

A
COLLECTION
OF ALL SUCH
ACTS
OF THE
GENERAL ASSEMBLY
OF
VIRGINIA,
OF A PUBLIC AND PERMANENT NATURE, AS ARE NOW IN
FORCE;

WITH A TABLE OF THE PRINCIPAL MATTERS.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS,
AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY, INTI-
TULED, "AN ACT PROVIDING FOR THE REPUBLICATION OF THE
LAWS OF THIS COMMONWEALTH," PASSED ON THE TWENTY-
EIGHTH DAY OF DECEMBER, ONE THOUSAND SEVEN
HUNDRED AND NINETY-TWO.

13 Hen 531

R I C H M O N D:

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At a GENERAL CONVENTION of Delegates and Representatives, from the several Counties and Corporations of VIRGINIA, held at the Capitol in the City of WILLIAMSBURG, on MONDAY the 6th of MAY, 1776.

C H A P. I.

A Declaration of Rights made by the Representatives of the good People of VIRGINIA, assembled in full and free Convention; which rights do pertain to them, and their Posterity, as the basis and Foundation of Government.

I. **T**HAT all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. **T**HAT all power is vested in, and consequently derived from, the people; that Magistrates are their trustees and servants, and at all times amenable to them.

III. **T**HAT government is, or ought to be, instituted for the common benefit, protection and security, of the people, nation, or community; of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

IV. **T**HAT no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of Magistrate, Legislator, or Judge, to be hereditary.

V. **T**HAT the Legislative, and Executive powers of the state should be separate and distinct from the Judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

VI. **T**HAT elections of members to serve as representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

VII. **T**HAT all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

VIII. **T**HAT in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage,

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without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

IX. THAT excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

X. THAT general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XI. THAT in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

XII. THAT the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIII. THAT a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases, the military should be under strict subordination to, and governed by, the civil power.

XIV. THAT the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof.

XV. THAT no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

XVI. THAT religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity, towards each other.

C H A P. II.

The Constitution or Form of Government, agreed to and resolved upon by the Delegates and Representatives of the several Counties and Corporations of VIRGINIA.

Preamble.

Enumerating instances of royal misrule.

I. **W**HEREAS George the third, King of *Great-Britain* and *Ireland*, and Elector of *Hanover*, heretofore entrusted with the exercise of the kingly office in this government, hath endeavoured to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good: By denying his Governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years: By refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the Legislature: By dissolving Legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people: When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any Legislative head: By endeavouring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners: By keeping among us, in time of peace, standing armies and ships of war: By affecting to render the military independent of, and superior to, the civil power: By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of Legislation: For quartering large bodies of armed troops among us: For cutting off our trade with all parts of the world: For imposing taxes on us without our consent: For depriving us of the benefits of trial by jury: For transporting us beyond seas, to be tried for pretended offences: For suspending our own Legislatures, and declaring themselves invested with power to le-

gillate for us in all cases whatsoever : By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people : By inciting insurrections of our fellow-subjects, with the allurements of forfeiture and confiscation : By prompting our negroes to rise in arms among us, those very negroes, whom, by an inhuman use of his negative, he hath refused us permission to exclude by law : By endeavouring to bring on the inhabitants of our frontiers, the merciless *Indian* savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence : By transporting at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation : By answering our repeated petitions for redress with a repetition of injuries : And finally, by abandoning the helm of government, and declaring us out of his allegiance and protection. By which several acts of misrule, the government of this country, as formerly exercised under the crown of *Great-Britain*, is totally dissolved.

Former government dissolved.

II. WE therefore, the Delegates and Representatives of the good people of *Virginia*, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country must be reduced, unless some regular adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of *Virginia* to be as followeth :

Another declared.

III. THE Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other ; nor shall any person exercise the powers of more than one of them at the same time, except that the Justices of the county courts shall be eligible to either House of Assembly.

Legislative, Executive, & Judiciary, separated, with an exception.

IV. THE Legislative shall be formed of two distinct branches, who, together, shall be a complete Legislature. They shall meet once or oftener, every year, and shall be called the General Assembly of *Virginia*.

Legislative formed of two Houses, called General Assembly, shall meet every year, once or oftener ; One of them to be called the House of Delegates, members of which, how qualified, and for what places chosen. When a corporation right to representation shall cease.

V. ONE of these shall be called the House of Delegates, and consist of two Representatives to be chosen for each county, and for the district of *West Augusta*, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law, and also one Delegate or Representative to be chosen annually for the city of *Williamsburg*, and one for the borough of *Norfolk*, and a Representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the Legislature ; but when any city or borough shall so decrease as that the number of persons having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in *Virginia*, such city or borough thenceforward shall cease to send a Delegate or Representative to the Assembly.

VI. THE other shall be called the Senate, and consist of twenty-four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty-four districts, and each county of the respective district, at the time of the election of its Delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age ; and the sheriffs of each county, within five days at farthest after the last county election in the district, shall meet at some convenient place, and from the poll so taken in their respective counties return as a Senator the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members elected by the first division shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually.

Of what number of members the other, called the Senate, shall consist, and how they shall be chosen.

VII. THAT the right of suffrage in the election of members of both Houses shall remain as exercised at present, and each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies.

Each House may choose its Speaker and officers, and issue writs for supplying vacancies.

VIII. ALL laws shall originate in the House of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates, except money bills, which in no instance shall be altered by the Senate, but wholly approved or rejected.

Laws shall originate in the House of Delegates, but, if not money bills, amendable by the Senate.

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Governor,
how chosen,
method of bal-
loting in this
and other ca-
ses; his salary
and powers;
restrained
from granting
reprieves or
pardons in cer-
tain cases.

IX. A GOVERNOR, or Chief Magistrate, shall be chosen annually, by joint ballot of both Houses, to be taken in each House respectively, deposited in the conference room, the boxes examined jointly by a Committee of each House, and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses in all cases) who shall not continue in that office longer than three years successively, nor be eligible until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary, shall be settled on him during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government according to the laws of this commonwealth; and shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom, of *England*: But he shall, with the advice of the Council of State, have the power of granting reprieves or pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no reprieve or pardon shall be granted, but by resolve of the House of Delegates.

When he may
convoke the
General As-
sembly.

X. EITHER House of the General Assembly may adjourn themselves respectively. The Governor shall not prorogue or adjourn the Assembly during their sitting, nor dissolve them at any time; but he shall, if necessary, either by advice of the Council of State, or on application of a majority of the House of Delegates, call them before the time to which they shall stand prorogued or adjourned.

Privy Coun-
cil, number
of; their du-
ty, power,
and time of
continuance in
office.

XI. A PRIVY Council or Council of State, consisting of eight members, shall be chosen by joint ballot of both Houses of Assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose out of their own members a President, who, in case of the death, inability, or necessary absence of the Governor from the government, shall act as Lieutenant Governor. Four members shall be sufficient to act, and their advice and proceedings shall be entered of record, and signed by the members present (to any part whereof any member may enter his dissent) to be laid before the General Assembly, when called for by them. This Council may appoint their own clerk, who shall have a salary settled by law, and take an oath of secrecy in such matters as he shall be directed by the Board to conceal. A sum of money appropriated to that purpose shall be divided annually among the members, in proportion to their attendance; and they shall be incapable during their continuance in office, of sitting in either House of Assembly. Two members shall be removed by joint ballot of both Houses of Assembly at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections, in the same manner.

Delegates to
Congress, how
chosen.

XII. THE Delegates for *Virginia* to the Continental Congress shall be chosen annually, or superseded in the mean time by joint ballot of both Houses of Assembly.

Military re-
gulations.

XIII. THE present militia officers shall be continued, and vacancies supplied by appointment of the Governor, with the advice of the Privy Council, or recommendations from the respective County Courts; but the Governor and Council shall have a power of suspending any officer, and ordering a court-martial on complaint of misbehaviour or inability, or to supply vacancies of officers happening when in actual service. The Governor may embody the militia, with the advice of the Privy Council, and when embodied, shall alone have the direction of the militia under the laws of the country.

Courts of Ap-
peals, Gene-
ral, of Equi-
ty, and Ad-
miralty, jud-
ges of; Secre-
tary, and At-
torney Gene-
ral, how ap-
pointed; sala-
ries of; exclu-
ded with some
others, from
the Legisla-
tive and Exe-
cutive.

XIV. THE two Houses of Assembly shall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney General, to be commissioned by the Governor, and continue in office during good behaviour. In case of death, incapacity, or resignation, the Governor, with the advice of the Privy Council, shall appoint persons to succeed in office, to be approved or displaced by both Houses. These officers shall have fixed and adequate salaries, and, together with all others holding lucrative offices, and all Ministers of the Gospel of every denomination, be incapable of being elected members of either House of Assembly, or the Privy Council.

Counties, Jus-
tices of, how
appointed;
shall nominate
their clerks,
recommend
sheriffs and co-
roners to be
commissioned

XV. THE Governor, with the advice of the Privy Council, shall appoint Justices of the Peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective County Courts. The present acting Secretary in *Virginia*, and clerks of all the County Courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a Secretary shall be appointed as before directed, and the clerks by the respective

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courts. The present and future clerks shall hold their offices during good behaviour, to be judged of and determined in the General Court. The Sheriffs and Coroners shall be nominated by the respective courts, approved by the Governor, with the advice of the Privy Council, and commissioned by the Governor. The Justices shall appoint constables, and all fees of the aforesaid officers be regulated by law.

by Executive;
and appoint
constables.

XVI. THE Governor, when he is out of office, and others offending against the state, either by mal-administration, corruption, or other means by which the safety of the state may be endangered, shall be impeachable by the House of Delegates. Such impeachment to be prosecuted by the Attorney General, or such other person or persons as the House may appoint in the General Court, according to the laws of the land. If found guilty, he or they shall be either for ever disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as the law shall direct.

Impeach-
ments.

XVII. IF all, or any of the Judges of the General Court, shall, on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences before-mentioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

XVIII. COMMISSIONS and grants shall run *In the name of the COMMONWEALTH of VIRGINIA*, and bear test by the Governor, with the seal of the Commonwealth annexed. Writs shall run in the same manner, and bear test by the clerks of the several courts. Indictments shall conclude, *Against the peace and dignity of the Commonwealth*.

Commissions
grants and
writs, stile,
and teste of.
Indictments,
conclusion of.

XIX. A TREASURER shall be appointed annually, by joint ballot of both Houses.

Treasurer.

XX. ALL escheats, penalties, and forfeitures, heretofore going to the King, shall go to the Commonwealth, save only such as the Legislature may abolish, or otherwise provide for.

Escheats, pe-
nalties, forfei-
tures.

XXI. THE territories contained within the charters erecting the colonies of *Maryland, Pennsylvania, North and South-Carolina*, are hereby ceded, released, and for ever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever which might at any time heretofore have been claimed by *Virginia*, except the free navigation and use of the rivers *Patowmac* and *Pohomoke*, with the property of the *Virginia* shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of *Virginia* shall in all other respects stand as fixed by the charter of King *James* the first, in the year one thousand six hundred and nine, and by the public treaty of peace between the Courts of *Great-Britain* and *France*, in the year one thousand seven hundred and sixty-three; unless, by act of Legislature, one or more territories shall hereafter be laid off, and governments established westward of the *Allegheny* mountains. And no purchase of lands shall be made of the *Indian* natives but on behalf of the public, by authority of the General Assembly.

Territorial li-
mits; cession
to co-termi-
nous states;
future govern-
ments west of
Mount Alleg-
heny how to
be established.

No purchases
from Indian
natives, but
for republic.

XXII. IN order to introduce this government, the representatives of the people met in Convention shall choose a Governor and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of *March* next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the Speaker of either House shall issue writs for new elections.

At a *General Assembly* summoned to be held at the Capitol in the City of *Williamsburg*, on the 1st Day of *August*, in the 9th Year of the Reign of *George* the Second of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and from thence continued by several Prorogations to the 5th Day of *August*, in the 10th Year of his said Majesty's Reign, and in the Year of our Lord 1736.

C H A P. III.

An Act for confirming and better securing the Titles to Lands in the Northern Neck, held under the Right Honorable Thomas Lord Fairfax, Baron of Cameron, in that Part of Great-Britain, called Scotland.

Recital of the patent, 21 Car. 2. wherein is recited another patent 1 ejusdem Regis.

I. **W**HEREAS the late King *Charles II.* by certain letters patents, under the great seal of *England*, bearing date at *Westminster*, the eighth day of *May*, in the one and twentieth year of his reign, reciting, that he, taking into his royal consideration the propagation of the *Christian* faith, and the manifold benefits arising to the church of *God*, together with the welfare of multitudes of his loyal subjects, by the undertaking and vigorous prosecution of plantations of foreign parts, and particularly in his dominions of *America*, by his letters patent, under the great seal of *England*, bearing date at *St. Germain's en Ley*, the eighteenth day of *September*, in the first year of his reign, for the consideration therein expressed, had given, granted, and confirmed, unto *Ralph Lord Hopton*, *Henry Earl of St. Alban's*, by the then name of *Henry Lord Jermyn*, *John Lord Culpeper*, *John Lord Berkeley*, of *Stratton*, by the then name of *Sir John Berkeley*, *Sir William Morton*, one of the Justices of his court of *King's Bench*, by the then name of *Sir William Morton*, *Sir Dudley Wyatt*, and *Thomas Culpeper*, their heirs and assigns, for ever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded within the heads of the rivers *Rappahannock* and *Quirriough*, or *Patowmac* river, the courses of the said rivers, as they are commonly called and known by the inhabitants, and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, and rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of Sea, fish royal, deer, wild beasts, and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, and arising, renewing, accruing, found, or taken, within the bounds or precincts aforesaid, together with the royalty of hawking and hunting, for themselves, their heirs, and assigns, servants, and tenants, in and upon the lands and premises aforesaid; saving and reserving to him, his heirs and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, or silver ore, thereafter to be found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Ralph Lord Hopton*, *Henry* then *Lord Jermyn*, now *Earl of St. Alban's*, *John Lord Culpeper*, *Sir John Berkeley*, now *Lord Berkeley*, of *Stratton*, *Sir William Morton*, *Sir Dudley Wyatt*, and *Thomas Culpeper*, their heirs, and assigns, for ever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of *St. John the Baptist*, to his said Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four-pence, at the receipt of *Jamestown*, in the dominion of *Virginia*, in lieu of all services and demands whatsoever:

Reciting also that the said *Ralph Lord Hopton*, *John Lord Culpeper*, *Sir Dudley Wyatt*, and *Thomas Culpeper*, being dead, and the said *Lord Hopton* having sold his estate and interest in the premises to *John Trethwey*, Esq; the said tract, territory, or parcel of land, and all and singular other the premises, had been surrendered, together with the said letters patents, to be cancelled, to the intent that his said late Majesty might grant them new letters patent thereof, with such alterations, provisoes, and clauses, as therein after is expressed, he the said late King, in consideration of the said surrender, and for and in consideration of the many and faithful services done to his late royal father, of blessed memory, and to himself, by the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethwey*, Esq; and for divers other good causes and considerations him thereunto especially moving, of his especial grace, certain knowledge, and mere motion, did give, grant, and confirm, unto the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethwey*, their heirs, and assigns, for ever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded by and within the head of the rivers *Tappahannock*, alias *Rappahannock*, and *Quirriough*, alias *Pattowmac* rivers, the courses of the said rivers, as they are commonly called and known by the inhabitants and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of sea, fish royal, deer, wild beast and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, arising, renewing, accruing, found, or taken, within the bounds or precincts aforesaid, together with the royalties of hawking and hunting, for themselves, their heirs and assigns, servants and tenants, in and upon the land and premises aforesaid, and in and upon every part and parcel thereof; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of the whole, in five parts to be divided, of all gold mines, or gold ore, one full tenth part of all silver mines, and silver ore, thereafter to be had or found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethwey*, their heirs, and assigns, for ever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of *St. John the Baptist*, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four-pence, at the receipt of *Jamestown* in *Virginia*, in lieu of all services and demands whatsoever; with power to divide the said tract or territory of land into counties, hundreds, parishes, tithings, townships, hamlets, and boroughs, and to erect and build cities, towns, parish churches, colleges, chapels, free schools, alms houses, and houses of correction, and to endow the same, at their free wills and pleasures; and did appoint them full and perpetual patrons of all such churches so to be built and endowed, with power of electing, nominating, and presenting, any fit person to the office and place of master of any college, or schoolmaster of any school, so to be founded and endowed; with power also to divide any part or parcels of the said tract or territory, or portion of lands, into manors, and to call the same after their own or any of their names, or by other name or names whatsoever, and within the same to hold a court, in the nature of a court baron, and to hold pleas of all actions, trespasses, covenants, accounts, contracts, detinues, debts, and demands whatsoever, where the debt or thing demanded exceed not the value of forty shillings of current money of *England*, and to receive and take all amerciaments, fines, commodities, advantages, perquisites, and emoluments whatsoever, to such respective court barons belonging, or in any wise appertaining: And further, to hold within the said manors a court leet, and view of frank pledge, of all the tenants, residents, and inhabitants, of the hundreds within such respective manors, to be holden twice in every year, and to erect fairs, markets, courts of pipowder, with all things incident thereto; and to erect parks for breeding, feeding, and sustentation of deer, and other wild beasts of chase: And further, the said late King, by the said charter, for himself, his heirs, and successors, did grant and give license to the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethwey*, their heirs, and assigns, freely, and without molestation of him, his heirs, and successors, to give, grant, or by any ways or means sell or alien, all and singular the premises by these presents granted, and every part and parcel thereof, to any person or persons being willing to contract for or buy the same; to be holden of the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Trethwey*, their heirs, and assigns, as of any of their aforesaid manors, in free and common soccage, by fealty only, and

The death of
some of the
first patentees,
Lord Hopton's
sale, and the
surrender of
the first pa-
tent.

Consideration.

The grants

Habendum.

Reservation of
rent.

The powers
granted to the
patentees.

1736.

New patent to be granted.

Proviso, as to leasing.

Patentees not to intermeddle with military affairs.

Inhabitants subject to the payment of taxes.

And the laws of the colony.

Recital of the patent, 4 Jac. 2. which recites the before mentioned letters patents, and the sale to the Lord Culpeper.

The grant.

by suit of court, or by any other lawful tenure or terms used within the kingdom of *England*; rendering and paying such rents, and other lawful reservations, as shall seem fit and convenient to the said *Henry Earl of St. Alban's*, *John Lord Berkeley*, *Sir William Morton*, and *John Tretberwey*, their heirs, and assigns, notwithstanding the statute, commonly called *quia emptores terrarum*, or any other statute, act, or ordinance, or provision, or any other thing, cause, or matter whatsoever, to the contrary notwithstanding: And further, the said late King, for himself, his heirs, and successors, did grant to the said patentees, their heirs, executors, and assigns, to enlarge and confirm the said letters patent, by granting to them and their heirs other new ones, with such favourable concessions and grants as might supply any defects therein contained; with this proviso, nevertheless, that the said letters patent, or any thing therein contained, should not extend, or be construed to extend, to infringe, make void, or other ways prejudice, any contract or contracts, grant or grants, whatsoever, theretofore made or granted by the Governor and Council of *Virginia*, unto any planters, or other inhabitants, then in the actual possession thereof, by virtue of any such grants made before the nine and twentieth day of *September*, in the thirteenth year of his reign; but if any part of such lands so granted should escheat, or be otherwise forfeited, then the said patentees, their heirs, and assigns, might dispose thereof, for their best benefit and advantage, at their own free wills and pleasures; with this proviso also, that so much of the said granted premises, as within the time and space of one and twenty years then next following should not be possessed, inhabited, or planted, by the means or procurement of the said patentees, their heirs, or assigns, that then the said letters patent should cease, determine, and become void; and lastly, with this further proviso, that the said patentees, their heirs, and assigns, should not act or intermeddle in the military affairs or forces of or within the said tract of land and premises thereby granted, or any part thereof, or with the government or command of any of the castles, forts, or fortifications thereof, without the order, authority, or command, of the Governor and Council of *Virginia* for the time being, or such other person or persons as his said late Majesty, his heirs, or successors, should think fit to dispose the same; and that the Governor, Council, and Assembly of *Virginia*, for the time being, should have full power and authority to impose and lay any taxes and impositions upon the said territories thereby granted, and all the lands and premises thereby meant and intended to be granted, and all and every the possessor, inhabitants thereof, for the public and common defence of the said colony of *Virginia*, and the territory and lands thereby granted, as upon other parts of *Virginia*, proportionably, when and as often as the necessity of the said colony should require the same for the common good; and that the said patentees, their heirs, and assigns, and other inhabitants of or in the premises, should be in all things subject and obedient to such laws and constitutions as were or should be made by the said Governor, Council, and Assembly, for or concerning the said colony, or the government thereof, any thing therein before contained to the contrary notwithstanding, as in the said letters patent more fully is contained.

II. AND whereas the late King *James II.* by other letters patent, under the great seal of *England*, bearing date at *Westminster* the seven and twentieth day of *September*, in the fourth year of his reign, reciting the above recited letters patents, and that the said former patentees, their heirs, and assigns, had, by good and sufficient conveyance and assurance in the law, for valuable considerations, sold, conveyed, and assured, the said whole tract, territory, and portion of land, and all and singular the premises, and every part and parcel thereof, and all their estate, right, title, and interest therein, together with the said letters patents, unto *Thomas Lord Culpeper*, eldest son and heir of *John* late Lord *Culpeper*, deceased, his heirs, and assigns, for ever, who was thereby become sole owner and proprietor thereof, in fee simple, for the considerations therein mentioned, did give, grant, and confirm, unto the said *Thomas Lord Culpeper*, all that entire tract, territory, or parcel of land, situate, lying, and being in *Virginia*, in *America*, and bounded by and within the first heads or springs of the rivers of *Tappahanock* (alias *Rappahanock*) and *Quiriough* (alias *Patowmack*) rivers, the courses of the said rivers, from their said first heads or springs, as they were commonly called and known by the inhabitants, and descriptions of those parts, and the bay of *Chesapeake*, together with the said rivers themselves, and all the islands within the uttermost banks thereof, and the soil of all and singular the premises, and all lands, woods, under woods, timber, and trees, ways, mountains, swamps, marshes, waters, rivers, ponds, pools, lakes, water courses, fishings, streams, havens, ports, harbours, bays, creeks, ferries, with all sorts of fish, as well whales, sturgeons, and other royal fishes, as all others whatsoever, wrecks of sea, *Floatson*, *Jetson*, and *Lagan*, and all sorts of deer, wild beasts, and fowl, of what nature or kind soever, and all manner of deodands, goods of felons and fugitives, treasures trove, waifs, strays, fines, forfeitures, escheats, advowsons, royalties, and heredita-

ments whatsoever, with all mines of gold and silver, lead, tin, iron, and copper, and all quarries of stone and coal, within the limits and precincts aforesaid, which then were, or at any time thereafter should be had, coming, being, arising, growing, renewing, accruing, found, or taken, within the bounds, limits, precincts, or places aforesaid; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, and silver ore, then being, or which thereafter should be had or found, within the said tract or territory of land; to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and every part and parcel thereof, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Thomas Lord Culpeper*, his heirs, and assigns, for ever, to his and their only use and behoof, and to no other use, intent, or purpose whatsoever; yielding and paying therefore, yearly, from thenceforth, on the feast of *St. John the Baptist*, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four-pence, at the receipt of *Jamestown*, in the colony of *Virginia*, in lieu of all services and demands whatsoever, the first payment to be made on the feast day of *St. John the Baptist* next ensuing the date of the said letters patent: And his said late Majesty did thereby, for himself, his heirs, and successors, further give, grant, ratify, and confirm, to the said *Thomas Lord Culpeper*, his heirs, and assigns, for ever, all and singular the grants, powers, authorities, privileges, licences, and clauses, in the said herein before recited letters patents mentioned, granted, or conveyed, in as large and ample manner, to all intents and purposes whatsoever, as if the same, and every of them, had been particularly granted and expressed in these his letters patent, except only the abovementioned proviso; and his said late Majesty did further, of his especial grace, certain knowledge, and mere motion, for himself, his heirs, and successors, fully and absolutely, for ever, release and discharge the said abovementioned proviso, and every part thereof, and every matter and thing therein contained, in as large and ample manner, to all intents and purposes whatsoever, as if the same had never been made, thereby declaring the same to be null and void, and the said *Thomas Lord Culpeper*, his heirs, and assigns, and the tract, territory, and premises, and every part thereof, to be for ever freed, cleared and discharged, from the same, so and in such manner that the said *Thomas Lord Culpeper*, his heirs, and assigns, might freely and absolutely enter into, have, hold, occupy, possess, and enjoy, the said tract, territory, and all and singular other the premises, freed and discharged of the said proviso, and all right, title, and equity, thereupon to be had, in as large, ample, and beneficial manner, to all intents and purposes, as if the same proviso had been never had or made, any thing in the said recited letters patent, or any thing therein, or in the last mentioned letters patent, to the contrary thereof, in any wise notwithstanding, as in the said last recited letters patent more is fully contained.

Habendum.

Reservation of rent.

