

**Historical Evolution & Organization of the
Office of Prothonotary in Pennsylvania**

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The term Prothonotary appears apparently for the first time in Pennsylvania, in Governor Evans' Ordinance of 1707, when the court of common pleas was first established as a separate court, having in civil matters practically the same jurisdiction as its precursor, the county court. At that time the term Prothonotary was used interchangeably with that of the clerk of courts. With the development of the judicial system and the growth of distinctions in jurisdiction, the clerk of the court of common pleas became known as the Prothonotary as distinguished from the clerk of the court of quarter sessions and oyer and terminer, though both offices, at first, were generally filled by the same man.

Under the ordinance of Governor Evans all writs and processes of the court of common pleas were to issue out of the office of the Prothonotary under the county seal and all returns were to be made to his office. But no specific provision was made at this time for the manner of appointment of the Prothonotary. The Charter of Privileges of 1701 provided that the justices of each county were to nominate three persons from whom the Governor was to select one as “clerk of the peace.” This person also served as Prothonotary or clerk of the court of common pleas. With the adoption of the Constitution of 1790 the appointment of the Prothonotary was vested in the Governor. This was under the provision that the Governor should appoint all officers whose offices were established by law and whose appointments were not otherwise mentioned therein.

The Prothonotary became an elective officer for a term of 3 years under the Constitution of 1838. This method of selection was reaffirmed under the Constitution of 1874 and the Prothonotary's tenure continued to be 3 years until 1909. The Constitution of 1838 recognized the fact that there was some confusion resulting from the fact that the offices of Prothonotary, the clerk of quarter sessions and oyer and terminer, the recorder of deeds, the register of wills, and the clerk of the orphans' court were sometimes held by one man and sometimes held by several, each county following a system of its own. The constitution provided for legislation designating “the number of persons in each county who shall hold said offices, and how many and which of said offices shall be held by one person.” The legislature acted quickly on this recommendation and passed an act 1 year later which served this purpose by enumerating each county and setting up a plan for the holding of these offices in each one.