It is proof of surrounding circumstances and must be so well-founded that no reasonable doubt exists as to the defendant's guilt.

The above mentioned rules of evidence are by no means exhaustive and constables who wish to present a strong case should study what constitutes good and admissible evidence.

There are two invaluable sources for constables who wish to learn about evidence. The first source is the free training schools for constables and police held throughout the Commonwealth by the Public Service Institute of the Department of Public Instruction. Further information concerning the location of these schools may be obtained by writing to Frederick H. Miller, Executive Director, Public Service Institute, Room 49 Education Building, Harrisburg, Pennsylvania. The second source of assistance available to constables is the prosecuting attorney who can instruct as to what evidence is required for a complete case.

**Specific Crime.** Constables must have a working knowledge of the principle of the crime with which he charges the accused. The crime charged must appear on the information and is the clause which describes what statute has been violated. If the crime charged is not included in the information or if it is erroneously written, the accused might be dismissed. The crime charged appears in the information after the time, place and person accused as follows:

The acts committed by the accused were ". . . FELONIOUSLY TOOK AND CARRIED AWAY a Ford Convertible Automobile, the property of Donald Brown, WITH INTENT TO CONVERT THE SAME TO HIS OWN USE . . ."

The above mentioned crime is only one sample of many crimes contained in The Penal Code of 1939, The Motor Vehicle Code and other miscellaneous laws. Constables are urged to familiarize themselves with the types of crimes under Commonwealth law.

Citizens expect law and order to be maintained so that they can conduct their affairs freely and without fear. It is imperative that the constable act with highest regard toward the law. Not only should he know the principles of law and procedure in relation to his duties, but he should also be concerned with the best methods of carrying out those duties.

There is no substitute for good public relations. Public resentment toward enforcement of the law can be caused by poor conduct on the part of the constable. It is hoped that constables will execute their responsibilities with care so there can be no cause for friction with the public. Only by having a thorough knowledge of the duties of his office can the constable be assured he is acting in the best interests of all concerned.

It is the hope of the Department of Internal Affairs that this series of articles will be useful to constables, but it should be emphasized that the series is of necessity only a brief review of the duties and responsibilities of the office of constable. The series cannot be considered to be a legal guide and should not be used as such.

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