III. AND whereas the Right Honourable *Thomas Lord Fairfax*, baron of *Cameron*, in that part of *Great-Britain* called *Scotland*, heir at law to the said *Thomas Lord Culpeper*, is now become sole proprietor of the said territory, with the appurtenances, and the above recited letters patents; and whereas divers great quantities of land have been granted to adventurers and planters within the said territory, in fee simple, by the agents and attornies of the said Lord *Fairfax*, and his predecessors, former proprietors of the said territory, and letters patents, by virtue of divers letters of attorney, from time to time, by them respectively given and granted to their said attornies and agents, but now of late, after long possessions, and great and valuable improvements made upon the said lands, by such grantees, questions are like to arise between them and the said present proprietor touching the validity of such grants, as well in respect to a construction set up and maintained, of the said letters of attorney, that the powers therein contained were not full and sufficient to enable and warrant the said agents and attornies to pass away estates in fee simple, as in respect of the said Lord proprietor's estate in the premises, the same being now held by him as tenant in tail, under the will or wills of some of his ancestors, whereby the minds of many of his Majesty's good subjects, possessors of lands and tenements within the said territory, are greatly disquieted, and many controversies and expensive lawsuits may probably ensue: For the prevention whereof, and for settling peace between his Lordship and his said tenants,

That the validity of grants made by the agents or attornies of the present proprietor and his predecessors, have been questioned.

IV. BE it enacted, by the Lieutenant Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, that from henceforth all and every grant and grants, heretofore duly and regularly made and passed, by any of the agents or attornies of the proprietors of the said territory, or any of them, shall be good, available, and binding in law, to pass such estate or estates as therein have been granted; and the grantees, their heirs, and assigns, respectively, shall for ever hereafter peaceably and

A confirmation of these grants.

1748.

quietly have, hold, and enjoy, the same granted premises, according to such granted estates, under the rents and services by the said grants reserved, notwithstanding the infancy, coverture, or any misprision or mistake of the names, dignity, or title, of the said proprietors, or either of them, or any misrecital, omission, or defect, in the said grant or grants, or any of them, so as the same have been made and signed by the agents or attornies of the said proprietors, or the husband, guardian or guardians, trustee or trustees, of any of them, and passed under the common seal of the office kept by them for that purpose.



At a *General Assembly* begun and held at the College in *Williamsburg*, the 27th Day of *October*, in the 22d Year of the Reign of *George* the Second, by the Grace of God, of *Great-Britain, France, and Ireland*, King, Defender of the Faith, &c. and in the Year of our Lord 1748.

C H A P. IV.

An Act for confirming the Grants made by his Majesty within the Bounds of the Northern Neck, as they are now established.

Preamble.

I. **W**HEREAS in the late dispute and controversy touching the limits and boundaries of the several letters patent granted by their late Majesties King *Charles* the Second and King *James* the Second, unto the ancestors of the Right Honorable *Thomas* Lord *Fairfax*, it hath been adjudged and determined by his present Majesty in Council, that the said letters patent do include all that tract or territory of land between the rivers *Patowmac* and *Rappabanock*, and the line now marked from the head spring of the said river *Patowmac* to the head spring of *Rappabannock*, commonly called the *Conway*, in which said tract or territory of land, as is before described, many adventurers and planters have taken up great quantities of land, and obtained grants and patents thereof from the Crown, under seal of this colony; and whereas the said *Thomas* Lord *Fairfax* hath consented, before the King, in Council, that the several grants and patents, made by the Crown, of the lands included in the boundary aforesaid, should be confirmed to the several grantees, their heirs and assigns, to be held nevertheless of the said Lord *Fairfax*, under the like rents, services, profits, and emoluments, as should be paid, done, and arise, by and from the said grants made by the Crown:

Grants from the Crown of lands in the Northern Neck confirmed, but the rents and services shall be to the Lord *Fairfax*, and his heirs.

II. *BE it therefore enacted, by the Lieutenant Governor, Council, and Burgeffes, of this present General Assembly, and it is hereby enacted, by the authority of the same, that all grants and patents whatsoever under the seal of this colony, for lands situate and lying within the limits and boundaries of the letters patent granted to the ancestors of the said Lord Fairfax, as the same are now settled and determined, heretofore made and granted by the Crown, shall be held, deemed, and taken, to be valid and effectual; and the adventurers and planters to whom the same were granted, their heirs and assigns, shall for ever hereafter peaceably and quietly have, hold, and enjoy, the said granted premises, respectively, according to such granted estates, under the rents and services in the said grants reserved, to be paid and performed to the said Thomas Lord Fairfax, his heirs and assigns, for ever, any mis-recital or defect in the said grants notwithstanding.*

1778.

At a *General Assembly*, begun and held at the CAPITOL, in the City of *Williamsburg*, on *Monday*, the 5th Day of *October*, in the Year of our Lord 1778.

C H A P. V.

An Act to empower the Freeholders of the several Towns not incorporated, to supply the Vacancies of the Trustees and Directors thereof.

[Passed the 11th of December, 1778.]

I. **B**E it enacted by the General Assembly, That upon the death, removal out of the country, or other legal disability of any one or more of the Trustees and Directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following, that is to say: The surviving Trustees and Directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who within twenty days thereafter shall notify the same to the freeholders of the said town, in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a Trustee in the room of the one so dying, removing, or disabled. The sheriff shall attend and take the poll at such election, entering the names of the persons voted for in a distinct column, and the name of every freeholder giving his vote under the name of the person he votes for; and when no freeholders appear to vote, the sheriff shall close the poll, and return the same to the next Court to be held for his County, upon oath, certifying the name of the person elected, to be by the Clerk recorded.

Vacancies shall be supplied by election of freeholders summoned by sheriff upon notice; who shall certify to court the names of the elected.

II. EVERY person elected in manner directed by this act, shall to all intents and purposes, be a Trustee of the town for which he was chosen.

III. SO much of all Acts of Assembly as are contrary to the purview and meaning of this Act, are hereby repealed.

1782.

At a *General Assembly*, begun and held at the Public Buildings, in the Town of *Richmond*, on *Monday*, the 6th Day of *May*, in the Year of our Lord 1782.

C H A P. VI.

An Act concerning Wrecks.

[Passed the 20th of June, 1782.]

Preamble.

I. **W**HEREAS many vessels, have been and may hereafter be stranded on the sea coast, bay or river shores within this Commonwealth, and the goods or other property belonging to such vessels may be embezzled and stolen, to the great injury of the owners: For remedy whereof, *Be it enacted by the General Assembly*, That it shall be lawful for the Governor, with advice of Council, and he is hereby required, to appoint and commission two discreet persons in each of the counties bordering on the sea or bay shores in this State, whose business and duty it shall be, on the earliest intelligence, or on application to them made, by or on behalf of any owner or commander of a ship or other vessel being in danger of being stranded, or being stranded, to command any Constable or Constables, to be appointed by them for that purpose, nearest the coast where such ship or vessel shall be in danger, to summon as many men as shall be thought necessary to the assistance of such ship or vessel; and if there shall be any ship or vessel belonging to the State riding near the place, the Commissioner or Commissioners shall have power to demand of the commanding officer of such ship or vessel, assistance by their boats and such hands as they can conveniently spare; and if any commanding officer shall neglect to give such assistance, he shall forfeit one hundred pounds, to be recovered by the officer or owner of the ship in distress, with costs, in any Court of Record within this Commonwealth. The Commissioner or Commissioners, and the commanding officer of any ship or vessel, and all others who shall assist in preserving any ship or other vessel in distress, or their cargoes, shall, within forty days, be paid a reasonable reward by the commander or owner of the ship or other vessel in distress, or by the merchant whose vessel or goods shall be saved, and in default thereof, the vessel or goods shall remain in the custody of the Commissioner or Commissioners until all charges be paid, or security given for that purpose, to the satisfaction of the parties. And in case the parties shall disagree touching the monies deserved by the persons employed, it shall be lawful for the commander of such vessel saved, or the owner of the goods, or merchant interested, to choose one indifferent person, and also for the Commissioner or Commissioners to nominate one other indifferent person, who shall adjust the *quantum* of the gratuities to be paid to the several persons, and such adjustments shall be binding on all parties, and to be recoverable, with costs, in any Court of Record within this Commonwealth, by action on the case. If no person shall claim the goods saved, the Commissioners, or one of them, shall take possession thereof, and cause a true description of the marks, numbers, and kinds of such goods to be advertised four weeks in the *Virginia Gazette*, and if no person shall claim the same within three months, public sale shall be made thereof, (but if perishable, the goods shall be forthwith sold) and after charges deducted, the residue of the money, with an account of the whole, shall be transmitted to the Treasurer, who shall keep an account of the same, for the benefit of the owners, who upon proof of his property to the satisfaction of the Auditors, shall upon their warrant receive the same. If any person besides those empowered by the Commissioners, or one of them, shall enter or endeavour to enter on board any vessel in distress, without the leave of the commanding officer, or in case any person shall molest them in saving the vessel or goods, or shall endeavour to hinder the saving such vessel or goods, or shall deface the marks of any such goods before they be taken down in a book by the Commissioners, or one of them, every such person shall forfeit and pay the sum of ten pounds, to be recovered with costs, by information in any Court of Record within this Commonwealth, and applied to the use of the owners of the vessel or goods, as the case may be; and in case of failure to pay such forfei-

Commissioners to be appointed on the sea and bay shores.

Their duty on intelligence of a vessel stranded or in danger.

Those who assist in saving a vessel or cargo, to have a reward;

and may retain vessel or goods till reward paid or secured.

Reward how to be ascertained.

Proceeding if the goods saved be not claimed.

Penalty on those who intermeddle without power from Commissioners. Or hinder those employed in saving the goods. Or deface the marks.

1783.

ture immediately, or giving security to pay the same within one month, he, she, or they, shall receive ten lashes on his, her, or their bare back, by order of such Court. It shall be lawful for any commanding officer of a vessel in distress, or the Commissioners, to repel by force any persons as shall, without consent as aforesaid, press on board any vessel in distress, and thereby molest them in preserving the vessel or goods; and in case any goods shall be found upon any person that were stolen or carried off from any vessel in distress, the person on whom such goods be found, shall, upon demand, deliver the same to the owner or Commissioners, or to such other person as shall be authorised by the Commissioners or owner to receive such goods, or shall be liable to pay treble the value, to be recovered, with costs, in any Court of Record. If any person shall make or be assisting in making a hole in any vessel in distress, or steal any pump, materials, or goods, or shall be aiding in stealing such pump, materials, or goods, from any vessel, or shall wilfully do any thing tending to the immediate loss of such vessel, such person shall be guilty of felony, and suffer death without benefit of clergy; any Commissioner by fraud or wilful neglect, abusing the trust reposed in him, shall, upon conviction thereof, forfeit and pay treble damages to the party aggrieved, to be recovered, with costs, by action on the case in any Court of Record, and shall thenceforth be incapable of acting as a Commissioner. Any Constable, or person, summoned by him, refusing or neglecting to give the assistance required for the saving of any vessel or her cargo, shall forfeit and pay twenty-five shillings, to be recovered before any Justice, by the Commissioners ordering the duty, and shall be moreover subject to the payment of the same damages, and to be recovered by the party aggrieved in the same manner, as in the case of a Commissioner. The Commissioners shall set up a copy of this Act once in every year in each of the Courthouses of the Counties wherein they respectively reside.

Commissioners may repel force by force.
Goods carried from a vessel in distress and found in any person's possession to be restored.
Penalty.
Death to make a hole in a vessel in distress.
Or steal pump materials or goods; or do any thing tending to the loss of the vessel.
Penalty on Commissioner abusing his trust; and on constable and assistants for neglect.
Act to be set up in each courthouse.

II. *PROVIDED always, and be it further enacted*, That the Commissioners appointed by virtue of this act, shall respectively give bond and security in the Court of the County where he resides, in the sum of one thousand pounds, for the due and faithful execution of his office, and that it shall not be lawful for such Commissioner, or any of them, to enter upon the duties of his office before he gives bond and security as aforesaid.

Commissioners to give bond and security.

III. *AND be it further enacted*, That where any vessel shall be stranded and totally lost, goods saved from the wreck shall not be liable to entry and duties; but if any vessel be drove or cast on shore, and the damage sustained on the goods does not appear to exceed ten *per centum*, in the judgment of the Commissioners, such goods shall be duly entered with the Naval Officer nearest the place where the case happened, according to law.

If vessel totally lost, goods saved to pay no duty.
If vessel cast on shore, and the damage on the goods not more than ten *per cent*, goods to be entered & pay duty.

At a *General Assembly*, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 20th Day of *October*, in the Year of our Lord, 1783.

C H A P. VII.

An Act to authorise the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the Right of this Commonwealth to the Territory North Westward of the River OHIO.

[Passed the 20th of December, 1783.]

I. **W**HEREAS the Congress of the United States did, by their Act of the sixth day of *September*, in the year one thousand seven hundred and eighty, recommend to the several States in the Union, having claims to waste and unappropriated lands in the Western Country, a liberal Cession to the United States, of a portion of their respective claims for the common benefit of the Union.

Preamble.

II. *AND* whereas this Commonwealth did, on the second day of *January*, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States,

1783.

for the benefit of the said States, all right, title, and claim, which the said Commonwealth had to the territory North-west of the river *Ohio*, subject to the conditions annexed to the said act of Cession.

III. AND whereas the United States in Congress assembled, have by their Act of the thirteenth of *September* last, stipulated the terms on which they agree to accept the cession of this State, should the Legislature approve thereof, which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived on the whole, to approach so nearly to them, as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal Cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory, the propriety of making cessions equally liberal for the common benefit and support of the Union : *Be it enacted by the General Assembly*, that it shall and may be lawful for the Delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said Delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this state, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the *Virginia* charter, situate, lying, and being to the North-west of the river *Ohio*, subject to the terms and conditions contained in the before recited Act of Congress of the thirteenth day of *September* last, that is to say : Upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit ; and that the States so formed, shall be distinct Republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other States ; that the necessary and reasonable expenses incurred by this State in subduing any *British* posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States ; and that one Commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two Commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expences incurred by this State, which they shall judge to be comprised within the intent and meaning of the Act of Congress of the tenth of *October*, one thousand seven hundred and eighty, respecting such expences. That the *French* and *Canadian* inhabitants, and other settlers of the *Kaskaskies*, *St. Vincents*, and the neighbouring villages, who have professed themselves citizens of *Virginia*, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this State, shall be allowed and granted to the then Colonel, now General *George Rogers Clarke*, and to the officers and soldiers of his regiment, who marched with him when the posts of *Kaskaskies* and *St. Vincents* were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the North-west side of the *Ohio* as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of *Virginia*. That in case the quantity of good lands on the South-east side of the *Ohio*, upon the waters of *Cumberland* river, and between the *Green* river and *Tennessee* river, which have been reserved by law for the *Virginia* troops upon Continental establishment, should, from the *North-Carolina* line bearing in further upon the *Cumberland* lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers *Scioto* and *Little Miami*, on the North-west side of the river *Ohio*, in such proportions as have been engaged to them by the laws of *Virginia*. That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the beforementioned purposes, or disposed of in bounties to the officers and soldiers of the *American* army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the Confederation or Federal Alliance of the said States, *Virginia* inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever. *Provided*, that the trust hereby reposed in the Delegates of this State shall not be executed unless three of them, at least, are present in Congress.

Delegates empowered to convey.

Conditions.

Reservations.

All the lands ceded to be a common fund for the members of the Federal alliance, and for no other use.

Three members at least to execute the trust.

1785.

General Assembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 17th Day of October, in the Year of our Lord 1785.

C H A P. VIII.

An Act for securing to the Authors of Literary Works, an exclusive Property therein for a limited Time.

[Passed the 21st of November, 1785.]

I. **B**E it enacted by the General Assembly, That the Author of any book or pamphlet already printed, being a citizen of any one of the United States, who has not transferred to any other person or persons, the copy or copies of such book, or pamphlet, share, or shares thereof, his heirs and assigns, or the person or persons who have purchased or acquired such copy or copies, share or shares, in order to print or reprint the same, his heirs and assigns shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the term of twenty-one years, to be computed from the first publication thereof; and that the Author of any book or pamphlet already composed and not printed or published, or that shall hereafter be composed, being a Citizen, as aforesaid, his heirs and assigns shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the like term of twenty-one years, to be computed from the first publication thereof. And if any person or persons whatsoever, shall print, re-print, or cause to be printed or re-printed, within this Commonwealth, any such book or pamphlet; or shall import into this Commonwealth, from any foreign Kingdom or State, any printed or re-printed copies of such book or pamphlet, without the consent of the Author or Proprietor thereof, first obtained in writing, signed in presence of two credible witnesses at least; or who, knowing the same to be so printed, re-printed, or imported, without such consent first had and obtained, shall publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale, any copy or copies of any such book or pamphlet; the person or persons offending herein, shall forfeit to the party injured, double the value of all the copies so printed, re-printed, or imported; or so published, sold, or exposed to sale; to be recovered at the suit of such party, in any Court of Record within this Commonwealth.

Exclusive right of printing their books vested in authors for a limited time.

Penalty on persons printing, importing, or publishing such books.

II. *PROVIDED* nevertheless, That no person shall be entitled to the benefit of this Act, until he shall have registered the title of such book or pamphlet with the Clerk of the Council, and procured a certificate of such registry from the said Clerk; which certificate the Clerk is hereby required to give, taking only three shillings for his trouble.

Authors to register titles of their books with the Clerk of the Council.

C H A P. IX.

An Act for the Appointment of Harbour-Masters, and declaring their Duty.

[Passed the 25th of November, 1785.]

I. **W**HEREAS it is represented that the appointment of Harbour-Masters would tend to the preservation of order and regularity in the several ports and harbours within this Commonwealth:

Preamble.

II. *BE it enacted*, That the County and Corporation Courts within this State, shall, and they are hereby authorized and empowered, to appoint so many persons as they may think necessary, to act as Harbour-Masters within their respective jurisdictions. And the

How to be appointed and qualified.

1785.

person or persons so to be appointed, shall, previous to the entering on the said office, take the following oath before their County or Corporation Court, " I *do swear, that*
" I am a Citizen of the Commonwealth of Virginia, and that I will well and truly perform the
" duty of Harbour-Master to the best of my skill and judgment, without favor, affection, or par-
" tiality. So help me GOD."

Their powers.

III. *AND be it further enacted,* That the Harbour-Masters to be appointed by virtue of this Act, shall have full and ample power to cause all ships and other vessels that may come within his district, to moor in such places as he shall judge most conducive for the general safety, and shall moreover direct the Masters or Commanders of vessels to rig in their jib-booms, or any other spars which may tend to obstruct the navigation. Any Master or Commander refusing to observe and comply with the said directions, shall forfeit and pay the sum of fifteen pounds, to the use of the Commonwealth; and shall moreover be subject for any damages that may accrue in consequence of such refusal, to be recovered in any Court of Record within this Commonwealth.

Penalty on master of a vessel refusing to comply with their directions.

Their duties,

IV. *AND be it further enacted,* That the Harbour-Master shall cause every ship or other vessel that may come within his district, to be properly moored within twenty-four hours after their several arrivals. Any Harbour-Masters failing to give directions for the mooring of any vessels within the time prescribed by this Act, shall forfeit and pay fifteen pounds, for the use of the Commonwealth, to be recovered, by motion before the County or Corporation Court (as the case may be) on ten days previous notice, and shall moreover be liable to the action of the party injured for any damages sustained in consequence of such neglect. And the Harbour-Masters shall moreover attend to the unmooring of all ships and other vessels within their respective districts; and in case any vessel moored, shall by stress of weather or other accident, be drove from her mooring, the Harbour-Master shall attend to the re-mooring the same, and be entitled to half fees for such service.

And fees.

V. *AND be it further enacted,* That the Harbour-Masters shall demand, and be entitled to receive from all Masters or Commanders of square-rigged vessels, the sum of ten shillings, and for all schooners and sloops, the sum of six shillings, and no more: *Provided nevertheless,* That no Master or Commander of any river or bay craft, shall be subject to the payment of any fee by this Act imposed.

Commencement of this act.

VI. THIS Act to commence and be in force from and after the first day of January, one thousand seven hundred and eighty-six.

C H A P. X.

An Act to prevent Frauds and Perjuries.

[Passed the 30th of November, 1785.]

Certain contracts, agreements, and promises, not binding, unless made in writing.

I. **B**E *it enacted by the General Assembly,* That no action shall be brought whereby to charge any Executor or Administrator upon any special promise to answer any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements, or hereditaments, or the making any lease thereof for a longer term than one year, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorized.

Conveyances of lands or goods, and bonds, suits, judgments, & executions to defraud creditors, void as to them.

II. EVERY gift, grant, or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, common, or profit out of the same, by writing or otherwise, and every bond, suit, judgment or execution, had or made, and contrived of malice, fraud, covin, collusion, or guile, to the intent or purpose to delay, hinder, or defraud creditors of their just and lawful actions, suits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive those who shall purchase the same lands, tenements, or hereditaments, or any rent, profit, or commodity out of them, shall be from henceforth deemed and taken (only as against the person or persons, his, her, or their heirs, successors, exe-

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cutors, administrators, or assigns, and every of them, whose debts, suits, demands, estates interests, by such guileful and covinous devices and practices, as is aforesaid, shall or might be in any wise disturbed, hindered, delayed or defrauded) to be clearly and utterly void, any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding. And moreover, if a conveyance be of goods and chattels, and be not on consideration deemed valuable in law, it shall be taken to be fraudulent within this Act, unless the same be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the same deed include lands also, in such manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witnesses in the General Court, or Court of the County, wherein one of the parties lives, within eight months after the execution thereof, or unless possession shall really and *bona fide* remain with the donee; and in like manner where any loan of goods and chattels shall be pretended to have been made to any person with whom, or those claiming under him, possession shall have remained by the space of five years without demand made, and pursued by due process at law on the part of the pretended lender, or where any reservation or limitation shall be pretended to have been made of a use or property, by way of condition, reversion, remainder, or otherwise, in goods and chattels, the possession whereof shall have remained in another as aforesaid, the same shall be taken as to the creditors and purchasers of the persons aforesaid, so remaining in possession, to be fraudulent within this Act, and that the absolute property is with the possession, unless such loan, reservation, or limitation of use or property, were declared by will or by deed, in writing proved, and recorded as aforesaid.

Conveyances of goods, not on valuable consideration, to be deemed fraudulent unless by will or deed, and proved and recorded.

In what cases of loans of goods, the absolute right, shall be deemed to be in the possessor.

III. THIS Act shall not extend to any estate or interest in any lands, goods, or chattels, or any rents, common, or profit out of the same, which shall be upon good consideration, and *bona fide*, lawfully conveyed or assured to any person or persons, bodies politic or corporate.

Lands or goods *bona fide* sold and conveyed excepted out of this act.

IV. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of this act.

C H A P. XI.

An Act to prevent the Circulation of private Bank Notes.

[Passed the 2d of December, 1785.]

I. **B**E it enacted by the General Assembly, That it shall not be lawful for any person to offer in payment, a private bank bill or note for money, payable to bearer; and whosoever shall offend herein, shall not only forfeit to the informer ten times the value of the sum mentioned in such bill or note, but may be apprehended by warrant of a Justice, and, upon due proof of the fact made to him, or upon his own acknowledgment thereof, be bound to the good behaviour, or if he afterwards offend in the like manner, it shall be deemed a breach of the condition of the recognizance.

Penalty on persons circulating bills or notes payable to the bearer.

II. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

Commencement of this act.

C H A P. XII.

An Act concerning Aliens.

[Passed the 3d of December, 1785.]

I. **B**E it enacted by the General Assembly, That in case that war arise betwixt the United States of America and any foreign State, the merchants and people of such State, their families, agents, and servants, found in this Commonwealth, at the beginning of the war, shall not be attached either in their body or goods because of such war, but shall be warned by Proclamation from the Governor, taking thereon the advice of the Council of

When they must leave the state;

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State, that they shall depart the Commonwealth with their families, agents, and servants, aforesaid, and their goods, freely within forty days after the Proclamation made and published. In the meantime they shall not be impeached, nor let of their passage, or of making their profit of the same merchandises, if they will sell them. And in case that for default of wind or of ship, or for sickness, or for other evident cause, they cannot depart the Commonwealth within so short a time, then they shall have other forty days, or so much more as the necessity of their affairs may require, and the Governor and Council may think it safe to allow, and in the mean time may sell their merchandise as afore is said.

and how they shall be treated in case of war with the state of which they are citizens.

II. BUT if before their departure credible intelligence shall be brought to the Governor, that the merchants or people of any of the United States be evil treated in the land making war against us, then they shall be attached without harm of body or goods, until the truth of the matter be certainly known unto the Governor and Council of State: And if the merchants and people of the United States be well treated there, theirs shall be likewise with us: And if otherwise, theirs shall be treated or demeaned within the Commonwealth, in the manner, form, and condition as the merchants or people of the United States be treated or demeaned in the land making war against us.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

C H A P. XIII.

An Act providing that wrongful Alienations of Lands shall be void so far as they be wrongful.

[Passed the 5th of December, 1785.]

Alienations and warranties of land shall pass only what the person might lawfully convey;

I. **B**E it enacted by the General Assembly, That all alienations and warranties of lands, tenements, and hereditaments, made by any, purporting to pass or assure a greater right or estate than such person may lawfully pass or assure, shall operate as alienations or warranties of so much of the right and estate in such lands, tenements, or hereditaments, as such person might lawfully convey; but shall not pass or bar the residue of the said right or estate purported to be conveyed or assured.

