

question decided by the court to be reserved for the consideration of the court in *banc*, and either of the Judges of the said court shall be disqualified to sit in such cause, then it shall be lawful for the party at whose instance the point or question shall be reserved, to elect to have such point or question decided by the remaining Judges or Judge who may be qualified to sit in such cause, or to have the cause removed to some other court of a different circuit for the decision of the Judges thereof, or of such of said Judges who may be qualified to sit in such cause in *banc*, or to take an appeal to the Court of Appeals; and if such party or his counsel shall fail to make and file such election in writing within thirty days after the announcement of such disqualification, or within thirty days after the trial of the cause in case such announcement shall have been made before the trial, then such point or question shall be decided by the remaining Judges or Judge who may be qualified to sit in such cause; provided that every point or question reserved upon a motion for a new trial shall be decided by the remaining Judges or Judge who may be qualified to sit in such cause.

Appeal.

Sec. 2. Points or questions reserved for the court in *banc* shall be taken by means of exceptions, to be reduced to writing, and signed and sealed by the Judges or Judge before whom the cause may be tried, and so framed that the point or question may be fully presented as to both law and fact in case the cause shall be transmitted to the Court of Appeals instead of being heard by the court in *banc*.

Exception.

Sec. 3. Whenever any cause shall be removed to any other court upon a point or question reserved for the court in *banc*, as herein provided, the said cause shall remain in the said court for trial as if the same had originated therein.

Removed.

Sec. 4. *And be it enacted*, That this Act shall take effect from the day of its passage.

In force.

Approved March 30, 1868.