How far the heirs shall be barred, or bound to recompence the tenant where they have affects.

II. BUT if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage descend to the demandant of the side of the alienor, then he shall be barred for the value of the heritage that is to him descended. And if in time after any heritage descend to him by the said alienor, then shall the tenant recover against him of the seizure warranted, by judicial writ, that shall issue out of the rolls of the Justices, before whom the plea was pleaded, to re-summon his warranty, as before hath been done in cases where the warrantor cometh into the Court, saying, that nothing descended from him by whose deed he is vouched.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XIV.

An Act directing what Prisoners shall be let to Bail.

[Passed the 5th of December, 1785.]

What prisoners shall be admitted to bail,

I. **F**OR ascertaining in what cases persons apprehended on suspicion of felony shall or shall not be admitted to bail: *Be it enacted by the General Assembly*, That those shall be let to bail who are apprehended for any crime not punishable in life or limb: And if the crime be so punishable, but only a light suspicion of guilt fall on the party, he shall in like manner be bailable: But if the crime be punishable in life or limb, or if it be man-

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slaughter, and there be good cause to believe the party guilty thereof, he shall not be admitted to bail.

II. NO person shall be bailed after conviction of any felony.

and who shall not.

III. IF any Justice let any go at large on bail who is notailable, or refuse to admit to bail any who have right to be so admitted, after they shall have offered sufficient bail, or require excessive bail, he shall be amerced at the discretion of a Jury.

Penalty on Justices for admitting prisoners to bail, or for refusing it improperly. Commencement of this act.

IV. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XV.

An Act declaring that none shall be condemned without Trial, and that Justice shall not be sold or deferred.

[Passed the 5th of December, 1785.]

I. **B**E it enacted by the General Assembly, That no freeman shall be taken or imprisoned, or be disseized of his freehold, or liberties or free customs, or be outlawed or exiled, or any otherwise destroyed, nor shall the Commonwealth pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the laws of the land. Justice or right shall not be sold, denied, or deferred, to any man.

No freeman to be deprived of liberty, rights, or freehold, but by judgment of his peers, or by the laws. Justice not to be sold, denied, or deferred. Commencement of this act.

II. THIS Act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XVI.

An Act concerning Estrays.

[Passed the 12th of December, 1785.]

I. **B**E it enacted by the General Assembly, That it shall be lawful for any person by himself or his agent, to take up any Estray on his own land, and having taken it, he, or his agent, shall forthwith give information thereof to some Justice of the Peace for the said County, who shall thereupon issue his warrant to three disinterested freeholders of the neighbourhood, commanding them, having been first duly sworn, to view and appraise such Estray, and certify the valuation under their hands, together with a particular description of the kind, marks, brand, stature, colour, and age; which certificate shall by the Justice be transmitted to the Clerk of the County Court within twenty days, and by such Clerk entered in a book to be kept for that purpose, for which he may demand and take ten pounds of tobacco, to be paid down by the taker up.

Method of taking up and appraising estrays,

II. THE Clerk shall moreover cause a copy of every such certificate to be publicly affixed at the door of his Court-house, on two several Court-days next after he receive the same, for which, and a certificate thereof, he shall receive the like fee as for entering the same in the book.

of advertising them.

III. IF the valuation shall be under twenty shillings, and no owner shall appear until notice shall have been twice published, as aforesaid, the property shall then be vested in the owner of the land, on which such Estray was taken; and if the valuation shall exceed twenty shillings, such owner shall, within three months after the appraisement, send to the Public Printer a copy of the certificate, to be advertised three times in the Virginia Gazette, with notice of the place where such Estray is, for which the Printer may demand four shillings for each Estray; and if no owner appears to claim such Estray within a year and a day after the publication, the property shall from thenceforth be vested in the owner of the lands whereon it was taken. But the former owner, in either case, may at any time, within five years after-

When the property shall be vested in the person taking them up. Reserving the right of the former proprietor to the value.

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wards, upon proving his property, demand and recover the valuation money, deducting therefrom the Clerk's and Printer's fees, and five shillings for every horse or head of neat cattle, and one shilling for every other beast.

Boats or other vessels adrift, taken up to be appraised and advertised in the same manner. Proviso in case of the death or loss of the estray.

IV. IF any person shall take up a boat or other vessel adrift, he shall in like manner make application to a Justice of one of the adjacent Counties, for his warrant to have the same valued and described by her kind, burthen and built, and shall proceed in all other respects, and have the same benefit as before directed in the case of Estrays. *Provided always,* That if after notice published as aforesaid, any Estray shall happen to die, or by any casualty get out of the possession of the person who took the same up, without his or her default, such taker up shall not be answerable for the same, or for the valuation thereof; nor shall any taker up be answerable for any boat or other vessel lost as aforesaid.

Commencement of this act.

V. THIS act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XVII.

An Act concerning Election of Members of General Assembly.

[Passed the 20th of December, 1785.]

When to be elected;

I. **B**E it enacted by the General Assembly, That the Delegates for the several Counties, and the City of *Williamsburg* and Borough of *Norfolk*, and the six Senators for one of the four classes of Districts, in the room of those who will annually be displaced, shall be chosen, in the manner hereafter directed, in the month of April in every year, on the Court days of each respective County or Corporation, and shall meet together, and with the remaining Senators, on the third Monday of October then next following, in General Assembly, at the place the last preceding General Assembly shall have sat in, or adjourned to, unless such place be in possession of a public enemy, or infected with the plague or small-pox, in which case they shall meet at such other place as the Governor, with the advice of the Council, shall appoint, and notify by Proclamation.

when and where to meet in General Assembly. See Acts of 1793, chap. 20.

Who qualified to vote as electors.

II. EVERY male Citizen (other than free Negroes or Mulattoes) of this Commonwealth, aged twenty-one years, or such as have refused to give assurance of fidelity to the Commonwealth, being possessed, or whose tenant for years, at will, or at sufferance, is possessed of twenty-five acres of land, with a house, the superficial content of the foundation whereof is twelve feet square, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot or part of a lot of land in a City or Town established by Act of General Assembly, with a house thereon, of the like superficial content or quantity, having in such land an estate of freehold at the least, and, unless the title shall have come to him by descent, devise, marriage, or marriage-settlement, having been so possessed six months, and no other person shall be qualified to vote for Delegates to serve in General Assembly, for the County, City, or Borough respectively, in which the land lieth. If the fifty acres of land being one entire parcel, lie in several Counties, the holder shall vote in that County wherein the greater part of the land lieth only; and if the twenty-five acres of land, being one entire parcel, be in several Counties, the holder shall vote in that County wherein the house standeth only. In right of land holden by parceners, joint-tenants, or tenants in common, but one vote shall be given by all the holders capable of voting, who shall be present, and agree to vote for the same Candidate or Candidates, unless the quantity of land, in case partition had been made thereof, be sufficient to entitle every holder present to vote separately, or unless some one or more of the holders may lawfully vote in right of another estate or estates in the same County, in which case the others may vote, if holding solely, they might have voted.

Who may vote as electors in *Williamsburg* and *Norfolk*.

III. EVERY person having such a freehold in the City of *Williamsburg* or Borough of *Norfolk*, as will qualify him to vote for Delegates to represent the County, and also every freeman, except as before excepted, aged twenty-one years, being a Citizen of the Commonwealth, and not having refused to give assurance of fidelity, who shall be a housekeeper, and shall have resided for six months in the said City or Borough, and shall be possessed of a visible estate of the value of fifty pounds at least, or shall actually have served as an apprentice

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to some trade within the said City or Borough for the term of five years, and shall have obtained a certificate of such service from the Court of Hustings, under the common seal of the City or Borough, and no other, shall be qualified to vote for a Delegate to represent the said City or Borough, respectively, in General Assembly.

IV. EVERY person qualified as aforesaid to vote for Delegates, shall be capable of being elected a Delegate for the County, City, or Borough, or Senator for the District in which he resides.

Who may be elected.

V. NO person who shall have served as a Member of the Legislature for seven years in the whole, shall be afterwards compellable to serve therein.

No person compellable to serve more than seven years. Penalty on electors failing to attend and vote. See chap. 39, Sec. 8.

VI. ANY Elector qualified according to this Act, failing to attend any annual election of Delegates or of a Senator, and, if a poll be taken, to give, or offer to give his vote, shall pay one fourth of his portion of all such levies and taxes as shall be assessed and levied in his County the ensuing year: And for discovering such defaulters, the Sheriff or other officer taking the poll, shall within ten days after the said election, deliver to the Clerk of the County, or Corporation Court, as the case may be, a copy of the poll by him taken, to be kept in his office, who shall suffer any candidate or elector to take a copy thereof; and the said Clerk is hereby directed to cause a copy of the same to be delivered to the next Grand Jury, to be sworn for the County or Corporation, who shall be charged by the presiding Magistrate, to make presentment of all such persons qualified to vote, residing in the said County or Corporation, who shall have failed to have given their votes at the said election agreeable to law. And for the better information of the said Jury, the Sheriff of the County is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties for other neglects of his duty, to lay before them a list of all the landholders resident therein.

VII. EVERY Elector, going to, abiding at, and returning from an election, shall be privileged from arrests one day for every twenty miles he shall necessarily travel, exclusive of the day of election; and any process against such Elector, executed during such privilege, shall be void.

Privilege of electors.

VIII. UPON the election of a Senator, and also of a Delegate, or Delegates, when the election of such Delegate, or Delegates, cannot be determined by view, the Sheriff, or in his absence, the under Sheriff of the County, or the Mayor of the City or Borough, shall in presence of the candidates, or their agents, cause the poll to be taken in the Court-house, or if that be in a Town infected with any contagious disease, or be in danger of an attack from a public enemy, at some other place according to these directions: He shall appoint such, and so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation that they will take the poll faithfully and impartially: He shall deliver a poll-book to each writer, who by ruling lines thereon, having made as many columns as there shall be candidates, shall enter the name of each candidate in a distinct column at the head thereof, and under his name in the same column, the name of every elector, who shall vote for that candidate; and after the names of all the electors who will give their votes (Proclamation having been made three times at the door of the Court-house, or other place of holding such election, by the officer requiring those who had not been polled, to come in and give their votes) shall have been thus entered, he shall conclude the poll, and declare the candidates for whom the greatest number of votes shall appear to have been given to be elected; or if the greatest number of votes for several candidates shall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for several persons to be a Senator be equal, and the votes of the returning officers be equal also, it shall be decided by a lot taken by the said returning officers at their meeting, which shall be within twenty days after the last day of election, at such place as shall be appointed by the returning officer of the first County in which such election shall be, who is hereby commanded forthwith to give notice to the returning officers. No elector shall be admitted to poll a second time, at one and the same election, although at the first time he shall have given but a single vote. If the electors who appear, be so numerous that they cannot all be polled before sun-setting; or if by rain or rise of water-courses, many of the electors may have been hindered from attending, the Sheriff, or under Sheriff, may by request of any one, or more of the candidates, or their agents, adjourn the proceeding on the poll until the next day, and so from day to day for four days,

Method of taking the poll.

Officers may declare which of the candidates he will elect, when the votes are equal.

See chap. 39, Sec. 6.

When and how the poll may be adjourned.

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(Sundays excluded) if the same cause continue, giving public notice thereof by Proclamation at the door of the Court-house, or other place of holding such elections, and shall on the last day of the election conclude the poll according to the directions aforesaid.

Mode of proceeding in contested elections. See chap. 39, Sec. 1. 2. 3. 4.

IX. ON complaint to either House of Assembly of an undue election, or return of any Member to their House, such House shall forthwith appoint some day for trying the same, as shortly as shall be consistent with fair enquiry, but not within less than fourteen days after such complaint lodged, whereof notice shall be given by the Speaker to the party against whom the complaint is, if he be absent; which day of trial may be lengthened from time to time, on good cause shewn to the House, and notice to the absent party. On the day appointed for the trial, the Committee of Privileges and Elections shall proceed on the said disputed election, and report to the House of which they are Members, their opinion thereon, before they proceed to any other business, and the said House shall, on receipt of the said report, immediately proceed to determine thereon, and either confirm or disagree to such report, as to them shall seem just. If any person sworn before the said Committee, shall give, or withhold, any evidence under such circumstances as would have constituted the same to be perjury, if done in presence of a Court of Record, the same shall be deemed perjury. If upon any such trial it shall appear that equal numbers of qualified Electors shall have voted for the petitioner and the sitting Member, and the officer who conducted the election shall swear or solemnly affirm that if such equality had appeared at the election, he would have declared the petitioner elected, such petitioner shall be deemed duly elected; and his name instead of the name of the sitting Member, which shall be erased, shall be inserted in the certificate or return.

Electors if required, shall be sworn.

X. NO Elector shall be polled before he shall have declared, if required to do so by any candidate, or his agent, in what right he offers to vote, and shall have taken an oath, which the officer conducting the election shall administer, or make a solemn affirmation in this form: "*I do swear (or do solemnly affirm) that I do in my conscience believe myself to be duly qualified to vote for Delegates to serve in General Assembly for the County of* , according to the act of General Assembly, intituled, 'An Act' ;" of which oath or affirmation, a note shall be made in the poll-book, opposite, and referring to the name of the person swearing or affirming. The making such oath or affirmation falsely, shall be perjury.

Names of electors refusing to swear, to be entered in separate lists.

XI. THE names of Electors offering to be polled, but refusing to make such oath or affirmation, shall be entered on the poll-books in separate lists, with the names of the candidates for whom they voted, and shall be added to the poll, if, upon a scrutiny the votes be justified.

Manner of certifying election of Delegates.

XII. THE Sheriff or under Sheriff shall certify the election of Delegates in this form, or to this effect: "*Be it known to all to whom these presents shall come, that I* , Sheriff (or Deputy of , Sheriff) of the County of , in my full County, held at the Court-house thereof (or at) on the day of , in the year of our Lord, , by the Electors of my said County, qualified according to law, caused to be chosen two Delegates for my said County, namely, and to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid."

XIII. THE Mayor of a City or Borough entitled to particular representation, shall certify the election of a Delegate in this form, or to this effect: "*Be it known to all to whom these presents shall come, that I* , Mayor of the City (or Borough) of , at the Court-house of (or at) in the said City, (or Borough) on the day of , in the year of our Lord, , by the electors of the said City (or Borough) qualified according to law, caused to be chosen a Delegate for the said City, (or Borough) namely, to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid."

Of Senators.

XIV. THE Sheriffs, or under Sheriffs, of the several Counties of a District, shall certify the election of a Senator in this form, or to this effect: "*Be it known to all whom these presents shall come, that we* , Sheriff, (or , Deputy of , Sheriff) of the County of , Sheriff (or , Deputy of , Sheriff) of the County of , and , Sheriff (or , Sheriff

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" Deputy of , Sheriff) of the County of , in our full Counties held at the
 " Court-houses thereof (or at) respectively, on the day of , in the year of
 " our Lord, , by the Electors of our said respective Counties, qualified according to
 " law, caused to be chosen a Senator for the District, composed of the said Counties, namely,
 " , to represent the same in General Assembly. Given under our hands and
 " seals, the day and year aforesaid."

XV. THE officers directed to make such certificates of elections as aforesaid, shall cause them to be delivered, those of Delegates, to the Clerk of the House of Delegates, and those of Senators, to the Clerk of the Senate, one day at least before the succeeding Session of General Assembly.

Certificates of elections, to whom to be delivered.

XVI. FOR election of a Delegate or Senator, when a vacancy shall happen, a writ or writs shall be issued by the Speaker of that House whereof he was a Member, but if the vacancy be occasioned by acceptance of an office, the writ or writs shall not be issued, without the special order of the House; and the officer to whom such writ shall be directed, so soon after the receipt thereof as he may be able, shall give the Electors notice thereof as well as of the time and place of election, by advertisement to be affixed at four of the most convenient places in the County, and shall cause the election to be made in the manner herein before prescribed, and shall have the same power of adjourning the proceeding upon the poll, as in case of a general election. The return of such writ for electing a Delegate or Delegates, shall be in this form, or to this effect: Upon the writ shall be endorsed these, or the like words, "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper annexed to the writ shall be written, if the writ be for the election of a Delegate for a County, these or the like words, "*By virtue of this writ to me directed, in my full County held at the Court-house thereof (or at) on the day of , in the year of our Lord, , by the Electors of my said County, qualified according to law, I caused to be chosen a Delegate (or two Delegates) for my said County, namely, , to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;*" and if the writ be for the election of a Delegate for a City or Borough, these, or the like words, "*By virtue of this writ to me directed, at the Court-house of the City of (or Borough of , or at , in the Borough of) on the day of , in the year of our Lord, , by the Electors of the said City (or Borough) qualified according to law, I caused to be chosen a Delegate for the said City (or Borough) namely, , to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;*" and the return of the writs for electing a Senator shall be in this form, or to this effect: Upon each writ shall be endorsed these, or the like words, "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper connecting the several writs together, shall be written these, or the like words, "*By virtue of these writs to us directed, in our full Counties, held at the Court-houses thereof respectively (or at) on the day of , in the year of our Lord, , by the Electors of our said respective Counties, qualified according to law, we caused to be chosen a Senator for the District composed of our said Counties, namely, , to represent the same in General Assembly. Given under our hands and seals, the day and year aforesaid.*" And the officers conducting the elections, shall make their said returns to the General Assembly, if it be fitting, immediately, or if it be not fitting, one day at least before the time to which the writ shall be returnable.

Method of issuing, executing, and returning writs, for electing members to supply vacancies.

XVII. A SHERIFF, under Sheriff, or Mayor, refusing to take the poll when he shall be required by a candidate, or Elector, or taking it in other manner than is herein before prescribed, or making a false certificate or return of the election of a Member or Members to serve in the General Assembly, or neglecting to cause the certificate or return of such election to be made to such Clerk, and at or before such time as is herein before directed, shall forfeit and pay one hundred pounds; and neglecting to deliver the poll-books to the Clerk of the Court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refusing to suffer any Candidate or Elector, at his own expence, to take a copy of the poll-books, shall forfeit and pay fifty pounds; which penalties may be recovered with costs in actions of debt, by any person who will sue for the same, one half to his own use, and the other half to the use of the Commonwealth.

Penalties on the officers for refusing to take the poll or other neglect of duty.

XVIII. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat,

Members bribing electors to be elected.

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expelled and disabled to be re-elected for three years.

drink, or other reward, in order to be elected, or for having been elected, for such, or any other County, City, or Borough, shall be expelled and disabled to be re-elected during the term of three years.

Privilege of the members.

XIX. THE privilege of Members of the General Assembly shall continue during every session, and one day before and after for every twenty miles they must necessarily travel to, and from home, and in the meantime process in which they are parties shall be suspended, without abatement or discontinuance; if any person taken in execution, be delivered by privilege of either House of General Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

When the Assembly may be prorogued, or either House adjourned by the Governor and Council. Penalties on Members departing without leave.

Members attending, but unable thro' sickness to sit in the House, entitled to their wages. Penalty on absent Members when there is not a House for want of Members.

XX. IF a sufficient number of the Members of General Assembly, or of either House thereof, to adjourn from day to day, shall not meet at any time when they ought, the Governor by Proclamation, with advice of the Council, may prorogue the General Assembly, or adjourn the deficient House, from day to day, until a sufficient number shall convene, and their acts and proceedings afterwards shall be as valid as if there had been no such interruption. But a Delegate or Senator shall lose all the wages he would otherwise have been entitled to, if he shall depart from the General Assembly before it be adjourned, without licence from the Speaker and other Members of the House whereof he is a Member, first entered on the Journal; yet any Member of either House taken so sick during his attendance in General Assembly, or in his journey thither, as that he shall be unable to come to or sit in the House, shall receive wages for every day of the Session he shall be so disabled, in the same manner as if he had sat in the House. If on the day appointed for the meeting of any General Assembly, or at any time during the Session, a sufficient number of the Members thereof, to proceed to business, do not attend for that purpose, every absent Delegate or Senator, shall, besides losing his wages during absence, forfeit and pay to the use of this Commonwealth ten pounds; such forfeiture to be recovered by prosecution to be instituted in the General Court by order of such House, and on the trial of such prosecution, no excuse for non-attendance, other than those before-mentioned, shall be admitted by the Jury; and if it be alledged that the defendant did attend such House, on any of the days during which they could not do business for want of Members, the proof of such attendance shall rest on him.

General Assembly may adjourn to any other place than that where they are sitting. When Acts of Assembly are to commence in force. Commencement of this act.

XXI. THE General Assembly may during a Session, or at the end thereof, adjourn to any other place than that where they shall then be sitting.

XXII. EVERY Act of the General Assembly hereafter to be made, shall commence and be in force from the passing thereof, unless in the Act itself another day for the commencement thereof be particularly mentioned, and in the former case the day of passing thereof shall be noted next after the title.

XXIII. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XVIII.

An Act to approve, confirm, and ratify the Compact made by certain Commissioners appointed by the General Assembly of the State of Maryland, and Commissioners appointed by this Commonwealth.

[Passed the 3d of January, 1786.]

Preamble.

I. WHEREAS, at a meeting of the Commissioners appointed by the General Assembly of the State of Maryland and Virginia, to wit, Daniel of St. Thomas Jenifer, Thomas Stone, and Samuel Chase, Esquires, on the part of the State of Maryland, and George Mason and Alexander Henderson, Esquires, on the part of the State of Virginia, at Mount-Vernon, in Virginia, on the 28th day of March, in the year one thousand seven hundred and eighty-five, the following compact was mutually agreed to by the said Commissioners.

Articles of the compact.

First,---THE Commonwealth of Virginia disclaims all right to impose any toll, duty, or charge, prohibition or restraint, on any vessel whatever sailing through the Capes of Ches-

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peake Bay to the State of *Maryland*, or from the said State through the said Capes outward bound; and agrees that the waters of *Chesapeake* Bay, and the river *Pocomoke*, within the limits of *Virginia*, be forever considered as a common high-way, free for the use and navigation of any vessel belonging to the said State of *Maryland*, or any of its citizens, or carrying on any commerce to or from the said State, or with any of its citizens; and that every such vessel inward or outward bound, may freely enter any of the rivers within the Commonwealth of *Virginia* as a harbour, or for safety against an enemy, without the payment of port duties, or any other charge; and also, that the before-mentioned parts of *Chesapeake* Bay, and *Pocomoke* River, be free for the navigation of vessels from one part of the State of *Maryland* to another.

Second,---THE State of *Maryland* agrees that any vessel belonging to the Commonwealth of *Virginia*, or any of its citizens, or carrying on commerce to or from the said Commonwealth, or with any of its citizens, may freely enter any of the rivers of the said State of *Maryland* as a harbour, or for safety against an enemy, without the payment of any port duty, or other charge.

Third,---VESSELS of war, the property of either State, shall not be subject to the payment of any port duty, or other charge.

Fourth,---VESSELS not exceeding forty feet keel, nor fifty tons burthen, the property of any citizen of *Virginia* or *Maryland*, or of citizens of both States, trading from one State to the other only, and having on board only the produce of the said States, may enter and trade in any part of either State, with a permit from the Naval-Officer of the district from which such vessel departs with her cargo, and shall be subject to no port charges.

Fifth,---ALL merchant vessels (except such as are described in the fourth article) navigating the River *Patowmack*, shall enter and clear at some Naval-Office on the said river, in one or both States, according to the laws of the State in which the entry shall be made. And where any vessel shall make an entry in both States, such vessel shall be subject to tonnage in each State only in proportion to the commodities carried to, or taken from, such State.

Sixth,---THE River *Patowmack* shall be considered as a common high-way, for the purpose of navigation and commerce to the citizens of *Virginia*, and *Maryland*, and of the United States, and to all other persons in amity with the said States, trading to or from *Virginia* or *Maryland*.

Seventh,---THE citizens of each State respectively shall have full property in the shores of *Patowmack* River adjoining their lands, with all emoluments and advantages thereunto belonging, and the privilege of making and carrying out wharves and other improvements, so as not to obstruct or injure the navigation of the river; but the right of fishing in the river shall be common to, and equally enjoyed by the citizens of both States: *Provided*, That such common right be not exercised by the citizens of the one State, to the hindrance or disturbance of the fisheries on the shores of the other State; and that the citizens of neither State shall have a right to fish with nets or seines on the shores of the other.

Eighth,---ALL laws and regulations which may be necessary for the preservation of fish, or for the performance of quarantine, in the River *Patowmack*, or for preserving and keeping open the channel and navigation thereof, or of the River *Pocomoke*, within the limits of *Virginia*, by preventing the throwing out ballast, or giving any other obstruction thereto, shall be made with the mutual consent and approbation of both States.

Ninth,---LIGHT-HOUSES, beacons, buoys, or other necessary signals, shall be erected, fixed, and maintained upon *Chesapeake* Bay, between the sea and the mouths of the Rivers *Patowmack* and *Pocomoke*, and upon the River *Patowmack*, at the expence of both States; If upon *Patowmack* River, at the joint and equal charge of both States; and if upon the before-mentioned part of *Chesapeake* Bay, *Virginia* shall defray five parts, and *Maryland* three parts of such expence; and if this proportion shall in future times be found unequal, the same shall be corrected. And for ascertaining the proper places, mode, and plans for erecting and fixing light-houses, buoys, beacons, and other signals, as aforesaid, both States shall, upon the application of either to the other, appoint an equal number of Commissioners, not less than three nor more than five from each State, to meet at such times and places as the said Commissioners, or a major part of them, shall judge fit, to fix upon

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the proper places, mode, and plans for erecting and fixing such light-houses, beacons, or other signals, and report the same, with an estimate of the expence, to the Legislatures of both States, for their approbation.

Tenth,---ALL piracies, crimes, or offences committed on that part of *Chesapeake Bay* which lies within the limits of *Virginia*, or that part of the said Bay where the line of division from the South point of *Patowmack River* (now called *Smith's Point*) to *Watkins's Point*, near the mouth of *Pocomoke River*, may be doubtful, and on that part of *Pocomoke River* within the limits of *Virginia*, or where the line of division between the two States upon the said river, is doubtful, by any persons not citizens of the Commonwealth of *Virginia*, against the citizens of *Maryland*, shall be tried in the Court of the State of *Maryland* which hath legal cognizance of such offence: And all piracies, crimes, and offences committed on the before-mentioned parts of *Chesapeake Bay* and *Pocomoke River*, by any persons not citizens of *Maryland*, against any citizen of *Virginia*, shall be tried in the Court of the Commonwealth of *Virginia* which hath legal cognizance of such offence: All piracies, crimes, and offences committed on the said parts of *Chesapeake Bay* and *Pocomoke River*, by persons not citizens of either State, against persons not citizens of either State, shall be tried in the Court of the Commonwealth of *Virginia* having legal cognizance of such offences: And all piracies, crimes, and offences committed on the said parts of *Chesapeake Bay* and *Pocomoke River*, by any citizen of the Commonwealth of *Virginia*, or of the State of *Maryland*, either against the other, shall be tried in the Court of that State of which the offender is a citizen. The jurisdiction of each State over the River *Patowmack*, shall be exercised in the same manner as is prescribed for the before-mentioned parts of *Chesapeake Bay* and *Pocomoke River*, in every respect, except in the case of piracies, crimes, and offences committed by persons not citizens of either State, upon persons not citizens of either State, in which case the offenders shall be tried by the Court of the State to which they shall first be brought. And if the inhabitants of either State shall commit any violence, injury, or trespass, to or upon the property or lands of the other, adjacent to the said Bay or Rivers, or to any person upon such lands, upon proof of due notice to the offender to appear and answer, any Court of Record, or Civil Magistrate of the State where the offence shall have been committed, having jurisdiction thereof, may enter the appearance of such person, and proceed to trial and judgment, in the same manner as if legal process had been served on such offender; and such judgment shall be valid and effectual against the person and property of such offender, both in the State where the offence shall have been committed, and also in the State where the said offender may reside, and execution may be issued by the Court, or Magistrate, giving such judgment, in the same manner as upon judgments given in other cases; or upon a transcript of such judgment, properly authenticated, being produced to any Court, or Magistrate, of the State where such offender may reside, having jurisdiction within the State, or County where the offender may reside, in cases of a similar nature, such Court, or Magistrate, shall order execution to issue upon such authenticated judgment in the same manner, and to the same extent, as if the judgment had been given by the Court, or Magistrate, to which such transcript shall be exhibited.

Eleventh,---ANY vessel entering into any port on the River *Patowmack*, may be libelled, or attached for debt, by process from the State in which such vessel entered. And if the commercial regulations of either State shall be violated by any person carrying on commerce in *Patowmack* or *Pocomoke Rivers*, the vessel owned or commanded by the person so offending, and the property on board, may be seized, by process from the State whose laws are offended, in order for trial. And if any person shall fly from justice, in a civil or criminal case, or shall attempt to defraud creditors by removing his property, such person, or any property so removed, may be taken on any part of *Chesapeake Bay*, or the rivers aforesaid, by process of the State from which such person shall fly, or property be removed; and process from the State of *Virginia* may be served on any part of the said rivers, upon any person, or property of any person not a citizen of *Maryland*, indebted to any citizen of *Virginia*, or charged with injury having been by him committed; and process from the State of *Maryland* may be served on any part of the said rivers, upon any person, or property of any person, not a citizen of *Virginia*, indebted to a citizen of *Maryland*, or charged with injury by him committed. And in all cases of trial in pursuance of the jurisdiction settled by this compact, citizens of either State shall attend as witnesses in the other, upon a summons from any Court, or Magistrate, having jurisdiction, being served by a proper officer of the County where such citizen shall reside.

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Twelfth,---THE citizens of either State having lands in the other, shall have full liberty to transport to their own State, the produce of such lands, or to remove their effects, free from any duty, tax, or charge whatsoever, for the liberty to remove such produce or effects.

Thirteenth,---THESE Articles shall be laid before the Legislatures of *Virginia* and *Maryland*, and their approbation being obtained, shall be confirmed and ratified by a law of each State, never to be repealed, or altered, by either, without the consent of the other.

II. AND WHEREAS this General Assembly are of opinion that the said compact is made on just and mutual principles for the true interest of both governments, and the same having been confirmed by the General Assembly of the State of *Maryland*: *Be it therefore enacted*, That the said compact is hereby approved, confirmed, and ratified by the General Assembly of *Virginia*, and that every article, clause, matter and thing therein contained, shall be obligatory on this State and the citizens thereof, and shall be forever faithfully and inviolably observed and kept by this government, and all its citizens, according to the true intent and meaning of the said Compact; and the faith and honour of this State is hereby solemnly pledged and engaged to the General Assembly of the State of *Maryland*, and the government and citizens thereof, that this law shall never be repealed, or altered, by the Legislature of this Commonwealth, without the consent of the State of *Maryland*.

Ratification thereof.

C H A P. XIX.

An Act concerning Public Roads.

[Passed the 5th of January, 1786.]

I. **B**E it enacted by the General Assembly, That where any person or persons shall make application to any County Court, to have a new road opened, or a former one altered, within their County, for the convenience of travelling to their County Court-house, to any public warehouse, landing, ferry, mill, lead or iron works, or to the Seat of Government, they shall appoint three or more fit and able persons, to be sworn before a Justice of the Peace, to view the ground along which such road is proposed to be conducted, and to report to them truly and impartially the conveniences and inconveniences which will result, as well to individuals as to the public, if such way shall be opened; and where the application is to alter a former road, they shall also view the former road, and report in like manner, the comparative conveniences and inconveniences thereof.

County Courts authorised to open new roads, or alter former ones.

II. UPON the return of the said Viewers, if the Court shall be of opinion that the road applied for will be convenient, they shall order summonses to be issued to the proprietors and tenants of the lands, through which the same is proposed to be conducted, if they be found within the County, and if not, then to their agents therein, if any they have, to shew cause why such road should not be opened; upon the return of which summons, if any proprietor or tenant so desire, the said Court shall order their Clerk to issue a writ in the nature of a writ *ad quod damnum*, to be directed to the Sheriff, commanding him to summon and empanel twelve able and discreet freeholders of the vicinage, no ways related to either party, to meet at some certain place on the ground through which the said road is proposed to be conducted, and on a certain day to be named by the Court, and inserted in the said writ, of which notice shall be given by the Sheriff to the said proprietors or tenants, or their agents, as before directed, if they were not present in Court at the time of the order made; which freeholders, taking nothing (on pain of being discharged from the Inquest, and immediately imprisoned by the Sheriff) either of meat or drink, from any person whatever, from the time they shall come to the said place until their Inquest sealed, shall be charged by the said Sheriff impartially, and to the best of their skill and judgment, to view the lands through which the said road is proposed to be conducted, and say to what damage it will be of to the several and respective proprietors and tenants, who desired such writ, taking into estimation as well the use of the lands to be laid open for such road, as the additional fencing, which will thereby be rendered necessary; and if the said Inquest cannot be completed in one day, the Sheriff shall adjourn the said Jurors from day to day, until the same be completed: Which Inquest, sealed by the said Jurors, together with the writ,

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shall be returned to the Court, who thereupon, as well as upon other evidence, shall proceed to consider whether, all circumstances weighed, it be better that the said road shall be opened, and if they be of opinion that the same shall be opened, they shall levy on their County, at their next levy to be laid, the damages so found, and the costs of the inquest, and direct them to be paid to those respectively entitled thereto. But if they shall be of opinion that the said road ought not to be opened, the costs of such inquest shall be adjudged against the party applying for the said road. But it shall not be lawful for any Court to order a road to be opened through any lot of land in any town, without the consent of the owner and tenant thereof.

To divide the public roads into precincts, and appoint a surveyor to each.

III. THE several Courts shall also divide all the public roads into precincts, and as often as it shall be necessary, appoint a Surveyor over every precinct, whose duty it shall be to superintend the road in his precinct, and see that the same be cleared and kept in good repair; which Surveyor shall continue in office until another shall be appointed by the said Court in his stead.

Who are to work on the roads.

IV. ALL male labouring persons, of the age of sixteen years or more, except such as are masters of two or more male labouring slaves, of the age of sixteen years or more, shall be appointed by the Court to work on some public road: For every person so appointed, who, when required by the Surveyor placed over him, shall, without legal cause or disability, fail to attend, with proper tools for clearing the road, or shall refuse to work when there, or to find some other person equally able, to work in his room, the sum of seven shillings and sixpence for every day's offence, shall be paid, by himself, if he be a freeman of full age, if an infant, then by his parent, guardian, or master, and if a slave or servant, then by his overseer, if he be under one, or otherwise, by his master.

Surveyors how to be notified of their appointments.

Clerks annually to fix up lists of their names at their Court-houses.

V. THE Clerk of every County Court shall, within ten days after the appointment of any Surveyor of a road, deliver a copy of the order to the Sheriff of the County, under the penalty of fifteen shillings; and the Sheriff, within fifteen days after the receipt of such order, shall deliver the same to the Surveyor, under the penalty of fifteen shillings. And each Clerk shall moreover, once in every year, fix up in the Court-house, a list of the names and precincts of all the Surveyors of roads in his County, under the penalty of fifty shillings for every neglect.

Duty of the Surveyors.

VI. EVERY Surveyor of a Road shall cause the same to be constantly kept well cleared and smoothed, and thirty feet wide at the least; and at the fork or crossing of every public road, shall cause to be erected, and kept in repair from time to time, a stone, or otherwise an index on a post or tree, with plain inscriptions thereon, in large letters, directing to the most noted place to which each of the said roads shall lead, and may take stone or wood for that purpose from any adjoining land; and for the expence of setting up and inscribing such stones, posts, or indexes, and keeping them in repair, the Surveyor shall be reimbursed by the County Court in their next succeeding levy; and where bridges and causeys are necessary, the Surveyor shall cause them to be made, twelve feet broad at the least, convenient and safe, and shall keep the same in repair, and for that purpose may cut and take from the lands of any person adjoining, such, and so much timber, earth, or stone, as may be necessary, the same being first viewed and valued by two honest house-keepers appointed and sworn for that purpose by a Justice of the Peace, unless the owner shall freely give such timber, stone, or earth, for that use; but where a road leads through a city or town, the Surveyor shall not take any timber, stone, or earth, from any lot within the town, without the permission of the owner, but shall take the same from the lands nigh or adjacent to the said town, where it will do the least injury to the proprietor; and where the assistance of wheel-carriages is necessary for making or repairing any causeys, any Justice of Peace may issue his warrant, under his hand and seal, for empowering the Surveyor to impress such necessary carriages, draught horses, or oxen, with their gear and driver, belonging to any person who, or their servants or slaves, are appointed to work on the road, and appointing two honest house-keepers, who, being sworn, shall value, by the day, the use of such carriages, draught horses, oxen, and driver, which valuation, with a certificate from the Surveyor how many days the said things were employed in the work, shall entitle the owner to an allowance for the same in the next County levy. And in the like manner shall the owner of timber, stone, or earth, taken for bridges or causeys, be entitled to the valuation thereof in the next County levy, upon a certificate from the two house-keepers who value the same. Every Surveyor of a road, who fails to do his duty as aforesaid, shall forfeit fifteen shillings for every offence.

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VII. WHERE a bridge or causey shall be necessary, and the Surveyor, with his assistants, cannot make or maintain the same, the Court of the County are empowered and required to contract for the building and repairing such bridge or causey, and to levy the charge thereof in their County levy. And where such bridge or causey shall be necessary from one County to another, the Court of each County shall join in the agreement for building and repairing the same, and the charge shall be defrayed by both Counties, in proportion to the public tax or assessment paid by each. Upon every such contract or agreement, bond and security shall be given by the Undertaker, payable to the Governor and his successors, for the use of the County or Counties, as the case shall be, with condition for performing the same, and may be prosecuted at the costs, and for the benefit of the County or Counties, or any person sustaining a loss by the breach thereof, as often as it shall happen, until the whole penalty of the bond shall be paid. And all such contracts made by County Courts, or others appointed by them, shall be available and binding upon the Justices and their successors, so as to entitle the Undertaker to his stipulated reward in the County levy, or to a recovery thereof, with costs, by action of debt, against the Justices refusing to levy the same.

Penalty on them for neglect.

How bridges and causeys are to be built and repaired, when within a County.

VIII. WHEN the Justices of one County shall judge a bridge or causey over any place between them and another County to be necessary, they shall notify the same to the Justices of such other County, and require them to appoint three persons to meet at the said place on a certain day to be named by the Court requiring the same, to confer with three others, to be appointed by the said requiring Court, and agree on the manner and condition of executing the same; which six persons, or so many of them as meet, being not fewer than three, shall have power to agree on the manner and conditions of doing the said work, and to see that the same be done: And if the Court so required shall fail to appoint persons to act on their behalf, or to do what on their part should be done towards executing and paying for the said work, the Justices of the Court which made the requisition, shall apply to the General Court for a writ of *mandamus*, to be directed to the Justices of the other Court, commanding them to do, what on their part they ought to have done, and have failed to do, or to signify to them cause to the contrary thereof; upon the return of which writ, the General Court, if they shall be of opinion that the work is unnecessary, or that other sufficient cause is returned, shall quash the writ; or if they think otherwise, shall cause such further proceedings to be had as are usual in other cases of *mandamus* issuing from the said Court: And the like method of proceeding by way of *mandamus* shall be used, where the Justices of one County shall think it necessary to open a road to their County line, for the convenience of passing to some public place in another, and the Justices of such other shall refuse to continue the road through their County.

When over any place between two Counties.

IX. IF any person shall fell a tree into a public road, or into any stream of water, whereon there shall be any public bridge, and shall not remove the same within forty-eight hours, or shall kill a tree within the distance of fifty feet, from the road, or shall cut, pull up, destroy, or deface, any stone, or post, erected for the direction of travellers, or the indexes or inscriptions thereon, it shall be deemed a nuisance. Every free man, of full age, so offending, or the parent, master, or owner, of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay ten pounds for every offence. And where any fence shall be made across a public road, the owner or tenant of the land shall pay ten shillings for every twenty-four hours the same shall be continued.

Penalty on persons obstructing or inuring roads or bridges.

X. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top, through the whole length thereof, and shall keep and maintain a bridge of like breadth, with strong rails on each side thereof, over the pier-head, flood-gates, or any waste, cut through or round the dam, under the penalty of ten shillings for every twenty-four hours failure; but where a mill-dam shall be carried away or destroyed by tempest, or accident, the owner or occupier thereof shall not be liable to the said penalties from thenceforth, until one month after such mill shall have been so repaired as to have ground one bushel of grain.

Owners of dams over which public roads pass, to keep them of a certain width.

XI. ALL the penalties in this Act, not otherwise directed, shall be one moiety to the informer, and the other to the use of the County, recoverable with costs, on warrant, petition, or action, as the case may be. Any Justice, who, upon his own view, shall discover a road, bridge, causey, or mill-dam, as aforesaid, out of repair, shall issue a warrant

Penalties how to be recovered and appropriated.

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against the Surveyor, or other delinquent, and if no reasonable excuse be made for such default, may give judgment for the penalty and costs, not exceeding twenty-five shillings, or such offenders may be presented by the Grand Juries; in all which cases of conviction, on view of a Justice, or presentment, or on private informations to Justices, where there shall be no evidence to convict the offender but the informer's own oath, the whole penalties shall be to the use of the County, towards lessening the levy thereof, and shall be annually collected and accounted for by the Sheriff, in the same manner as County levies; and to enable the Sheriff to make such collection, every Justice, immediately on conviction of any offender, where the penalty is to be to the County, shall certify the same to the Clerk of his County Court, who shall yearly, before the first day of March, deliver to the Sheriff a list of all the offenders so certified, and of all others convicted in Court, within one year preceding, of any offence against this Act.

To be prosecuted for within six months.

XII. *PROVIDED*, That prosecutions for any offence herein mentioned, shall be commenced within six months after the offence committed, and not after.

Commencement of this act.

XIII. THIS Act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven.

C H A P. XX.

An Act for establishing Religious Freedom.

[Passed the 16th of December, 1785]

Preamble.

I. **W**HEREAS Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of Legislators and Rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavouring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any Citizen as unworthy the public confidence, by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess, or renounce this or that religious opinion, is depriving him injuriously, of those privileges and advantages, to which, in common with his fellow-citizens, he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil Magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human in-

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terposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them :

II. *BE it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

No man compelled to frequent or support any religious worship. All men free to profess, and by argument to maintain their religious opinions.

III. AND though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted, are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

Declaration that the rights by this Act asserted, are of the natural rights of mankind.

General Assembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 16th Day of October, in the Year of our Lord, 1786.

C H A P. XXI.

An Act forbidding and punishing Affrays.

[Passed the 27th of November, 1786.]

BE it enacted by the General Assembly, That no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or other of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a Jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

Punishment of persons going armed before Courts of Justice, or the Ministers of Justice, or in fairs or markets in terror of the Country

C H A P. XXII.

An Act against Conspirators.

[Passed the 27th of November, 1786.]

BE it declared and enacted by the General Assembly, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the suit of the Commonwealth, shall be punished by imprisonment and amercement, at the discretion of a Jury.

Who shall be deemed conspirators.

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C H A P. XXIII.

An Act prescribing the Punishment of those who sell unwholesome Meat or Drink.

[Passed the 27th of November, 1786.]

Punishment of
those who sell
unwholesome
meat or drink.

BE it enacted by the General Assembly, That a Butcher or other person that selleth the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or a Baker, Brewer, Distiller, or other person, who selleth unwholesome bread or drink, shall, on conviction by the verdict of a Jury, the first time be amerced; the second time he shall suffer judgment of the pillory; and the third time he shall be imprisoned and make fine; and every time after he shall be adjudged to hard labour six months in the public works.

C H A P. XXIV.

An Act concerning Partitions and Joint Rights and Obligations.

[Passed the 28th of November, 1786.]

Joint tenants,
and tenants in
common, may
be compelled
to make parti-
tion.

I. **B**E it enacted by the General Assembly, That all joint tenants, or tenants in common, who now are, or hereafter shall be, of any estates of inheritance in their own rights, or in the right of their wives, and all joint tenants, or tenants in common, who now hold or hereafter shall hold, jointly, or in common, for term of life or years, with others who have, or shall have estates of inheritance, or freehold in any lands, tenements, or hereditaments, may be compelled to make partition between them, of such lands, tenements, and hereditaments, as they now hold, or hereafter shall hold, as joint tenants, or tenants in common, by writs *de partitione facienda*, the forms whereof shall be devised in the General Court, and adapted to the cases aforesaid: But no such partitions between joint tenants, or tenants in common, who hold or shall hold estates for term of life or years, with others holding equal or greater estates, shall be prejudicial to any entitled to the reversions or remainders, after the death of the tenants for life, or after the expiration of the years.

The part of a
joint-tenant
dying first,
not to accrue
to the survi-
vor.

II. IF partition be not made between joint tenants, whether they be such as might have been compelled to make partition, or not, or of whatever kind the estates or thing holden or possessed be, the parts of those who die first, shall not accrue to the survivors, but shall descend, or pass by devise, and shall be subject to debts, charges, curtesy, or dower, or transmissible to executors or administrators, and be considered to every other intent and purpose, in the same manner as if such deceased joint tenants had been tenants in common.

Representa-
tives of one
jointly bound,
chargeable as
in joint and
several obliga-
tions.

III. THE Representatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the lifetime of the latter, may be charged by virtue of such obligation, in the same manner as such Representatives might have been charged if the obligors had been bound severally, as well as jointly.

Allotment of
parcels in par-
titions.

IV. PARTITION may be demanded by one and the same writ, of all the several parcels of land or other real estate to which the parties have title, and execution thereupon done by the Sheriff and Jury, as heretofore, or by special Commissioners to be appointed by the Court, with assent of the parties, by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels, as shall be most for the interest of the parties in general.

No plea in
abatement to
be received in
suits for par-
titions,
Mode of pro-
ceeding in

V. NO plea in abatement shall be received in any suit for partition, nor shall it abate by the death of any tenant.

VI. AFTER a writ of partition returned, affidavit being made by some credible person, that due notice of the writ had been given to the tenant or tenants to the action, and that a

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writs of parti-
tion.

copy thereof had been left with him, her, or them, if he, she, or they could be found, or if not, that such notice had been given to, and a copy left with the wife, son, or daughter, being of the age of twenty-one years, or upwards, and at the usual place of abode of such as could not be found, or the person in actual possession, not being the demandant of the lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants shall not cause an appearance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his or her declaration, the Court may proceed to examine his, or her title, and the quantity demanded, and shall give judgment by default, for so much as he or she shall appear to them to have a right to, and award a writ to make partition, which being executed, after eight days notice given to the persons mentioned before, judgment final shall thereupon be given, which shall be as binding as if it had been given after an appearance and upon a trial, unless any tenant within one year after the first judgment, or being an infant, a married woman, of unsound mind, or out of *Virginia*, within one year after attainment of full age, death of the husband, recovery of understanding, or return to the Country, respectively, by motion to the Court, either admitting the demandant's right and purpart, shall shew inequality in the partition, in which case the Court may award a new partition to be made, and that in presence of all the parties, if they choose to attend it, and the second partition shall be as binding as if the tenant had appeared and pleaded in the first instance, or else shall shew sufficient matter in bar of the partition, or that the demandant hath not title to so much as he or she hath recovered, in which case the Court may suspend or set aside the judgment, and admit the tenant to appear and plead, and the cause shall proceed as if no judgment had been given; and if upon the trial thereof, the Court shall give the same judgment as the first, it shall stand confirmed, and the person or persons, in whose behalf the motion was made, shall be awarded to pay costs.

VII. THE Under-Sheriff, when the High-Sheriff cannot conveniently attend, may in presence of two Justices of the Peace, proceed to the execution of a judgment in partition, by inquisition in due form of law, and the High-Sheriff shall make the same return as if he had acted in person.

When and
how under
Sheriffs may
execute judg-
ments in par-
titions.

VIII. THEY who were tenants of the messuages, lands, tenements, and hereditaments, or any part thereof, before they were divided, shall hold the same of the landlords, to whom they shall be allotted by the partition, in severalty, under the same conditions, rents, covenants, and reservations, and the landlords shall warrant the several parts unto the tenants, as they were bound to do by leases or grants, respectively: And any demandant who was tenant, in actual possession, to the tenant to the action, for his purpart of the messuages, lands, tenements, and hereditaments, divided by virtue of a writ of partition, or any part thereof, shall hold it for the same term, and under the same conditions and covenants when it shall be allotted in severalty.

Tenants to
hold of land-
lords, to whom
they may be
allotted.

C H A P. XXV.

An Act providing that Actions popular prosecuted by Collusion, shall be no Bar to those which be pursued with good Faith.

[Passed the 28th of November, 1786.]

I. **B**E it enacted by the General Assembly, That if any person hereafter sue with good faith any action popular, and any Defendant in the same action, plead any manner of recovery by action popular, in bar of the said action, or that he before that time barred any Plaintiff in any such action popular, then the Plaintiff in the action taken with good faith, may aver that the said recovery, in the said action popular, was had by covin, or else may aver that the said Plaintiff was barred in the said action popular by covin: Then if after, the said collusion or covin so averred be lawfully found, the Plaintiff in that action sued with good faith, shall have recovery according to the nature of the action, and execution upon the same, in like wise and effect as though no such afore had been had. *Provided always*, That no Plaintiff be in any wise received to aver any covin, in any action popular, where the point of the same action, or else the covin or collusion shall have been once tried, or lawfully found with the Plaintiff, or against him by trial of twelve men, and not otherwise.

Plaintiff to a
plea of reco-
very, may re-
ply that it was
had by covin.

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Penalty for
compounding
or discontinu-
ing actions for
certain penal-
ties.

II. IF the Profecutor of an action or information, for the recovery of any penalty not wholly appropriated to the use of fuch Proprietor, fhall compound with the offender; or direct fuch fuit or information to be difcontinued, unlefs it be by leave of the Court wherein the faid fuit or information fhall be depending, fuch Profecutor fhall be liable for fo much of the penalty to the Commonwealth, or any other, as they would have been entitled to, if the Defendant had been convicted.

C H A P. XXVI.

An Aët declaring when the Death of Persons abfenting themselves fhall be prefumed.

[Paffed the 1ft of December, 1786.]

BE it enacted by the General Affembly, That any person abfenting himfelf beyond fea, or elfewhere, for feven years fucceffively, fhall be prefumed to be dead, in any cafe wherein his death fhall come in queftion, unlefs proof be made that he was alive within that time. But an eftate recovered in any fuch cafe, if in a fubfequent action or fuit, the person prefumed to be dead, fhall be proved to be living, fhall be reftored to him who fhall have been evicted; and he may moreover demand and recover the rents and profits of the eftate, during fuch time as he fhall have been deprived thereof, with lawful intereft.

C H A P. XXVII.

An Aët for reforming the Method of proceeding in Writs of Right.

[Paffed the 2d of December, 1786.]

I. **B**E it enacted by the General Affembly, That for trial of difputed titles to lands in a more fimple mode than that which hath moft commonly been ufed of late, the claimant or demandant of an eftate in fee fimple may fue forth againft the poffeffor or tenant a writ of *præcipe quod reddat*; which iffuing from the General Court fhall be in this form, or to this effect,

Form of the
writ.

THE Commonwealth of Virginia, to the Sberiff of E. greeting: Command C. D. that he juftly and without delay, render unto A. B. tenement containing of land, with the appurtenances in the County of E. which he claimeth to be his right, and whereof he complaineth that the aforefaid C. D. doth withhold the poffeffion. And, unlefs, he fhall do fo then fummone the faid C. D. that he appear before the Juftices of our General Court, at on the day of the next Court, to fhew wherefore he hath not done it. And have you then there this writ. Witnefs Chief Juftice of our faid Court, at the day of in the year ."

And iffuing from the Court of a County, City, or Borough, in the like form, with neceffary alterations; and fhall be directed to the Sheriff of that County, or the proper officer of that City or Borough, wherein the Tenant refideth, or that wherein was his laft place of abode. Upon which writ the Count fhall be in this form, or to this effect;

Count.

E. to wit: A. B. by F. G. his Attorney, demands againft C. D. tenement, containing of land, with the appurtenances, in the County of E. and bounded by And whereupon the faid A. B. faith that he hath right to have the tenement aforefaid, with the appurtenances, and offereth proof that fuch is his right.

If feveral tenements be demanded in the fame Count, the contents, f Situations, and boundaries of each fhall be inferted therein. To which Count the Tenant may plead in this form, or to this effect;

Plea.

AND the aforefaid C. D. by H. I. his Attorney, cometh and defendeth the right of the faid A. B. when and where it behooveth him, and all that concerneth it, and whatfoever he ought

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to defend, and chiefly the tenement aforesaid, with the appurtenances as of right, namely tenement containing _____ of land in the County of E. and bounded by _____ and putteth himself upon the affize, and prayeth recognition to be made, whether he hath greater right to hold the tenement aforesaid with the appurtenances, as he now holdeth it (or them) or the said A. B. to have it as he now demandeth it (or them.)")

And to such plea the replication shall be in this form, or to this effect;

AND the aforesaid A. B. in like manner putteth himself upon the affize, and prayeth recognition to be made whether he hath greater right to hold the tenement aforesaid as he demandeth, or the said C. D. as he holdeth it (or them.)")

Replication.

Whereupon twelve good and lawful men, qualified as Jurors are required to be, shall be elected, tried, and charged, as the manner is, to make recognition of the affize; which charge shall be in this form, or to this effect:

Jury.

YOU shall say the truth, whether C. D. hath more right to hold the tenement, which A. B. demandeth against him, by his Writ of Right, or A. B. to have it (or them) as he demandeth."

Charge to the jury.

And at the trial, any matter may be given in evidence which might have been specially pleaded. And upon the verdict, or in the case of a demurrer, the like judgment shall be given, and upon such judgment, the like execution awarded, as in case of a writ of right; and the party, for whom judgment shall be given, shall recover his costs of suit; and the Demandant, if he recover his seisin, may also recover damages to be assessed by the recognitors of affize, for the Tenants withholding possession of the tenement demanded.

What might have been specially pleaded may be given in evidence. Judgment, execution, costs and damages.

II. WHERE the *præcipe quod reddat* shall issue from the General Court, if return thereof be made that the Tenant is not found in the bailiwick of the Officer to whom it was directed, the Demandant may sue forth a writ of *exigi facias* in this form, or to this effect;

Mode of proceeding if return be made that the tenant is not found.

THE Commonwealth of Virginia, to the Sheriff of E. greeting: We command you that you cause C. D. to be required, from County Court to County Court, until five Courts be passed, if he doth not appear, and if he doth appear, then summon him that he be before the Justices of our General Court, at _____ on the _____ day of the next Court, to shew wherefore he hath not rendered unto A. B. _____ tenement containing _____ of land, with the appurtenances, in the County of E. And have you then there this writ. Witness _____ Chief Justice of our said Court, at _____, the _____ day of _____, in the year _____."

And when the residence or last place of abode of the Tenant shall be out of the County, in which the land demanded lieth, a like writ of *exigi facias* shall also be directed to the Sheriff of the latter County, and in either case a copy of such writ shall within four weeks after the teste thereof, be printed in the Virginia Gazette; and the said writ or writs of *exigi facias* being returned in due form, and being printed as aforesaid, if the Tenant shall not appear at the Court to which the same is or are returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant.

III. WHERE the *præcipe quod reddat* shall issue from the Court of a County, City, or Borough, if return thereof be made that the Tenant is not found in the bailiwick of the officer to whom it was directed, the Demandant may sue forth a new *præcipe* every Court, for five Courts following, successively, if the Tenant be not by one or other of them before summoned; and when the residence or last place of abode of the Tenant shall be out of the County, City, or Borough, in which the land demanded lieth, a *testatum præcipe* shall also be directed to the Sheriff or proper Officer of the latter County, City, or Borough; and in either case a copy of the first of the said five *præcipes*, shall within four weeks after the teste thereof, be printed in the Virginia Gazette, and a copy of that and every other of them, shall, within fourteen days after the teste of each, be set up at the door of his Court-house by the Officer to whom it shall be directed, and who by an endorsement on such writ, shall be required by the Clerk to do so; and return of the said five writs being made that the Tenant is not found in the bailiwick or bailiwicks of the Officer or Officers, to whom they were directed, and that they had been set up as is before directed, and the first of them being printed as aforesaid, if the Tenant shall not appear at the Court to which some one of the said writs was returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant; but if the Tenant, against whom, without having appeared, or

Judgments against tenants in uncertainties.

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no bar to actions brought by them.

without having been summoned, any such judgment shall be rendered, shall be out of *Virginia*, at the time of the suit brought, the judgment shall be no bar to an action commenced by him, or any claiming under him, to be restored to the land recovered, within a year and a day after he or they shall come into the Country, or remaining out of it, within seven years after the judgment; in which action, or in a separate one, damages may also be recovered.

Judgments by default.

IV. IF the Tenant whether summoned or not shall appear, and afterwards make default, judgment shall be entered against him; and if having been summoned he shall not appear, the Court shall make an order, that, unless he appear at the then next Court, (a) or *see* judgment shall be entered against him, which shall be entered accordingly, if a copy of that order being delivered to him, or left at the place of his usual abode, fifteen days, or more, before such next Court, and affidavit thereof being made, he shall not then appear.

Reservation of the rights of infants, *femes covert*, and lunatics.

V. IF the Demandant or Tenant, against whom any such judgment shall be rendered, at the time of the suit brought, shall be an infant, a married woman, or a person of unsound mind, the judgment shall be no bar to another action, commenced within five years after attainment of full age, discovery, or recovery of understanding, or within the same time after the death of such privileged person.

C H A P. XXVIII.

An Act for the Suppression and Punishment of Riots, Routs, and unlawful Assemblies.

[Passed the 4th of December, 1786.]

Duty of the Justices in suppressing Riots, Routs, &c. and in punishing the offenders;

I. **B**E it enacted by the General Assembly, That if any Riot, Assembly, or Rout of People, against the law, be made in any part of the Commonwealth, the Justices of Peace, three, or two of them at the least, and the Sheriff, or Under-Sheriff of the County, or Serjeant of a Corporation, as the case may be, where such Riot, Assembly, or Rout shall be made, shall come with the power of the County, (if need be) to arrest them, and shall arrest them; and the same Justices and Sheriff, Under-Sheriff, or Serjeant, shall have power to record that which they shall find so done in their presence against the Law, by which record such trespassers and offenders shall be convicted, and shall be taken and put in the Jail of the same County or Corporation, there to abide for so long time as shall be limited by a Jury, to be sworn by the Judges, for that purpose, and further until they shall have paid such amercement as the same Jury shall assess.

II. AND if it happen that such trespassers and offenders be departed before the coming of the said Justices and Sheriff, Under-Sheriff, or Serjeant, the same Justices, three, or two of them, shall diligently enquire within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to Law; and for this purpose the Sheriff, or Serjeant, having a precept directed to him, shall return twenty-four fit persons, twelve of whom having been sworn, shall enquire of the said riot, rout, or unlawful assembly, and award against those whom they shall find guilty thereof, due pains, by amercement and imprisonment, as is before directed; and if so many of them should not appear, those who make default, shall be fined by the same Justices, five pounds each; and if the default be in the Sheriff, Under-Sheriff, or Serjeant, he shall forfeit to the Commonwealth, twenty pounds.

How they shall be prosecuted in the General Court, in case they be not convicted and punished by the Justices.

III. AND if the said riot, rout, or unlawful assembly, be not found by the said Jury, by reason of any maintenance, embracery, partiality, or other misbehaviour of the said Justices, then the said Justices, and the Sheriff, Under-Sheriff, or Serjeant, shall certify the whole matter and circumstances to the General Court, and also the names of the maintainers and embracers in that behalf, if any be, with their misdemeanours that they know, in order that they may be duly prosecuted, upon pain of every of the said Justices and Sheriff, Under-Sheriff, or Serjeant, to forfeit twenty pounds, if they have no reasonable excuse for not certifying the same, which certificate shall be of like force as the presentment of a Grand

(a) The words "or see" are in the roll, but it is supposed were inserted by mistake.

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Jury; and thereupon the said trespassers and offenders being put to answer, they which shall be found guilty, shall be punished by imprisonment and amercement, according to the discretion of a Jury, as is before directed; and if the same trespassers do not appear before the General Court at the first precept, then shall another precept be directed to the Sheriff of the County, to take the said trespassers and offenders, if they may be found, and to bring them at a certain day before the General Court; and if they cannot be found, the Sheriff, Under-Sheriff, or Serjeant, shall make Proclamation in his full County, or Corporation, next ensuing the delivery of the second precept, that they shall appear before the General Court on a day named; and in case the same offenders come not as afore is said, and the Proclamation made and returned, they shall be convicted and attainted of the riot, assembly, or rout afore said.

IV. AND moreover the Justices of Peace in every County or Corporation, where such riot, assembly, or rout of people shall be made, in case the same be made in their presence, or if none be present, then the Justices having notice thereof, together with the Sheriff, Under-Sheriff, or Serjeant, of the same County or Corporation, shall do execution of this act, every one upon pain of twenty pounds, to be paid to the Commonwealth, as often as they shall be found in default of the execution of the said act.

Penalty on Justices for neglect of the duties prescribed by this Act.

V. AND on such default of the Justices and Sheriff, Under Sheriff, or Serjeant, a commission shall go from the General Court at the instance of the party grieved, to enquire as well of the truth of the case, and of the original matter for the party complainant, as of the default or defaults of the said Justices, Sheriff, Under-Sheriff, or Serjeant, in this behalf supposed, to be directed to sufficient and indifferent persons at the nomination of the Judges; and the said Commissioners presently shall return into the General Court the inquests and matters before them in this behalf taken and found:

Duty of the General Court in case of such neglect.

VI. But no persons convicted of a riot, rout, and unlawful assembly, shall be imprisoned for such offence by a longer space of time than one year. Persons legally convicted of a riot, rout, or unlawful assembly, otherwise than in the manner directed by this Act, shall be punished by imprisonment and amercement, at the discretion of a Jury, under the like limitation.

Persons convicted of Riots, may be imprisoned for one year.

C H A P. XXIX.

An Act prescribing a Method of protesting Inland Bills of Exchange, and allowing Assignees of Obligations to bring Actions thereupon in their own Names.

[Passed the 4th of December, 1786.]

I. **B**E it enacted by the General Assembly, That if a Bill of Exchange, for the sum of five pounds, or upwards, dated at any place in *Virginia*, drawn upon a person at any other place therein, expressed to be for value received, and payable at a certain number of days, weeks, or months after date, being presented to the person, upon whom it shall be drawn, shall not be accepted by subscribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the Bill, or being accepted in that manner, and not otherwise, shall not be paid before the expiration of three days after it shall become due, the person to whom it shall be payable, or his Agent, or Assigns, may cause the Bill to be protested by a Notary Public, or if there be no such, by any other person in presence of two or more credible witnesses, for non-acceptance, in the form or to the effect following, written under a fair copy of the Bill:

Mode of protesting inland bills of exchange.

KNOW all men, that I, _____, on the _____ day of _____, at the usual place of abode of the above named _____, presented to him the Bill, of which the above is a copy, and which the said _____ did not accept, wherefore I the said _____, do hereby protest the said Bill. Dated at _____, this _____ day of _____;

Form of the protest.

Or for non-payment after acceptance, in the same form or to the same effect, except that the words "presented to him the Bill, of which the above is a copy; and which the said _____ did not accept," shall be left out, and instead of them, the words "demanded payment of the Bill, of which the above is a copy, and which the said _____ did not pay," be inserted:

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Notice to the drawer.

Payee neglecting to protest or give notice, liable to costs and damages.

New bills to be given when the first are lost.

Action of debt may be maintained on a note or writing for money or tobacco. Assignments of bonds, bills, &c. valid, and assignees may sue in their own names, allowing just discounts.

And the Drawer, such protest being sent to him, or notice thereof in writing being given to him, or left at the place of his usual abode, within fourteen days thereafter, shall pay the money mentioned in the Bill to the person entitled to it, with interest, at the rate of five *per centum* by the year, from the day of the protest; and he, to whom the Bill shall be payable, neglecting to procure the protest to be made, or due notice thereof to be given, shall be liable for all costs and damages accruing thereby.

II. IF the Bill shall be lost, or shall miscarry, the Drawer shall sign and deliver another of the same tenour, sufficient security being given to indemnify him against all persons who may claim under the former.

III. AN action of debt may be maintained upon a Note or Writing, by which the person signing the same, shall promise or oblige himself to pay a sum of money or quantity of tobacco to another.

IV. ASSIGNMENTS of Bonds, Bills, and Promissory Notes, and other writings obligatory, for payment of money or tobacco, shall be valid; and an Assignee of any such, may thereupon maintain an action of debt, in his own name, but shall allow all just discounts, not only against himself, but against the Assignor, before notice of the assignment was given to the Defendant.

C H A P. XXX.

An Act against conveying or taking pretended Titles.

[Passed the 6th of December, 1786.]

Punishment of those who sell or purchase pretended titles to lands or tenements.

BE it enacted by the General Assembly, That no person shall convey or take, or bargain to convey or take, any pretended title to any lands or tenements, unless the person conveying or bargaining to convey, or those under whom he claims, shall have been in possession of the same, or of the reversion or remainder thereof, one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the Commonwealth, and the other to him who will sue as well for himself as for the Commonwealth: But any person lawfully possessed of lands or tenements, or of the reversion or remainder thereof, may nevertheless take or bargain to take the pretended title of any other person, so far, and so far only, as it may confirm his former estate.

C H A P. XXXI.

An Act against Usury.

[Passed the 8th of December, 1786.]

Rate of legal interest;

Bonds, contracts, conveyances, &c. for a greater rate, void.

Penalty on person's taking a greater rate.

I. **B**E it enacted by the General Assembly, That no person shall hereafter, upon any Contract, take directly or indirectly, for loan of any money, wares, or merchandise, or other commodity, above the value of five pounds, for the forbearance of one hundred pounds for a year, and after that rate for a greater or lesser sum, or for a longer or shorter time; and all Bonds, Contracts, Covenants, Conveyances, or Assurances hereafter to be made, for payment or delivery of any money, or goods, so to be lent, on which a higher interest is reserved or taken, than is hereby allowed, shall be utterly void.

II. IF any person shall, by any way or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive, for the loan of, or giving day of payment for money, wares, merchandise, or other commodity, above the rate of five pounds for one hundred pounds for one year, every person so offending, shall forfeit double the value of the money, wares, merchandise, or commodity so lent, exchanged, or shifted; one moiety to the use of the Commonwealth, and the other to the informer, to be recovered with costs.

1786.

III. ANY Borrower of money, or goods, may exhibit a Bill in Chancery against the Lender, and compel him to discover upon oath, the money or thing really lent, and all bargains, contracts, or shifts which shall have passed between them, relative to such loan, or the re-payment thereof, and the interest or consideration for the same; and if thereupon, it shall appear, that more than lawful interest was reserved, the Lender shall be obliged to accept his principal money, without any interest, or other consideration, and pay costs, but shall be discharged of all other penalties of this Act.

How relief
may be obtain-
ed against un-
usual con-
tracts.

IV. EVERY Broker, Solicitor, or Driver of Bargains, who shall hereafter directly or indirectly, take or receive more than the rate or value of five shillings, for brokerage, or soliciting the loan or forbearance of one hundred pounds for a year, or above one shilling for making or renewing the Bond or Bill, for such loan or forbearance, or for any Counter-Bond or Bill, concerning the same, shall forfeit for every offence, twenty pounds to the Commonwealth and informer, to be recovered and divided, as herein before is mentioned.

Rates of bro-
kerage on
loans.

1787.

General Assembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 15th Day of October, in the Year of our Lord, 1787.

C H A P. XXXII.

An Act to supply the Defect of Evidence of the Royal Assent to certain Acts of Assembly under the former Government.

[Passed the 14th of December, 1787.]

Preamble.

I. **W**HEREAS divers Acts of the General Assembly of *Virginia*, as well public as private, were passed during the former regal Government, with clauses therein for their suspension until the Royal approbation thereof respectively should be obtained, a notification of which assent when transmitted hither from Great-Britain, was registered in the Council books of that time; but as most of those books were lost or destroyed during the late war, persons who may be interested to prove the fact of such assent having been obtained, are deprived of that highest species of evidence, whereby many citizens may be involved in expensive and troublesome contentions, and in the private cases purchasers may lose not only their purchase-money, but valuable improvements: For remedy wherein,

What evidence may be received of the royal assent to certain Acts passed under the former government.

II. *BE it enacted by the General Assembly*, That from and after the passing of this Act, when in any Court of Law or Equity a question shall arise, whether an Act of Assembly passed with a clause suspending such Act until the Royal approbation thereof was obtained, hath received such approbation, every such question shall be discussed upon such evidence and circumstances as may be produced by the parties, without requiring either party to shew the official assent to such Act, or a certificate from the Council books that such assent was registered therein; any law, usage, or custom, to the contrary notwithstanding.

C H A P. XXXIII.

An Act for the Relief of Persons who have been, or may be injured by the Destruction of the Records of County Courts.

[Passed the 17th of December, 1787.]

Preamble.

I. **W**HEREAS the records of several County Courts within this Commonwealth, and other papers of consequence, have been, or may be destroyed by fraud, accident, or otherwise, to the great injury of the Citizens of this Commonwealth: For relief, therefore, of such persons whose estates, titles, or interests have been, or may be affected thereby;

County Courts to admit to record deeds, wills, bonds and other papers which have been recorded, or filed where the records

II. *BE it enacted by the General Assembly*, That the Courts of the Counties where any such losses may have accrued, or shall hereafter accrue, when any original deeds, with an indorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the Clerk of the Court, or the copies of any deeds with the indorsement so attested, or any wills, with the indorsement of the proof and the order for recording the same so attested, or of any judgment, decree, or order of Court, in like manner attested, or of any inventory or other document before admitted to record in such Court, and of all

bonds, bills, notes, and all other papers necessarily filed in the office of such County, (the original of the same being lost, or otherwise destroyed) shall be produced to them, shall order the Clerk again to record all such original deeds, copies of deeds, or wills, with the said indorsements respectively; and all such copies of judgments, decrees, and orders of the Court of their County, or of inventories or other documents; and the said Clerk, when he shall have recorded any thing in pursuance of this Act, shall indorse on the same that the original had been lost or destroyed, and shall make an entry to the same effect on the record with the thing recorded, which shall have the same operation and effect in Law, to all intents and purposes, as the original record would have had.

1787.
have been de-
stroyed.

III. *AND be it also enacted*, That the Clerks of the several Counties shall do and perform the services in this Act mentioned, for the same fees that are allowed by law in other cases, for a copy of any thing herein beforementioned; and in like manner, shall take no other or greater fee for recording any deed which hath been already recorded, or shall be made only by occasion of the misfortune aforesaid, for settling the right or title of any person or persons whatsoever, to lands and tenements, slaves, or goods and chattels, than in other cases is, or shall be allowed by Law for the copy of any such deed; any law, usage, or custom, to the contrary notwithstanding.

Clerks fees for
record...g
them.

IV. *AND be it further enacted*, That it shall and may be lawful for the Governor, with the advice of Council, to issue one or more commissions, as the case may require, under the seal of the Commonwealth, to nine able and discreet persons directed, giving them, or any of them full power and authority to meet at some convenient place, by them to be appointed, and to adjourn from time to time as they shall think fit, and to summon, hear, and examine all witnesses, at the instance of any person, touching the premises, and to take their depositions in writing, and to return the same with such commission or commissions, to the Executive; which depositions shall be by them laid before the General Assembly at the next Session, to the end that they may be enabled to grant such effectual relief to the sufferers by the loss of the said records as to them shall seem just and reasonable. And the said commissioners shall have power to appoint some person skilled in clerkship, to attend them for keeping a journal of their proceedings, and drawing the depositions aforesaid; which person shall be paid for his services by each County respectively.

Governor and
Council to ap-
point commis-
sioners to take
depositions
respecting re-
cords destroy-
ed.

Depositions
be laid before
the General
Assembly.

C H A P. XXXIV.

An Act to authorise the Establishment of Fire Companies.

[Passed the 7th of January, 1788.]

I. **W**HEREAS the danger to which the several towns within this Commonwealth are exposed from fire, is chiefly occasioned by the want of Fire-Companies duly organized, and it is necessary that such companies be incorporated, in order to give them their full effect: *Be it enacted*, that it shall be lawful for any number of persons resident within any Town, Borough, or Corporation, within this Commonwealth, exceeding forty persons, to form themselves into a company or companies for the purpose of extinguishing fire, who on having their names and subscriptions recorded in the Court of the County or Corporation where they reside, are hereby authorised to make such rules and regulations as to a majority of the said company or companies may seem proper and necessary for the procuring of Engines, and other necessary implements for working the said Engines, and exercising the companies raised. And that all fines and forfeitures for non-attendance or delinquency imposed by the said regulations, not exceeding twenty-five shillings, shall be recoverable before a single Magistrate on proof of such delinquency, which said fines and forfeitures shall be applied to the purposes of their institutions.

Preamble.

Fire-Compa-
nies, how to be
formed.

May establish
rules for their
government.

Fines incurred
by the mem-
bers, how re-
coverable.

II. *PROVIDED always*, That all Bye-laws or rules to be made by virtue of this Act, which are contrary to the Constitution or Laws of the Commonwealth, shall be null and void.

Bye-laws not
to contravene
the constitution
or laws

1788.

General Assembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 20th Day of October, in the Year of our Lord, 1788.

C H A P. XXXV.

An Act to prevent the Importation of Convicts into this Commonwealth.

[Passed the 13th of November, 1788.]

Preamble.

I. **W**HEREAS it has been represented to this General Assembly, by the United States in Congress, that a practice has prevailed, for some time past, of importing felons convict into this State, under various pretences, which said felons convict so imported have been sold and dispersed among the people of this State, whereby much injury hath been done to the morals, as well as the health, of our fellow-citizens: For remedy whereof, *Be it enacted*, that from and after the first day of *January* next, no Captain or Master of any vessel, or any other person, coming into this Commonwealth, by land or by water, shall import, or bring with him, any person who shall have been a felon convict, or under sentence of death, or any other legal disability incurred by a criminal prosecution, or who shall be delivered to him from any prison or place of confinement, in any place out of the United States.

No felons convict, under sentence of death, or other legal disability to be brought into the state.

Punishment of those who bring them or offer them for sale.

II. *AND be it further enacted*, That every Captain or Master of a vessel, or any other person, who shall presume to import, or bring into this Commonwealth, by land or by water, or shall sell or offer for sale, any such person as above described, shall suffer three months imprisonment, without bail or mainprize, and forfeit and pay for every such person so brought and imported, or sold or offered for sale, the penalty of fifty pounds current money of *Virginia*, one half to the Commonwealth, and the other half to the person who shall give information thereof; which said penalty shall be recovered by action of debt, or information, in any Court of Record, in which the Defendant shall be ruled to give special bail.

C H A P. XXXVI.

An Act to disable certain Officers under the Continental Government from holding Offices under the authority of this Commonwealth.

[Passed the 8th of December, 1788.]

Preamble.

I. **W**HEREAS the good people of this Commonwealth, in Convention assembled, did on the twenty-fifth day of *June* last, ratify a Constitution for the Government of the United States of *America*, the operations of which will soon commence; and whereas it is judged expedient and necessary that all those who shall be employed in the administration of the said Government, ought to be disqualified from holding or administering any office or place whatsoever under the Government of this Commonwealth:

Officers under the United States incapable of holding offices under

II. *BE it therefore enacted by the General Assembly*, That the members of the Congress of the United States, and all persons who shall hold any Legislative, Executive, or Judicial Office, or other Lucrative Office whatsoever under the authority of the United States, shall be ineligible to, and incapable of holding any Seat in either House of the General As-

1788.

sembly, or any Legislative, Executive, or Judicial Office, or other Lucrative Office whatsoever under the Government of this Commonwealth. *Provided nevertheless*, that such disqualification shall not extend to militia Officers, or the Magistrates of County Courts.

the Government of the State. Disqualification not to extend to militia Officers or Magistrates.

C H A P. XXXVII.

An Act concerning the Credentials of the Senators, of this Commonwealth in Congress.

[Passed the 22d of December, 1788.]

I. **B**E it enacted by the General Assembly, That so soon as any election shall be made of Senators for this Commonwealth, in pursuance of the Constitution of the United States of America, the Clerk of the House of Delegates shall notify the same to the Governor, who shall cause a Credential to be made out, and the Seal of the Commonwealth affixed thereto, shall sign the same, and cause it to be delivered to each Senator; which Credential shall be in the words following:

Governor to cause credentials to be delivered to the Senators.

VIRGINIA, to wit: The Legislature of this Commonwealth, on the _____ day of _____, one thousand seven hundred and _____, having, in pursuance of the Constitution for the United States of America, chosen _____, Esquire, a Senator, I, _____, being Governor or Chief Magistrate of the Commonwealth, do hereby certify the same to the Senate of the said United States. Given under my hand, and the seal of the Commonwealth, this _____ day of _____, one thousand seven hundred and _____.

Form of credentials;

A like notification shall be made, and a like Credential shall be delivered to Richard Henry Lee, and William Grayson, Esquires, respectively, who have been chosen Senators for this Commonwealth.

II. WHENEVER the Executive shall, by virtue of the said Constitution, make a temporary appointment of a Senator, a Credential shall be prepared with the forms and solemnities aforesaid, and shall be delivered to such temporary Senator, in the words following:

VIRGINIA, to wit: A. B. Esquire, who was duly chosen a Senator for this Commonwealth, in pursuance of the Constitution for the United States of America, having died (resigned, or otherwise, as the case may be) during the recess of the Legislature of the Commonwealth, I, _____, being Governor or Chief Magistrate of the Commonwealth, have therefore thought fit, by and with the advice and consent of the Privy Council, or Council of State, and by virtue of the said Constitution, to appoint _____, Esquire, to be and act as a Senator for the Commonwealth, until the next meeting of the Legislature thereof. Given under my hand, and the seal of the Commonwealth, this _____ day of _____, one thousand seven hundred and _____.

In case of temporary appointments.

C H A P. XXXVIII.

An Act allowing travelling Expences to the Judges of the General Court.

[Passed the 23d of December, 1788.]

I. **B**E it enacted by the General Assembly, That in consideration of the additional services to be performed by the Judges of the General Court, as Judges of the District Courts, they shall receive (exclusive of their salaries established by Law) each the sum of sixpence per mile, for travelling to and from the Courts of their respective Circuits.

Judges allowed six-pence per mile.

II. THE Treasurer shall half yearly advance to each of the said Judges upon the allowance hereby made to them, a sum for travelling expences, not exceeding twenty-five pounds, to be accounted for by them respectively.

Treasurer to advance half yearly money for travelling expences

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C H A P. XXXIX.

An Act concerning the Election of Members of the General Assembly.

[Passed the 25th of December, 1788.]

Preamble.

I. **W**HEREAS the mode of contesting disputed Elections hath heretofore been found to be attended with great inconvenience and delay, *Be it enacted by the General Assembly*, that any person intending to contest the Election of any person returned to serve as a Senator or Delegate, from any County, shall, within twenty days after the assembling of the Sheriffs to make a return in the former case, or within ten days after the day of Election in the latter, give to the person returned to serve notice thereof in writing, and moreover shall deliver to him at the same time, a list of those persons to whose votes he hath objection, distinguishing his several objections against the names of the voters; and where he hath any other objection to the legality of the Election, or the eligibility of the person returned, as aforesaid, he shall, in like manner, give notice thereof, distinguishing his particular objections; and the person returned as aforesaid, shall, within twenty days after receiving such notice, deliver the like lists on his part.

Notices & lists of exceptionable votes to be delivered by each to the other.

Commissioners to take depositions, how to be appointed

II. **W**HERE the contest is for the office of a Senator, any one or more of the Courts in the Senatorial District, or where it is for the office of a Delegate, the Court of the County, shall, upon the application of either party, appoint five Commissioners to take the depositions of such witnesses as shall be produced to them, any three of which said Commissioners shall be sufficient for the purpose. But no Commissioner shall act without having first taken, before some Justice, an oath to act impartially. Reasonable notice, in writing, of the time and place of taking such depositions, shall be given, by either party, to the other.

Notices how to be given.

III. **N**OTICE in any of the cases before-mentioned, as well as the lists, left with his wife, or any other free person over the age of twenty-one years, belonging to his family, other than a Negro or Mulatto, or, in case of their absence, then at the dwelling-house, shall be deemed sufficient. The depositions shall be certified by the Commissioners taking the same, sealed up and sent by them to the Clerk of that House of which the person was returned a Member, without delay.

Complaints when to be lodged.

IV. **C**OMPLAINT shall be lodged against a Member within ten days after the meeting of the Assembly, where the contested Election shall have been holden at the stated annual period, or within twenty days after the Election, where such Election shall have been holden in consequence of an intermediate vacancy; and the depositions taken as aforesaid, shall be, by the Clerk of each House, respectively, delivered to the Speaker thereof, to be committed with the petition of the party complaining, and shall be received and read as evidence upon the hearing thereof; subject, however, to the exceptions of the opposite party.

Witnesses how summoned and privileged.

V. **S**UBPOENAS for witnesses shall be issued by the Clerks of the County Courts upon the application of either party. And the witnesses shall be entitled to the same allowance, be privileged from arrests, and be subject to the like penalties, as witnesses attending the County Courts.

Penalty for voting twice at elections.

VI. **I**F any person shall vote a second time, at any Election, for Members of the General Assembly, he shall forfeit and pay ten pounds, to be recovered, with costs of suit, in any Court of Record, by action of debt, bill, plaint, or information, to the use of the person who will sue for the same.

VII. *AND be it further enacted*, That the Sheriff conducting the Election in any County in the District of *Kentucky*, shall, at the request of any one or more of the Candidates, adjourn the Election until the next day, although the Electors who appear be not too numerous to be polled before sun-setting, or there be no rain, or rise of water courses.

County Courts may remit penalties for not voting.

VIII. *AND be it further enacted*, That the several County Courts shall be empowered, for good cause to them shewn, to remit any penalty incurred by a Freholder, for not having given his vote at any Election for a Delegate or Senator, according to law.

1788.

Repealing
clause.

IX. SO much of every Act and Acts, as comes within the purview of this Act, shall be, and the same is hereby repealed.

C H A P. XL.

An Act concerning the Territory ceded by this Commonwealth to the United States.

[Passed the 30th of December, 1788.]

I. **W**HEREAS the United States in Congress assembled, did, on the seventh day of July, in the year of our Lord one thousand seven hundred and eighty-six, state certain reasons, shewing that a division of the Territory which hath been ceded to the said United States by this Commonwealth, into States, in conformity to the terms of Cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the Act of Cession, so far as to empower Congress to make such a division of the said Territory into distinct and republican States; not more than five, nor less than three in number, as the situation of that Country and future circumstances might require: And the said United States in Congress assembled, have in an ordinance for the government of the Territory North-west of the river Ohio, passed on the thirteenth of July, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original States, and the People and States in the said Territory, viz.

Preamble.

THAT there shall be formed in the said Territory not less than three, nor more than five States, and the boundaries of the said States as soon as Virginia shall alter her Act of Cession, and consent to the same, shall become fixed and established as follows, to wit: The Western State in the said Territory, shall be bounded by the Mississippi, the Ohio, and Wabash rivers, a direct line drawn from the Wabash and Post Vincent's due North to the territorial line, between the United States and Canada, and by the said territorial line to the Lake of the Wood and Mississippi: The middle State shall be bounded by the said direct line, the Wabash from Post Vincent's to the Ohio, by the Ohio, by a direct line drawn due North from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The Eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line. Provided however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies North of an East and West line, drawn through the Southerly bend or extreme of lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States in all respects whatsoever, and shall be at liberty to form a permanent Constitution and State Government, provided the Constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

And it is expedient that this Commonwealth do assent to the proposed alteration so as to ratify and confirm the said Article of Compact between the original States, and the People and States in the said Territory.

II. *BE it therefore enacted by the General Assembly, That the afore-recited Article of Compact between the original States, and the People and States in the Territory North-west of Ohio river, be, and the same is hereby ratified and confirmed, any thing to the contrary, in the deed of Cession of the said Territory by this Commonwealth to the United States, notwithstanding.*

An article of the compact between the United States and the people & states North West of the Ohio, ratified by this Commonwealth,

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General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 19th Day of October, in the Year of our Lord, 1789.

C H A P. XLI.

An Act for the safe keeping of Prisoners committed under the Authority of the United States, into any of the Jails of this Commonwealth.

[Passed the 12th of November, 1789.]

Jailors to receive prisoners of the United States.

I. **B**E it enacted by the General Assembly, That it shall be the duty of the Keeper of the Jail in every District, County, or Corporation within this Commonwealth, to receive into his custody any prisoner or prisoners, who may be from time to time committed to his charge, under the authority of the United States, and to safe keep every such prisoner or prisoners according to the warrant or precept of commitment, until he shall be discharged by the due course of the laws of the United States.

Penalties on them for neglect of duty.

II. *AND be it further enacted*, That the Keeper of every Jail aforesaid, shall be subject to the same pains and penalties for any neglect or failure of duty herein, as he would be subject to, by the laws of this Commonwealth, for a like neglect or failure, in the case of a prisoner committed under the authority of the said laws.

United States to pay for the use of the jail, and to support prisoners committed for offences.

III. *PROVIDED always*, That the United States do pay or cause to be paid for the use and keeping of such Jails, at the rate of fifty cents per month, for each prisoner, that shall under their authority be committed thereto, during the time such prisoner shall be therein confined, and moreover, do support such of the said prisoners, as shall be committed for offences.

C H A P. XLII.

An Act authorising the Governor of this Commonwealth, to convey certain Land to the United States, for the purpose of building a Light-House.

[Passed the 13th of November, 1789.]

The Governor to convey land at Cape Henry to the United States.

I. **B**E it enacted by the General Assembly, That it shall and may be lawful for the Governor of this Commonwealth, and he is hereby fully authorized, for and in behalf of this Commonwealth, by proper deeds and instruments in writing, under his hand and the Seal of this Commonwealth, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the use of the said United States, all interest in, and right and title to, as well all the jurisdiction which this Commonwealth possesses, over so much of the public lands, not exceeding two acres, situate, lying and being in the County of *Princess Anne*, at a place commonly called the head land of *Cape Henry*, as shall be sufficient to erect a Light-House, subject to the terms and conditions following; that is to say, that a Light-House shall be erected upon the said land, and that all charges and expences of building, and re-building, when necessary, and keeping in good repair, the said Light-House, together with the salaries, wages or hire of the person or persons appointed by the President of the United States for the superintendance and care of the same, and all

United States to build thereon a Light-House; to support, repair and rebuild it when necessary.

1789.

the necessary supplies, with which a Light-house ought to be furnished, shall be defrayed out of the Treasury of the United States: If a Light-house shall not be erected within the space of seven years, after the Cession of the said two acres of land, by this Commonwealth to the United States in Congress assembled, or if at any time thereafter, the said Light-house, shall be suffered to fall into decay, or be rendered useless, as to the purposes for which it is to be erected, and so continue for the aforesaid period of seven years, then and in those cases, the property in the soil and jurisdiction, over the territory hereby directed to be vested in the United States in Congress assembled, shall revert to this Commonwealth, and be considered as the property, and subject to the jurisdiction of the same, in like manner, as if this Act had never been made.

If not built within seven years, or rendered useless for the same period, the land to revert to the Commonwealth.

II. *PROVIDED*, That nothing in this Act contained, shall be construed to affect the right of this State to any materials heretofore placed at or near *Cape Henry*, for the purpose of erecting a Light-house; and that the Citizens of this Commonwealth shall not, in consequence of this Cession, be debarred from the privileges they now enjoy, of hauling their seines and fishing on the shores of the said land so ceded by this Act, to the United States, for the purpose of building a Light-house.

The right of the state to certain materials lying thereon, and of its citizens to fish on the shores thereof, not to be affected.

C H A P. XLIII.

An Act concerning Homicide by Misfortune.

[Passed the 18th of November, 1789.]

BE it enacted by the General Assembly, That in case it be found by the Country, that any man by misfortune, or in his own defence, or in other manner without felony, did kill another, he shall be acquitted.

Any person killing another without felony, to be acquitted.

C H A P. XLIV.

An Act allowing a Bill of Exceptions to be Sealed.

[Passed the 18th of November, 1789.]

BE it enacted by the General Assembly, That when one impleaded before any Court, and in any cause, where Appeal, Writ of Error, or Superfedeas lies to a higher Court, doth alledge an Exception, praying that the Justices will allow it, if they will not allow it, and he that alledgeth the Exception, do write the same Exception, and require that the Justices will put their seals in testimony thereof, the Justices, or the greater part of them present shall so do; and if such higher Court upon complaint made of the said Justices, cause the Record to come before them, and the same Exception be not found in the roll, and the Plaintiff shew the Exception written, with the seals of the Justices put to it, the Justices shall be commanded, that they appear at a certain day, either to confess or deny their seals; and if the Justices cannot deny their seals, they shall proceed to judgment according to the same Exception, as it ought to be allowed or disallowed.

Bills of exceptions to be sealed.

If exceptions be omitted in the record, Justices to be summoned to confess or deny their seals.

C H A P. XLV.

An Act against those who counterfeit Letters or Privy Tokens, to receive Money or Goods in other Mens Names.

[Passed the 18th of November, 1789.]

I. **W**HEREAS many evil disposed persons, have falsely and deceitfully contrived, devised and imagined Privy Tokens and Counterfeit Letters in other mens names, unto divers persons, their special friends and acquaintances, for the obtaining of money,

Preamble.

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goods and chattels of the same persons, their friends and acquaintances, by colour whereof the said evil disposed persons, have deceitfully and unlawfully obtained and gotten great substance of money, goods and chattels into their hands and possession, contrary to right and conscience:

Any person obtaining another's money or goods by false tokens, to be imprisoned and set upon the pillory.

II. *BE it enacted by the General Assembly*, That if any person or persons, shall falsely and deceitfully obtain or get into his or their hands or possession, any money, goods or chattels of any other person or persons, by colour and means of any such false Token, or Counterfeit Letter, made in any other man's name as is aforesaid, every such person and persons so offending, and being thereof lawfully convicted in the Court of the District, in which such offence shall have been committed, shall have and suffer such correction and punishment, by imprisonment of his body, without bail or mainprize, for any space, not exceeding one year, and setting upon the pillory, as shall be unto him, or them, limited, adjudged or appointed by the said Court.

Person injured, not to lose his remedy by action.

III. *SAVING* to the party grieved by such deceit, such remedy by way of action or otherwise, of and for the same money, goods and chattels so obtained, as he might have had, if this Act had never been made; any thing in the same contained to the contrary, in any wise notwithstanding.

C H A P. XLVI.

An Act against the embezzling of Records.

[Passed the 19th of November, 1789.]

Felony to steal or procure to be stolen any record, writ, or process, whereby any judgment shall be reversed.

BE it enacted by the General Assembly, That if any Record, or parcel of the same, Writ, Return, Panel, Process, or Warrant of Attorney, in any Court within this Commonwealth be willingly stolen, taken away, withdrawn, or avoided, by any Clerk, or by any other person, because whereof, any judgment shall be reversed, such stealer, taker away, withdrawer, or avoider, their procurers, counsellors and abettors, being thereof indicted, and duly convicted, by their own confession, or by inquest to be taken of lawful men, shall be judged for Felons, and shall incur the pain of felony.

C H A P. XLVII.

An Act concerning the Benefit of Clergy.

[Passed the 27th of November, 1789.]

Benefit of Clergy, in what offences, not allowed to principals in the first degree.

I. **B**E it enacted and declared by the General Assembly, That the Benefit of Clergy shall not be allowed to principals in the first degree, First, in Murder; secondly, or in Burglary; thirdly, or in Arson at common Law; fourthly, or for the wilful burning of any Court-house, or County or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the felonious taking of any goods or chattels out of any Church, Chapel, or Meeting-house belonging thereto; sixthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-place, the Owner or Dweller in the same House or Dwelling-place, his wife, his children, or servants, then being within, and put in fear and dread by the same; seventhly, or for the robbing of any person or persons in or near about any highway; eighthly, or for the felonious stealing of any Horse, Gelding, or Mare; ninthly, or for the felonious breaking of any Dwelling-house by day, and taking away of any goods or chattels, being in any Dwelling-house, the owner or any person being therein and put in fear.

Or in the second degree.

II. THE Benefit of Clergy shall not be allowed to principals in the second degree, in any of the cases abovementioned.

In what offences, not

III. IT shall not be allowed to accessaries before the fact, first, in Murder; secondly, or Burglary; thirdly, or Arson at common Law; fourthly, or for the wilful burning of any

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Court-house, or County, or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-places, the Owner or Dweller in the same Dwelling-house or Dwelling-place, his wife, his children or servants then being within and put in fear and dread by the same; sixthly, or for the robbing of any person or persons in or near about any Highway.

allowed to accessories before the fact.

IV. IT shall be allowed to principals and accessories in all offences which would otherwise be without Clergy, whether the same be newly created by any Act of the General Assembly, or exist under the common Law, unless it be taken away by the express words of some Act of Assembly.

When allowed, unless expressly taken away by Act of Assembly.

V. IT shall not be allowed to any person more than once, except in the following case, that is to say: Whensoever any person shall have been admitted to the Benefit of Clergy, such admission shall not operate as a pardon or discharge for other offences of a Clergyable nature, committed by him before that admission to the Benefit of Clergy, but he shall be again allowed the Benefit of Clergy for every other offence of a Clergyable nature committed by him before that admission to the Benefit of Clergy, and shall be burned in the hand for every such offence.

How often.

VI. BUT if any person who shall have been once admitted to the Benefit of Clergy, shall before that admission have committed any offence, in which the Benefit of Clergy is not allowed by Law, or shall after that admission commit any offence in which the Benefit of Clergy is even allowed by Law, he shall suffer death without the Benefit of Clergy.

VII. A FEMALE shall in all cases receive the same judgment, and stand in the same condition with respect to the Benefit of Clergy, as a Male.

Females entitled to it, in like manner as males.

VIII. A SLAVE shall in all cases receive the same judgment, and stand in the same condition, with respect to the Benefit of Clergy, as a free Negro or Mulatto.

And slaves as free Negroes or Mulattoes.

IX. NOTHING in this Act contained, shall be construed to take away the Benefit of Clergy, from any offence, in which it is now allowed by any Act of the General Assembly, or to allow it in any offence, from which it is now expressly taken away, by any Act of the General Assembly.

Not taken away by this Act, when expressly allowed by any other, or allowed, when expressly taken away.

C H A P. XLVIII.

An Act against such as shall procure or commit wilful Perjury, and against Embracery.

[Passed the 1st of December, 1789.]

I. **B**E it enacted by the General Assembly, That all and every person and persons who shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt Perjury in any matter or cause whatsoever, now depending, or which hereafter shall depend in suit and variance by any writ, action, bill, complaint, or information in any wise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts or damages in any of the Courts of this Commonwealth; or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses which shall be sworn to testify *in perpetuam rei memoriam*, or any criminal prosecution, or in any examination or controversy before a Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, that then every such offender or offenders, shall for his, her, or their said offence, being thereof lawfully convicted, be adjudged to pay a fine not exceeding two hundred pounds, and to suffer imprisonment for the space of one year, without bail or mainprize.

Suborners of witnesses, how punished.

II. *AND* be it further enacted, That if any person or persons, either by the subornation, unlawful procurement, sinister persuasion, or means of any other, or by their own act, consent or agreement, wilfully and corruptly commit any manner of wilful Perjury

Persons guilty of perjury, how punished.

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their oaths not
to be received
in any court.

by his or their deposition in any of the Courts of this Commonwealth, or before any Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, or being examined *in perpetuam rei memoriam*, that then every person and persons so offending, and being thereof duly convicted, shall for his or their said offence be adjudged to pay a fine not exceeding one hundred pounds, and to suffer imprisonment by the space of six months without bail or mainprize, and the oath of such person or persons so offending in any of the cases of perjury or subornation of perjury in this act mentioned, from thenceforth shall not be received in any Court within this Commonwealth, until such time as the judgment given against such person or persons shall be reversed.

Penalty on a
juror taking
any thing for
giving his ver-
dict.

III. IF any Juror upon any Inquest whatsoever shall take any thing by himself, or another to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him, who will sue for the same, and the other half to the Commonwealth.

Embracers,
how punished.

IV. EVERY Embracer who shall procure any Juror to take gain or profit, shall be punished by fine not exceeding two hundred pounds, and imprisonment not exceeding one year.

C H A P. XLIX.

An Act to provide against the Appropriation of Money by Resolution of the Two Houses of Assembly.

[Passed the 3d of December, 1789.]

Preamble.

I. WHEREAS in the passing of those Legislative Acts, which are known under the name of Laws as distinguished from other Acts, which are commonly called Resolutions, certain forms and solemnities have been established for the purpose of obtaining that deliberation which the matter of Laws generally requires; and it hath been the practice of the General Assembly, to grant large sums of money by Resolutions, which are confirmed on a single reading:

No money to
be voted by re-
solution, un-
less there hath
been an appro-
priation by
law.

II. BE it enacted by the General Assembly, That no sum of money shall be voted for any use whatsoever by a Resolution only, except where, by some previous Law, a sum of money shall have been appropriated, and by such Resolution, the whole or a part thereof may be particularly applied, in pursuance of the said Law.

C H A P. L.

An Act for the Cession of Ten Miles Square, or any lesser Quantity of Territory within this State, to the United States, in Congress assembled, for the permanent Seat of the General Government.

[Passed the 3d of December, 1789.]

Preamble.

I. WHEREAS the equal and common benefits resulting from the administration of the general Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the Seat of the said Government, as will be most central and convenient to the Citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake bay, as to the most direct and ready communication with our Fellow-Citizens in the Western Frontier: And whereas it appears to this Assembly, that a situation combining all the considerations and advantages before recited, may be had on the banks of the river Patowmack, above tide water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland and Virginia may participate in such location:

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Tract of country within this state ceded to the United States for the seat of the general Government.

II. *BE it therefore enacted by the General Assembly*, That a tract of country, not exceeding ten miles square, or any lesser quantity, to be located within the limits of this State, and in any part thereof as Congress may by Law direct, shall be, and the same is hereby for ever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil, as of persons, residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of Government of the United States.

Reservation of the rights of individuals to the soil.

III. *PROVIDED*, That nothing herein contained, shall be construed to vest in the United States, any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

When the jurisdiction of the laws of this Commonwealth over the same shall cease.

IV. *AND provided also*, That the jurisdiction of the Laws of this Commonwealth, over the persons and property of individuals residing within the limits of the Cession aforesaid, shall not cease or determine, until Congress, having accepted the said Cession, shall by Law provide for the Government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

C H A P. LI.

An Act for the Relief of Creditors against fraudulent Devises.

[Passed the 17th of December, 1789.]

Preamble.

I. **W**HEREAS it is not reasonable or just, that by the practice or contrivance of any Debtors, their Creditors should be defrauded of their just debts, and nevertheless it hath often so happened, that where several persons, having by Bonds or other Specialties bound themselves and their Heirs, have afterwards died, seized in fee-simple of, and in Messuages, Lands, Tenements, and Hereditaments, or having power or authority to dispose of, or charge the same by their Wills or Testaments, have to the defrauding of such their Creditors by their last Wills or Testaments devised the same, or disposed thereof in such manner as such Creditors have lost their said debts: For remedying of which, and for the maintenance of just and upright dealing,

Devises of lands, &c. void as to creditors.

II. *BE it enacted by the General Assembly*, That all Wills and Testaments, limitations, dispositions or appointments, of, or concerning any Messuages, Lands, Tenements or Hereditaments, or of any rent, profit, term or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seized in fee-simple in possession, reversion, or remainder, or have power to dispose of the same by his, her, or their last Wills or Testaments, shall be deemed and taken (only as against such Creditor or Creditors as aforesaid, his, her and their Heirs, Successors, Executors, Administrators and Assigns, and every of them) to be fraudulent, and clearly, absolutely and utterly void, frustrate and of none effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary, notwithstanding.

Who may sue heirs and devisees jointly.

III. *AND* for the means that such Creditors may be enabled to recover their said debts, *Be it further enacted*, that in the cases beforementioned, every such Creditor shall and may have and maintain, his, her and their action, and actions of debt, upon his, her, and their said Bonds and Specialties, against the Heir and Heirs at Law of such Obligor or Obligors, and such Devisee and Devisees, jointly by virtue of this Act; and such Devisee or Devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any Heir should have been for any false plea by him pleaded, or for not confessing the Lands or Tenements to him descended.

Exception of devises, &c. to pay just debts, or portions in pursuance of any marriage contract.

IV. *PROVIDED always, and be it enacted by the authority aforesaid*, That where there hath been, or shall be any limitation or appointment, devise or disposition, of, or concerning any Messuages, Lands, Tenements or Hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the Heir at Law, according to, or in pursuance of any marriage contract or agreement in writing, *bona fide* made before such marriage, the

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same, and every of them shall be in full force; and the same Messuages, Lands, Tenements and Hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her, and their Heirs, Executors, Administrators, and Assigns, for whom the said limitation, appointment, devise or disposition was made, and by his, her, and their Trustee or Trustees, his, her, and their Heirs, Executors, Administrators, and Assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid and satisfied; any thing in this Act contained to the contrary, notwithstanding.

V. AND whereas several persons being Heirs at Law, to avoid the payment of such just debts, as in regard of the Lands, Tenements, and Hereditaments, descending to them, they have by law been liable to pay, have sold, aliened, or made over such Lands, Tenements, or Hereditaments, before any process was or could be issued out against them:

In what manner an heir is answerable where he alienes the lands descended.

VI. *BE it further enacted*, That in all cases where any Heir at Law shall be liable to pay the debt of his Ancestor in regard of any Lands, Tenements, or Hereditaments, descending to him, and shall sell, aliene or make over the same, before any action brought, or process sued out against him, such Heir at Law shall be answerable for such debt or debts, in an action or actions of debt, to the value of the said Land so by him sold, aliened, or made over; in which cases all Creditors shall be preferred, as in actions against Executors and Administrators, and such Execution shall be taken out upon any judgment or judgments so obtained against such Heir, to the value of the said Land, as if the same were his own proper debt or debts, saving that the Lands, Tenements, and Hereditaments, *bona fide* aliened before the action brought, shall not be liable to such Execution.

Heir may plead *riens per descent*.

Jury to inquire of the value of the lands if found against him; such enquiry unnecessary where there is judgment by confession, or *nihil dicit*. Devisees liable as heirs, in case of alienation of the land.

VII. *PROVIDED always, and be it further enacted*, That where any action of debt upon any specialty is brought against any Heir, he may plead *riens per descent* at the time of the original writ brought, or the bill filed against him, any thing herein contained, to the contrary notwithstanding; and the Plaintiff in such action may reply that he had Lands, Tenements, or Hereditaments from his Ancestor before the original writ brought, or bill filed; and if upon issue joined thereupon, it be found for the Plaintiff, the Jury shall enquire of the value of the Lands, Tenements or Hereditaments so descended, and thereupon Judgment shall be given, and Execution shall be awarded as aforesaid; but if Judgment be given against such Heir by confession of the action, without confessing the assets descended, or upon demurrer or *nihil dicit*, it shall be for the debt and damages, without any writ to enquire of the Lands, Tenements, or Hereditaments, so descended.

VIII. *PROVIDED also, and be it further enacted*, That all and every devisee and devisees made liable by this Act, shall be liable and chargeable in the same manner as the Heir at Law by force of this Act, notwithstanding the Lands, Tenements and Hereditaments to him or them devised, shall be aliened before the action brought.

C H A P. LII.

An Act concerning Awards.

[Passed the 17th of December, 1789.]

A submission to arbitration may be made a rule of any Court of Record.

I. *BE it enacted by the General Assembly*, That it shall and may be lawful for all Merchants, and Traders, and others desiring to end any controversy, suit or quarrel, for which there is no other remedy but by personal action or suit in equity, by arbitration, to agree, that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any Court of Record which the parties shall choose, and to insert such their agreement in their submission or the condition of the bond or promise, whereby they oblige themselves, respectively, to submit to the award or umpirage of any person or persons; which agreement being so made and inserted in their submission or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof made by the witnesses thereunto, or any one of them, in the Court of which the same is agreed to be made a rule, and reading and filing the said affidavit in Court, be entered in the proceedings of such Court, and a rule shall be made thereupon by the said Court, that the

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parties shall submit to and finally be concluded by the arbitration or umpirage, which shall be made concerning them by the arbitration or umpire pursuant to such submission.

II. AND the award made in pursuance of such submission may be entered up as the judgment or decree of the Court, and the same execution or process may issue thereupon as on other judgments or decrees, and the Court shall not invalidate such award, arbitrament, or umpirage, unless it be made appear to such Court, that such award, arbitrament, or umpirage was procured by corruption or other undue means, or that there was evident partiality or misbehaviour in the arbitrators or umpires, or any of them. And any award, arbitrament, or umpirage procured by corruption or other undue means, or where there shall have been such evident partiality or misbehaviour as aforesaid, shall be deemed and judged void and of none effect, and accordingly set aside by the Court in which the submission shall be made, so as complaint of such corruption or undue means, or evident partiality or misbehaviour as aforesaid, be made before the end of the second Court of quarter Sessions in the case of a County Court, or at the end of the second term of any other Court next after such award, arbitrament, or umpirage be made and returned to such Court.

Awards to be entered as the judgment of such court, & execution issued thereon. For what conduct of the arbitrators or umpire, such award may be set aside.

When complaint must be made thereof.

III. PROVIDED nevertheless, That nothing herein contained, shall be construed to take away from Courts of Equity their power over awards, arbitraments, or umpirages.

Not to affect the power of courts of equity over awards.

C H A P. LIII.

An Act concerning the Erection of the District of Kentucky into an Independent State.

[Passed the 18th of December, 1789.]

I. WHEREAS it is represented to this present General Assembly, that the Act of last Session, intituled, "*An Act concerning the Erection of the District of Kentucky into an Independent State,*" which contains terms materially different from those of the Act of October Session, one thousand seven hundred and eighty-five, are found incompatible with the real views of this Commonwealth, as well as injurious to the good people of the said District:

Preamble.

BE it enacted by the General Assembly, That in the month of May next, on the respective Court days of the Counties within the said District, and at the respective places of holding Courts therein, Representatives to continue in appointment for one year, and to compose a Convention with the Powers, and for the purposes herein after mentioned, shall be elected by the free male inhabitants of each County above the age of twenty-one years, in like manner as Delegates to the General Assembly have been elected within said District, in the proportions following: In the County of *Jefferson* shall be elected five Representatives; in the County of *Nelson* five Representatives; in the County of *Mercer* five Representatives; in the County of *Lincoln* five Representatives; in the County of *Madison* five Representatives; in the County of *Fayette* five Representatives; in the County of *Woodford* five Representatives; in the County of *Bourbon* five Representatives, and in the County of *Mason* five Representatives: Provided, that no free male inhabitant above the age of twenty-one years shall vote in any other County, except that in which he resides, and that no person shall be capable of being elected, unless he has been a resident within the said District at least one year.

Representatives to compose a convention, to be elected in the Kentucky district. Qualification of the electors.

Qualification of the representatives.

II. THAT full opportunity may be given to the good people of exercising their right of suffrage on an occasion so interesting to them, each of the Officers holding such Elections, shall continue the same from day to day, passing over Sunday, for five days including the first day, and shall cause this Act to be read on each day immediately preceding the opening of the Election, at the door of the Court-house, or other convenient place. Each of the said Officers shall deliver to each person duly elected a Representative, a certificate of his Election, and shall transmit a general return to the Clerk of the Supreme Court, to be by him laid before the Convention:

Elections to be continued for five days.

Duty of the sheriffs conducting them.

III. FOR every neglect of any of the duties hereby enjoined on such Officer, he shall forfeit one hundred pounds, to be recovered by action of debt, by any person suing for the same.

Penalty on them for neglect.

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The convention to determine on the expediency of erecting the said district into an independent state, on certain conditions.

Boundary between the proposed state & this Commonwealth.

The proposed state to pay part of the debt of the United States and of this Commonwealth.

Rights to lands derived from this Commonwealth to be secured.

How lands of non-resident proprietors are to be taxed,

when forfeited for neglect of cultivation.

Grants of land by this Commonwealth & the proposed state not to interfere.

Unlocated lands appropriated to individuals for military services to be disposed of by this Commonwealth.

Navigation of the Ohio to be free and common.

Commissioners to settle disputes which may arise respecting the foregoing articles.

What number of members necessary to proceed to business, and to determine the question concerning the erection of the

IV. THE said Convention shall be held at *Danville* on the twenty-sixth day of *July* next, and shall and may proceed, after choosing a President and other proper Officers, and settling the proper rules of proceeding, to consider and determine whether it be expedient for, and the will of the good people of the said District, that the same be erected into an Independent State, on the terms and conditions following:

V. *First*---THAT the Boundary between the proposed State and *Virginia*, shall remain the same as at present separates the District from the residue of this Commonwealth.

VI. *Second*---THAT the proposed State shall take upon itself a just proportion of the debt of the United States, and the payment of all the Certificates granted on account of the several expeditions carried on from the *Kentucky* District against the Indians, since the first day of *January*, one thousand seven hundred and eighty-five.

VII. *Third*---THAT all private rights and interests of Lands within the said District, derived from the Laws of *Virginia*, prior to such separation, shall remain valid and secure under the Laws of the proposed State, and shall be determined by the Laws now existing in this State.

VIII. *Fourth*---THAT the Lands within the proposed State of non-resident proprietors, shall not in any case be taxed higher than the Lands of residents, at any time prior to the admission of the proposed State to a vote by its Delegates in Congress, where such non-residents reside out of the United States; nor at any time either before or after such admission, where such non-residents reside within this Commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any Land within either the proposed State or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty within the term of six years, after the admission of the said State into the Federal Union.

IX. *Fifth*---THAT no grant of Land or Land Warrant to be issued by the proposed State, shall interfere with any Warrant heretofore issued from the Land-Office of *Virginia*, which shall be located on Land within said District now liable thereto, on or before the first day of *September* one thousand seven hundred and ninety-one.

X. *Sixth*---THAT the unlocated Lands within the said District, which stand appropriated to individuals, or description of individuals, by the Laws of this Commonwealth, for military or other services, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of *Virginia*, according to such appropriation, until the first day of *May*, one thousand seven hundred and ninety-two, and no longer; thereafter the residue of all Lands remaining within the limits of the said District, shall be subject to the disposition of the proposed State.

XI. *Seventh*---THAT the use and navigation of the river *Ohio*, so far as the Territory of the proposed State, or the Territory which shall remain within the limits of this Commonwealth lies thereon, shall be free and common to the Citizens of the United States, and the respective Jurisdictions of this Commonwealth, and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river.

XII. *Eighth*---THAT in case any complaint or dispute shall at any time arise between the Commonwealth of *Virginia* and the said District, after it shall be an Independent State, concerning the meaning or execution of the foregoing articles, the same shall be determined by six Commissioners, of whom two shall be chosen by each of the parties, and the remainder by the Commissioners so first appointed.

XIII. *PROVIDED* however, That five members assembled, shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations, or refusals to act; a majority of the whole shall be a sufficient number to choose a President, settle the proper rules of proceeding, authorize any number to summon a Convention during a recess, and to act in all other instances where a greater number is not expressly required. Two thirds of the whole shall be a sufficient

number to determine on the expediency of forming the said District into an Independent State, on the aforesaid terms and conditions, *Provided* that a majority of the whole number to be elected concur therein.

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said district into an independent state.

XIV. *AND be it further enacted*, That if the said Convention shall approve of the erection of the said District into an Independent State on the foregoing terms and conditions, they shall and may proceed to fix a day, posterior to the first day of *November*, one thousand seven hundred and ninety-one, on which the authority of this Commonwealth, and of its Laws under the exceptions aforesaid, shall cease and determine forever over the proposed State, and the said Articles become a solemn Compact mutually binding on the parties, and unalterable by either without the consent of the other.

When the authority of this Commonwealth over the said district shall cease.

XV. *PROVIDED however*, That prior to the first day of *November*, one thousand seven hundred and ninety-one, the General Government of the United States shall assent to the erection of the said District into an Independent State, shall release this Commonwealth from all its Federal obligations arising from the said District, as being part thereof, and shall agree that the proposed State shall immediately after the day to be fixed as aforesaid, posterior to the first day of *November*, one thousand seven hundred and ninety-one, or at some convenient time future thereto, be admitted into the Federal Union.

The assent of the assent of the general government to be obtained.

XVI. *AND* to the end that no period of anarchy may happen to the good people of the proposed State, it is to be understood that the said Convention shall have authority to take the necessary provisional measures for the election and meeting of a Convention, at some time prior to the day fixed for the determination of the authority of this Commonwealth, and of its Laws over said District, and posterior to the first day of *November*, one thousand seven hundred and ninety-one, aforesaid, with full power and authority to frame and establish a Fundamental Constitution of Government for the proposed State, and to declare what Laws shall be in force therein, until the same shall be abrogated or altered by the Legislative authority acting under the Constitution so to be framed and established.

The convention to provide for the establishment of a constitution of government for the proposed state.

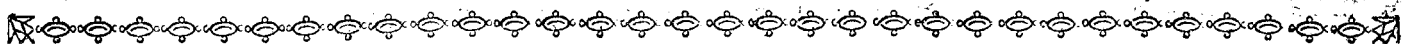
XVII. *AND be it further enacted*, That the Electors in going to, continuing at, and returning from an election of Members to the said Convention, shall be entitled to the same privileges from arrest, as are by Law allowed at an election of Members to the General Assembly, and each person returned to serve as a Member in said Convention, shall be entitled to the same privileges from arrest in going to, during his attendance on, and returning from said Convention, as are by Law allowed to the Members of the General Assembly.

Privileges of the electors, and of the representatives.

XVIII. *THIS* Act shall be transmitted by the Executive, to the Representatives of this Commonwealth in Congress, who are hereby instructed to use their endeavors to obtain from Congress a speedy Act to the effect above specified.

The Executive to transmit this act to this Commonwealth's Representatives in Congress.

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General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 18th Day of October, in the Year of our Lord, 1790.

C H A P. LIV.

An Act to regulate the Inspection of Hemp.

[Passed the 24th of December, 1790.]

Preamble.

Inspections of hemp to be established at certain places. Warehouses to be provided.

I. **W**HEREAS it is represented to this present General Assembly, that great loss and inconvenience hath been sustained on account of the present mode established by Law for the Inspection of Hemp, particularly in permitting the Inspector to clean that, which may be refused by him: For remedy whereof, *Be it enacted*, That from and after the passing of this Act, Public Ware-houses for the reception of Hemp, shall be kept at the places herein after mentioned, that is to say, at or near the City of *Richmond* and Towns of *Alexandria*, *Fredericksburg*, *Manchester*, in that part of the Town of *Petersburg*, included in the County of *Dinwiddie*, and at the Great Falls in the County of *Loudoun*; and it shall and may be lawful for the Justices of the Courts of such Counties, wherein such Inspections are established, and they are hereby required upon the receipt of this Act, to provide good and sufficient Ware-houses for the reception of all Hemp which may be brought to the same; and the said Courts shall, and they are hereby required and empowered to agree with some person or persons, to erect or rent good and sufficient Ware-houses for the reception and preservation of all Hemp which may be brought to the same, and shall certify the charges thereof to the Treasurer of this State, who is hereby directed to pay the same out of the aggregate fund.

Inspectors, how to be appointed.

Their duty.

Quality of the hemp to be specified in the note.

II. *AND be it further enacted*, That the Courts of the Counties wherein any such Inspection for the receipt of Hemp shall be established by this act, are hereby required to appoint a fit and able person, not being concerned in mercantile or rope-making business, to have the care and charge of the said Ware-house, whose duty it shall be carefully to inspect and examine all Hemp which shall be brought to his Ware-house, separating that which shall be strong, dry, and sound, from that which may be unsound and unfit for exportation, and when so separated, shall be distinguished in the note by him given, in manner following, that is to say, all that which shall appear clean, dry, and well conditioned, shall be termed first quality; and that which may appear dry, strong and well conditioned, although not perfectly clean, shall be termed second or third rate, according to the cleanness of the same; but if it shall appear on the offering of any hemp for inspection, that it contains so great a quantity of trash or unsound, so as to render it unfit for manufacturing or exportation, the Inspector shall not give his note for the same, but the Owner shall be at liberty to dispose of it as he may think proper.

Allowance to the inspectors.

III. *AND be it further enacted*, That the Inspector at any of the ware-houses by this Act established, shall and may demand and receive for his services as Inspector, for every gross ton the sum of fifteen shillings, and for every ton by him refused, the sum of ten shillings, and so in proportion for any lesser quantity, to be paid down to the Inspector on delivering the note, or by the person whose hemp may be refused, (as the case may be) one half of which sum shall be for the services of the Inspector, and the other one half so received, shall be paid to the Treasurer of this Commonwealth, or to the Owner of the ware-house, (as the case may be) quarter-yearly, under the penalty of forfeiting to the Commonwealth, or to the Owner of such ware-house three hundred pounds, recoverable on

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motion before any Court of Record within this Commonwealth, giving ten days previous notice of such motion.

IV. *AND be it further enacted*, That all hemp, sound and merchantable, distinguished as above directed, shall by the Inspector be re-prized in bale boxes three feet two inches long in the clear, three feet deep, one foot eight inches at bottom, and two feet wide at the top, with a label annexed thereto, stamped with the quality and weight of each bale, and the Owner's name, which quality, weight and Owner's name shall be entered in a book kept for that purpose, as well as the weight and Owner's name, of any hemp by him refused; and he is hereby required to give a certificate for all hemp by him passed in form following, viz.

Hemp to be re-prized in bale boxes.

I A. B. do certify, that C. D. hath deposited _____ tons or pounds of hemp, (as the case may be) of first, second or third rate, (as the case may be) passed inspection at the Ware-house of _____, of which I am Inspector. Witness my hand, this _____ day of _____, in the year _____.

Form of certificate for hemp inspected and passed.

V. *AND be it further enacted*, That the Inspectors appointed by this Act, previous to the execution of their office, shall take the following oath or affirmation, (as the case may be) viz.

Oaths of inspectors.

I A. B. do solemnly swear or affirm, (as the case may be) diligently to examine and receive all hemp brought to the warehouse where I am Inspector, and that I will not pass any hemp that is not in my judgment dry, sound, well conditioned, and merchantable, nor pass or mark any bale of hemp contrary to the intent and meaning of the Act, intituled "An Act to regulate the inspection of hemp," nor refuse any hemp that is in my judgment dry, sound, well conditioned, and fit for exportation, nor fail to enter in a book, as directed by this Act, the weight of all hemp by me so passed or refused, nor alter or give out any hemp, other than that for which the receipt to be taken was given, but that I will in all things well and faithfully discharge my duty as an Inspector, according to the best of my skill and judgment, and agreeably to the intention of the said recited Act, without fear, favour, affection, malice or partiality. So help me GOD.

VI. *AND be it further enacted*, That if any Court should fail or refuse in providing such houses, scales, screws, or other necessary conveniencies at the places appointed by this Act, which they are hereby authorized and required to do out of the Aggregate Fund aforesaid, they shall forfeit and pay the sum of three hundred pounds, to be recovered with costs by action of debt or information against such Justices jointly, one moiety to the Prosecutor, and the other moiety to the use of the Commonwealth: *And be it further enacted*, That the Act, intituled, "An Act concerning the inspection of hemp," shall be, and the same is hereby repealed.

Penalty on county courts for not providing warehouses, &c.

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General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 17th Day of October, in the Year of our Lord, 1791.

C H A P. LV.

An Act concerning the Southern Boundary of this State.

[Passed the 7th of December, 1791.]

Preamble.

Walker's line declared to be the Southern boundary of this State.

Claims to land between Walker's and Henderson's line, how to be settled.

I. **W**HEREAS official information hath been received by the General Assembly, that the Legislature of the State of *North-Carolina* have resolved to establish the line commonly called *Walker's line*, as the boundary between *North-Carolina* and this Commonwealth, and it is judged expedient to confirm and establish the said line on the part of this State: *Be it therefore enacted by the General Assembly*, That the line commonly called and known by the name of *Walker's line*, shall be, and the same is hereby declared to be the boundary line of this State.

II. *AND be it further enacted*, That in all Courts of Law and Equity within this Commonwealth, the claims for lands lying between the line commonly called *Walker's line*, and the line commonly called *Henderson's line*, shall be decided in favour of the oldest title, whether derived from this Commonwealth, or from the State of *North-Carolina*.

C H A P. LVI.

An Act for regulating the Navigation of James River, above the Falls of the said River.

[Passed the 17th of December, 1791.]

Number of every boat & owner's name, and residence to be painted on it, and entered into the clerk's office.

Penalty for failure.

Commencement of this Act.

I. **B**E it enacted, That every person who shall be Proprietor of any Boat or other Vessel, which shall be employed in navigating the waters of *James River* and its branches above the Great Falls at *Richmond*, in the transportation of any produce or merchandise whatsoever, either raised or manufactured within this Commonwealth, or imported from any other place without the same, shall in the Clerk's Office of the County in which the said Proprietor or Proprietors shall then live, enter the number of each Boat or Vessel so to be employed, which number, together with the name of the County, and the name of the Owner or Owners of such Boat or Vessel, shall be written or painted on each side of the said Vessel, on some conspicuous part of the outside thereof, in large and plain letters, not less than four inches in length.

II. IF the Owner or Owners of any Boat or Vessel, which shall be employed in navigating the waters of the said River, above the Falls thereof as aforesaid, shall fail to enter in the Clerk's Office, as aforesaid, the name or names of the Owner or Owners, the name of the County in which he or they shall reside, and the number of each Boat or other Vessel, as aforesaid, or shall fail to write or paint the name or names of the Owner or Owners of the said Boat or other Vessel in manner above directed, so as to continue plain and legible as long as the said Boat or other Vessel shall be employed in navigation, he, she, or they shall forfeit and pay the sum of twenty shillings for every day he, she, or they shall neglect to comply with the purposes of this Act, to be recovered by any person who may sue for the same, by warrant from a Magistrate, allowing the said Owner or Owners one month after the first day of *April* next, to attend to the requisitions aforesaid.

III. THIS Act shall commence and be in force, after the first day of *April* next.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 1st Day of October, in the Year of our Lord, 1792.

C H A P. LVII.

An Act for reducing into one, the several Acts prescribing the Oath of Fidelity and Oaths of Public Officers.

[Passed the 22d of December, 1792.]

I. **B**E it enacted by the General Assembly, That every person by Law required to give assurance of fidelity, shall for that purpose take an oath in this form :

I, do declare myself a Citizen of the Commonwealth of Virginia; I relinquish and renounce the character of Subject or Citizen of any Prince or other State whatsoever, and abjure all allegiance which may be claimed by such Prince or other State; and I do swear to be faithful and true to the said Commonwealth of Virginia, so long as I continue a Citizen thereof. So help me GOD.

Form of the oath of fidelity.

II. NO person shall have power to act in any Office, Legislative, Executive, or Judiciary, before he shall have given such assurance, and shall moreover have taken such of the following oaths, if another be not specially prescribed, as is adapted to his case.

No officer of government to act until he has taken it.

III. THE oath of a Governor :

I, elected Governor of Virginia, by the Representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said Office diligently and faithfully according to Law, without favour, affection, or partiality; that I will, to the utmost of my power, protect the Citizens of the Commonwealth in the secure enjoyment of all their Rights, Franchises, and Privileges, and will constantly endeavour that the Laws and Ordinances of the Commonwealth be duly observed, and that Law and Justice, in mercy, be executed in all judgments; and, lastly, that I will peaceably and quietly resign the Government to which I have been elected, at the several periods to which my continuance in the said office is or shall be limited by Law and the Constitution. So help me GOD.

Oath of a Governor.

IV. THE oath of a Privy Councillor :

I, of, elected one of the Privy Council of Virginia, by the Representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said office diligently and faithfully according to Law, without favour, affection, or partiality, and that I will keep secret such proceedings and orders of the Privy Council, as the Board shall direct to be concealed, unless the same be called for by either House of General Assembly. So help me GOD.

Oath of a Privy Councillor.

V. THE oath of one not specially directed to take any other :

I, do solemnly promise and swear, that I will faithfully, impartially and justly, perform the duty of my office of, according to the best of my skill and judgment. So help me GOD.

Oath of one, not specially directed to take any other.

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By whom to
be adminis-
tered.

VI. THE said oaths to be taken by a Member or Officer of either House of General Assembly, shall be administered by any Member of the Privy Council, and the taking thereof shall be certified to the Clerk of such House; and the said oaths to be taken by any other person, if it be not otherwise directed, shall be administered in some Court of Record, or by any Judge or Justice thereof, and the taking thereof shall be recorded in the said Court.

Oath of a
Counsel or
Attorney.

VII. EVERY Counsel or Attorney before he be permitted to practice in any Court within this Commonwealth, shall take the following oath before such Court:

I DO swear that I will honestly demean myself in the practice of a Counsel, Attorney, or Proctor, and will execute my office to the best of my knowledge and ability.

How persons,
refusing from
religious scrup-
les to take
oaths, may be
qualified.

VIII. ANY Person refusing to take an oath, and declaring religious scruples to be the true and only reason of such refusal, if he will use the solemnity and ceremony, and repeat the formulary observed on similar occasions, by those of the Church or religious Society he professeth himself to be a member of, or to join in communion with, shall thereupon be deemed as competent a witness, or to be as duly qualified to execute an Office, or perform any other act, to the sanction whereof an oath is, or shall be required by law, and shall be subject to the same rules, derive the same advantages, or incur the same penalties or forfeitures, as if he had sworn. In presentments, indictments, inquisitions, verdicts, examinations, or other forms, the words "upon their oath," or "sworn," may be left out, and instead of them, "in solemn form," or "charged," which ever may be adapted to the case, may be inserted; but if the ancient form be adhered to, it shall not be adjudged error.

Repealing
clause.

IX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Commence-
ment of this
act.

X. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LVIII.

An Act for ascertaining the Salaries to the Officers of Civil Government.

[Passed the 22d of November, 1792.]

Salaries pay-
able quarterly
to the officers
of civil go-
vernment.

I. **B**E it enacted, That the several Officers herein after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The Governor or Chief Magistrate, the sum of two thousand six hundred and sixty-seven dollars. The Members of the Privy Council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The Judges of the Court of Appeals, the Judge of the High Court of Chancery, and the Judges of the General Court, each, the sum of one thousand dollars. The Attorney-General, the sum of six hundred and sixty-seven dollars, *per annum*, and to each of his Deputies in the District Courts, seventy-five dollars *per annum*. The Auditor of Public Accounts, the sum of one thousand dollars *per annum*. The Speaker of the Senate, the sum of three dollars and thirty-four cents *per day*, during each Session of Assembly, including his daily pay. The Speaker of the House of Delegates, the sum of six dollars and sixty-seven cents *per day*, in like manner. The Clerk of the General Court, for his ex-officio services, the sum of one hundred dollars *per annum*. The Register of the Land-Office and his Clerks, the sum of one thousand three hundred and thirty-three dollars *per annum*. The Treasurer, the sum of sixteen hundred and sixty-seven dollars *per annum*. The first Clerk of the Council, Treasury, and Auditor, the sum of five hundred dollars *per annum*, each, and each of the other Clerks of the Council, Treasury, and Auditor, the sum of three hundred and thirty-four dollars *per annum*. And the Keeper of the Public Jail, the sum of eighty-four dollars *per annum*. All those several sums shall be paid in Specie, and the Auditor is hereby authorised to audit the same, and issue his warrants upon the Treasury accordingly.

Repealing
clause

II. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

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Provided always, that nothing in this Act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this Act.

Provido.

III. THIS Act shall commence in force, from and after the first day of *January* next.

Commencement of this act.

C H A P. LXIX.

An Act to punish Bribery and Extortion.

[Passed the 19th of October, 1792.]

I. **B**E it enacted by the General Assembly, That no Treasurer, Keeper of any Public Seal, Councillor of State, Counsel for the Commonwealth, Judge, Clerk of the Peace, Sheriff, Coroner, Escheator, nor any other Officer of the Commonwealth, shall in time to come, take in any form, any manner of brokerage or reward for doing his office, other than is, or shall be allowed by law. And he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a Jury, and shall be discharged from his office for ever. And he who will sue in the said matter, shall have suit as well for the Commonwealth as for himself, and the third part of the amercement.

Penalties on any officer of government taking any thing for doing his office except what is allowed by law.

II. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give to any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected for any County, City, or Borough, or for any District, shall be expelled, and be disabled from being elected a Member to either House of the General Assembly, during the term of three years.

Members of General Assembly bribing electors to be expelled, and ineligible for three years.

III. ANY candidate or other person in his behalf, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected a Representative of this Commonwealth in Congress, shall forfeit and pay fifteen hundred dollars, for each offence, to be recovered with costs, by action of debt, to the use of any person who will sue for the same.

Penalty for bribing electors of Representatives in Congress.

IV. ALL and every Act and Acts, clauses and part of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, That any act of bribery or extortion committed or done before the commencement of this Act, may be prosecuted in the same manner as if this Act had never been made.

Repealing clause. *Provido.*

V. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. LX.

An Act against buying and selling of Offices.

[Passed the 19th of October, 1792.]

I. **B**E it declared and enacted by the General Assembly, That if any person or persons shall bargain or sell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive or take any money, fee or reward, or any other profit directly or indirectly, or take any promise, agreement, covenant, bond or any assurance to receive or have any money, fee or reward, or other profit directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any person should have, exercise, or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which shall in any wise touch or concern the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the public Revenue, or which shall concern or touch any clerkship in a Court of Record, all and every person or persons so offending, shall be incapable of appointing or voting for the appointment to any such of-

Penalty for selling any public office, or for taking any thing for a vote in the appointing to any such office.

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fice, and shall be adjudged a disabled person in Law, to all intents and purposes, to have, occupy, or enjoy the office in virtue of which he holds, or shall hold the right of appointing or voting for the appointment to such office, and shall moreover be amerced and imprisoned at the discretion of a Jury; and if a Member of either House of Assembly, he shall moreover be expelled from the same, and forever after disabled from being elected a Member of the General Assembly.

For giving or agreeing to give any thing for any such office.

II. EVERY person who shall directly or indirectly give or pay any money, fee or reward, or shall make any promise, agreement, bond or assurance to give any money, fee or reward whatsoever for any vote or appointment to any office, which concerns the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the Public Revenue, or for the clerkship in any Court of Record, or for the deputation or deputations to any of the said offices, shall be utterly incapable of serving in any such office.

Contracts for those purposes void.

III. EVERY such bargain, sale, promise, bond, covenant, agreement and assurance, as before specified, shall be utterly void and of no effect.

Not to extend to appointments of deputy clerks or sheriffs.

IV. *PROVIDED* always, That nothing in this Act contained, shall be so construed as to prohibit the appointment, qualification, and acting of any Deputy Clerk, or Deputy Sheriff, who shall be employed to assist their principals in the execution of their respective offices.

Official acts of persons convicted under this act, performed before removal, from office, valid.

V. *PROVIDED* always, That if any person or persons shall be convicted of having offended against this Act, yet all judgments given, and all other Acts executed or done by any such person or persons so offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the person so convicted, after the offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration, and occupation of the said office or deputation, shall be good and sufficient in Law to all intents, constructions, and purposes, in such like manner and form as the same should or ought to have remained and been, if this Act had never been made.

Repealing clause.

Proviso.

VI. ALL and every Statute and Statutes, Act and Acts, Clause or Clauses thereof, within the purview of this Act, (except as herein after provided) shall be, and are hereby repealed. *Provided* always, That nothing in this Act contained shall be construed to repeal the said Statutes or Acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this Act.

Commencement of this act.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXI.

An Act for arranging the Counties in Districts for electing Senators.

[Passed the 12th of December, 1792.]

Arrangement of the counties into senatorial districts.

I. **F**OR the regular election of Senators to the General Assembly, *Be it enacted*, That the Counties of *Accomack* and *Northampton*, shall be one District; the Counties of *Norfolk*, *Princess-Anne*, and *Nansemond*, one other District; the Counties of *Surry*, *Isle of Wight*, and *Prince-George*, one other District; the Counties of *Sussex*, *Dinwiddie*, and *Southampton*, one other District; the Counties of *Brunswick*, *Lunenburg*, *Mecklenburg*, and *Greenville*, one other District; the Counties of *Charlotte*, *Halifax*, and *Prince Edward*, one other District; the Counties of *Amelia*, *Chesterfield*, *Cumberland*, *Nottoway*, and *Powhatan*, one other District; the Counties of *Buckingham*, *Amherst*, *Albemarle*, and *Fluvanna*, one other District; the Counties of *Franklin*, *Pittsylvania*, *Campbell*, *Bedford*, *Henry*, and *Patrick*, one other District; the Counties of *Wythe*, *Botetourt*, *Washington*, *Montgomery*, *Russell*, *Greenbrier*, and *Kanawha*, one other District; the Counties of *Elizabeth City*, *Warwick*, and *York*, one other District; the Counties of *Charles City*, *James City*, and *New-Kent*, one other District; the Counties of *Goochland*, *Henrico*, and *Louisa*, one other District; the Counties of *Hanover* and *Caroline*, one other District; the Counties of *Augusta*,

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Rockingham, Rockbridge, Shenandoah, Pendleton, and Bath, one other District; the Counties of Essex, King-William, and King & Queen, one other District; the Counties of Gloucester, Middlesex, and Mathews, one other District; the Counties of Lancaster, Richmond, and Northumberland, one other District; the Counties of King-George, Westmoreland, and Stafford, one other District; the Counties of Spotsylvania, Orange, and Culpeper, one other District; the Counties of Fairfax and Prince-William, one other District; the Counties of Loudoun and Fauquier, one other District; the Counties of Frederick, Berkeley, Hampshire and Hardy, one other District; the Counties of Monongalia, Harrison, Ohio, and Randolph, one other District.

II. ALL Ordinances of Convention, or Acts of Assembly, within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

III. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P. LXII.

An Act for reducing into one, the several Acts and Parts of Acts respecting the Powers and Duties of the Executive.

[Passed the 16th of November, 1792.]

I. **B**E it enacted, That if any combination for dismembering this State, or establishing in any part of it a separate Government, should become so powerful as to obstruct the due execution of the Laws of this Commonwealth, in the ordinary course of proceeding within any County or Counties thereof, it shall be lawful for the Governor, with advice of Council, to call out the Militia of the State to suppress such Combination, and to employ them in the same manner as he may do by Law, in cases of Invasion or Insurrection.

Powers vested in the Executive for suppressing combinations for dismembering the state.

II. IT shall and may be lawful for the Governor, with the advice of the Council of State, to apprehend and secure, or cause to be apprehended, and secured, or compelled to depart this Commonwealth, all suspicious persons, being the subjects of any foreign Power or State, who shall have made a declaration of war, or actually commenced hostilities against the said States, or from whom the President of the United States shall apprehend hostile designs against the said States; provided information thereof shall have been previously received by the Executive from him. And in all such cases, the Governor, with the advice of the Council of State, shall, and he is hereby empowered, to send for the person and papers of any Foreigner within this State, in order to obtain such information as he may judge necessary.

For apprehending suspicious subjects of a foreign state, in case of war with such state,

Their persons and papers may be sent for & secured.

III. ALL Sheriffs and Jailors shall receive such suspicious persons, whom by Warrant from the Governor they shall be commanded to receive, and them in their prisons or custody to detain, or transport out of the Commonwealth, as by such Warrant they may be commanded. And all others, the good Citizens of this Commonwealth, shall be aiding and assisting in apprehending, securing, or transporting any such suspicious person, when commanded by Warrant or Proclamation of the Governor, or required by the Sheriff or Jailor to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue and give this Act in evidence. Saving always to the Merchants of any Foreign State, betwixt whom and the United States of America, war shall have arisen, and to their Families, Agents, and Servants, found in this Commonwealth at the beginning of the war, the privileges allowed by Law.

Sheriffs and Jailors to obey the warrants of the Governor respecting them.

Saving to foreign merchants their legal privileges.

IV. IF the Governor and President of the Privy Council shall die, or otherwise become unable to perform his duty, in the recess of the General Assembly, the Privy Councillor, whose name stands next in the list of their appointments, shall officiate as Lieutenant-Governor, until the vacancy be supplied, or the disability cease.

Who shall officiate as Lieutenant Governor in case of the inability of the Governor & President of the Council. When the Council may

V. AND in the absence of the Governor, such intended absence having been previously notified to them by him, and entered on their Journals, or in the like absence of the Presi-

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act without
the Governor
or President.

Clerks of the
Council how
to be appoint-
ed.
qualified, and
removed.

Guards for
public service,
how to be pro-
cured.

When the Ex-
ecutive may
appoint justi-
ces of the
peace without
a recommen-
dation.

The Execu-
tive to send
the laws to the
clerks of the
County
Courts.

Fines assessed
by a jury not
to be remitted
by the Execu-
tive.

Commence-
ment of this
act.

dent, and upon the like notification, if any business to be transacted at the Council Board necessarily require dispatch before he can attend it, the Council may proceed without him; and in either case the Act shall be as valid as if he had been present. The Governor and Council shall have power to appoint from time to time as they shall be wanting, a drawing Clerk, a copying Clerk, and a Clerk of foreign correspondence, who shall each of them take an oath, to be administered by any Member of the Board, to keep secret all such matters as they shall direct them to keep secret; which Clerks shall be removed at their will.

VI. IT shall and may be lawful for the Governor, with the advice of Council, to cause as many men (not exceeding twenty-five) with proper Officers to be enlisted as guards for public service, as he the said Governor, with advice of Council, may deem necessary, and may retain the same in service so long as the public exigencies may require.

VII. IF it shall happen that there is not a sufficient number of Justices for holding a Court in any County, either by deaths, refusal to act, or removal out of the County, the Governor for the time being, with advice of Council, shall have full power to issue a Commission or Commissions of the Peace for the appointment of any number of Magistrates in such County, so circumstanced, as shall be judged necessary for carrying on the business of the same.

VIII. IT shall be the duty of the Executive to send copies of the Laws of this Commonwealth by express, or otherwise, as they shall think best, to the Clerk of every County and Corporation Court within the same, for the use of each Magistrate, Clerk, States Attorney, and Sheriff, in the County or Corporation, as soon as the said Laws are printed; the expense whereof shall be defrayed out of the Contingent Fund.

IX. IT shall not hereafter be lawful for the Executive to remit any fine or amercement assessed by a Jury.

X. ALL and every Act and Acts, clause and clauses of Acts, within the purview of this Act, shall be, and are hereby repealed.

XI. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXIII.

An Act for reducing into one Act, the several Acts concerning the Court of Appeals, and Special Court of Appeals.

[Passed the 26th of October, 1792.]

Court of Ap-
peals to consist
of five judges.

Any three to
constitute a
court.
Where to be
holden.

Terms.

Oaths to be ta-
ken by the
judges.

I. **B**E it enacted by the General Assembly, That the Court of Appeals shall consist of five Judges, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth. Any three of the said Judges shall constitute a Court. The said Court shall be holden at the Capitol, in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recesses, by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the tenth day of *April*, and the tenth day of *October*, or when that shall happen to be *Sunday*, on the succeeding day, and shall sit each time, until the business depending before them shall be dispatched. Every Judge before he exercises his office, shall in open Court give assurance of fidelity to the Commonwealth, and take this oath:---

YOU shall swear that you will well and truly serve this Commonwealth in the office of a Judge of the Court of Appeals, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself or by any other, privily or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not delay any person of right for the letters or request of any person,

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nor for any other cause; and if any letter or request come to you contrary to the Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding. And finally in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor or affection. So help you GOD.

II. THE said Court shall have jurisdiction not only in the cases provided for by the Constitution of this Commonwealth, and in suits originating there, or adjourned thither for trial by virtue of any statute, which trial shall be by Juries according to the course of Law, but also in such as are now pending therein, or shall be brought before them by appeals, writs of error, or *superfedeas*; to reverse decrees of the High Court of Chancery, or judgments of the General Court, or District Courts of this Commonwealth, after those decisions shall be final there, if the matter in controversy be equal in value, exclusive of costs, to one hundred dollars, if the judgment sought to be reversed, shall be rendered in the District Courts, or one hundred and fifty dollars, if in the General Court or High Court of Chancery, or be a freehold or franchise; and in all other cases therein depending at the commencement of this Act.

Jurisdiction of the court.

III. IF a sufficient number of Judges to constitute a Court shall not attend on the first day of any Term of the Court of Appeals, it shall be lawful for any one Judge thereof to adjourn the Court from day to day, for four days successively, or until a sufficient number shall attend, and if that shall not happen before four of the clock on the fourth day, then the Court shall stand adjourned, and all suits depending therein continued to the next Court. And if during any session after a Court shall have been constituted, three Judges shall not attend to make a Court, there shall be no discontinuance of the Term, but the Court shall stand adjourned from day to day, till a sufficient number shall attend; provided that shall happen in four days: and if it does not, then the Term and suits shall stand adjourned to the next Court, as before directed.

Regulations respecting the adjournment of the court when the judges do not attend.

IV. ALTHOUGH one or more of the Judges of the Court of Appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other Judges, if there be a number of Judges not so interested sufficient to constitute a Court.

The court to determine causes in which one or more of the judges may be interested if there remains a sufficient number to make a court. Special Courts of Appeals to be held for the trial of suits in which a majority of the judges of the Court of Appeals are interested.

V. IF on an appeal from the High Court of Chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the Judges of the Court of Appeals be interested, then in the former case the remaining Judges of the Court of Appeals not so interested, and as many of the Judges of the General Court, as will make the number at least five, and in the latter case so many of the Judges of the General Court not so interested, as will make the number five at least, shall constitute a Special Court for the trial of such appeal or question. If on an appeal, writ of error, or *superfedeas*, to or from any judgment or order made in the General Court, or any question concerning the same, or any process to be directed thereto, a majority or all of the Judges of the Court of Appeals be interested therein, then in the former case the remaining Judges of the Court of Appeals, not being so interested, together with the Judge of the High Court of Chancery, and as many of the Judges of the General Court, not being so interested, as will make the number five at least, shall constitute a like Court for the purpose aforesaid. If on an appeal, writ of error, or *superfedeas*, to or from any judgment or order made in a District Court, or any question concerning the same, or concerning any process to be directed thereto, a majority or all the Judges of the Court of Appeals be interested, then in the former case, the remaining Judges of the Court of Appeals not being interested, the Judge of the High Court of Chancery not being so interested, and as many of the Judges of the General Court, who are not so interested, and did not render the judgment, or direct the order, as will make the number five at least, shall constitute a like Court for the purpose aforesaid; and in the latter case, no Judge of the Court of Appeals shall sit; but any five of the Judges last mentioned, and not disqualified as aforesaid, shall constitute a Court; *Provided always*, that in case of the sickness or other disability of the Judge of the High Court of Chancery to attend any Special Court of Appeals, such Court may, in any case, be constituted by other Judges. *And provided also*, that when any Special Court shall be appointed for the trial of any cause depending in the Court of Appeals, because a majority of the Judges of that Court are interested or otherwise disqualified to sit therein, in

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case of the sickness or disability of the remaining Judge or Judges of the said Court not so disqualified, or either of them, the remaining Judges appointed by law to hold such Court, or any five of them attending may proceed to a hearing and decision of the cause, in the same manner as if all the Judges of the Court of Appeals, not so disqualified, had been present.

When and
where.

VI. WHENSOEVER a majority or all the Judges of the Court of Appeals shall be interested in any of the cases above-mentioned, the same shall be entered of Record in the said Court, and the Clerk thereof shall thereupon issue a summons to the Judge of the High Court of Chancery, and Judges of the General Court, requiring them, if not disqualified as aforesaid, to attend at the Capitol, in the City of Richmond, or in case of adjournment of the Court of Appeals to any other place, at such other place on the twentieth day of *June* or *November*, then next following, and stating the names of the parties, and the Court whose decision is to be examined. A Court constituted in any of the cases above described, shall hear, determine, and finally decide all suits, process, matters and things submitted to their cognizance and jurisdiction aforesaid.

To be attended
by the clerk,
and other offi-
cers of the
Court of Ap-
peals, and to
have the same
power of ad-
journment, &c.

VII. THE Clerk of the Court of Appeals for the time being, shall attend all such Special Courts with the Records in the cases to such Special Courts committed, and enter the proceedings of all such Special Courts in the order Book of the Court of Appeals, and the same shall be signed by the presiding Judge of such Special Court, and be certified to the Inferior Court; and the judgment or decree, sentence or order of such Court, shall be carried into execution in the same manner as if the same had been determined in the Court of Appeals. Such Special Courts shall be attended by the like Officers with the Court of Appeals, who shall receive the like compensation as they now do in the said Court; and such Special Courts may adjourn and do all and every act as a Court during their Session, which the Court of Appeals may by Law do.

Cases in the
Special Courts
when to be re-
sumed by the
Court of Ap-
peals.

VIII. *PROVIDED always*, That where any cause shall be pending in any such Special Court, and the same shall not be determined before there shall be a sufficient number of the Judges of the Court of Appeals qualified to make a Court for deciding the same, such cause shall be resumed by the Court of Appeals, and be determined there, as if such cause had never been committed to a Special Court.

Oaths to be ad-
ministered to
the judges at-
tending such
Special Courts

IX. EACH Judge attending in consequence of such summons, shall in open Court take an oath to do his duty as a Judge of Appeals, in the case or cases on which he is summoned, impartially and truly, without favour or affection; which oath shall be administered by the eldest sitting Judge, and shall then be administered to him, if he shall not before have qualified as a Judge of the Court of Appeals by one other of the Judges.

Allowances to
them for at-
tendance and
travelling ex-
pences.

X. EACH Judge attending in consequence of such summons, and not disqualified as aforesaid, shall be allowed for his attendance three dollars and thirty-three cents *per* day, and for travelling to and from the place of Session, two dollars for every twenty miles: And the Judges of the Court of Appeals, attending such Special Court, and not disqualified to sit therein, shall be paid the same allowance.

Court of Ap-
peals to ap-
point their of-
ficers; to be
attended by
the sheriff of
the county in
which the
court is hol-
den.
Judges may
appoint a clerk
in vacation.

XI. THE Court of Appeals shall appoint a Clerk, Tipstaff, and Cryer, the first removable for misbehaviour, in the manner directed by the Constitution, the two others at pleasure; and shall be attended by the Sheriff of the County, in which they sit, as their Officer.

XII. IF a vacancy shall happen in the office of Clerk out of the terms of the said Court, it shall be lawful for a majority of the Judges, by commission under their hands and seals, to appoint a Clerk to fill such vacancy.

Duty of the
clerk.
Rule in dock-
eting causes.

XIII. THE Clerk of the said Court shall carefully preserve the transcripts of Records certified to his Court with the Bonds for prosecution, and all papers relative to them, and other suits depending therein, docketing them in the order he shall receive them, that they may be heard in the same course, unless the Court for good cause to them shewn, direct any to be heard out of its turn, and shall faithfully record their proceedings and decisions, and certify the same to the proper Courts.

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Jurisdiction of the court with respect to appeals, writs of error, *superfedeas*, &c.

XIV. APPEALS, writs of *error*, and *superfedeas*, may be granted, heard and determined by the Court of Appeals, to and from any final decree or judgment of the High Court of Chancery, General Court and District Courts, in the same manner, and on the same principles as appeals, writs of *error* and *superfedeas*, are to be granted, heard, and determined by the High Court of Chancery, and District Courts, to and from any final decree or judgment of a County, City, or Borough Court, and the party shall proceed in like manner, and the damages in case of affirmance shall be the same in the Court of Appeals, as in those Courts respectively; and the Clerk of the said Court shall issue the like process for summoning the adverse party, removing the Records, suspending the execution, and for every other requisite purpose, making those alterations in the form, which are necessary to adapt it to the case, as are prescribed in the like cases in the High Court of Chancery, and the District Courts, respectively.

XV. WRITS of *superfedeas* may be granted by any Judge of the Court of Appeals during vacation, the party desiring to obtain the same, proceeding in like manner as in the case of a *superfedeas* to be granted by a Judge of the District Courts, to a judgment of the County Court.

Writs of *superfedeas* may be granted in vacation.

XVI. WHERE one person or several obtain an appeal, writ of *error*, or *superfedeas*; bond and security given by any party, or by any responsible person, shall be valid and sufficient.

By whom bond and security may be given in appeals, &c.

XVII. WHENSOEVER any appeal, writ of *error*, or *superfedeas*, shall be granted, and a transcript of the Record be not sent to the Court on or before the second term of the Court of Appeals, after the same shall have been granted, such appeal, writ of *error*, or *superfedeas*, shall be dismissed, unless good cause be shewn to the contrary.

When records in appeals, &c. are to be filed.

XVIII. AFTER the dismissal of an appeal, writ of *error*, or *superfedeas*, in the Court of Appeals, no appeal, writ of *error*, nor *superfedeas* shall be allowed.

After dismissal of appeals, &c. none others to be allowed. Cases to be stated and printed for the judges. Judgments of the court how to be rendered.

XIX. A CLEAR and concise state of the case of each party in an appeal, writ of *error*, or *superfedeas*, with the points intended to be insisted on, signed by his counsel and printed, the expence whereof shall be taxed in the bill of costs, shall be delivered to every Judge time enough before the hearing, for his consideration; but the Court if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the Court whose error is sought to be corrected ought to have given, (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to the Court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly.

XX. IT shall not be lawful for the High Court of Chancery, or General Court, to remove before the Court of Appeals, by adjournment, any question, matter or thing, whatsoever.

No question to be removed by adjournment to the Court of Appeals.

XXI. THE Judges of the Court of Appeals shall direct the form of writs from time to time in such manner as shall seem advisable.

The judges to direct the forms of writs.

XXII. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Former acts repealed.

XXIII. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. LXIV.

An Act reducing into one, the several Acts concerning the High Court of Chancery.

[Passed the 29th of November, 1792.]

I. **B**E it enacted by the General Assembly, That the High Court of Chancery shall consist of one Judge, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth.

High Court of Chancery to consist of one judge; how chosen and commissioned.

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Where to be held.

II. THE said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful.

Terms.

III. THE said Court shall be holden three times in every year, namely, on the first day of *March*, on the twelfth day of *May*, and on the 10th day of *September*; but if either of those days happen on a *Sunday*, on the day following. The Session in *March* shall continue eighteen, and the Sessions in *May* and *September* twenty-four juridical days successively, unless the business depending before the said Court shall be sooner dispatched.

The court to be adjourned from day to day for six days when the judge does not attend. Causes to be continued to the next term when the court does not sit, or does not finish the business.

IV. IF the Judge shall not attend on the first day of the Term, such Court shall stand adjourned from day to day until a Court be made, if that shall happen before four o'clock in the afternoon of the sixth day.

V. IF a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term shall not have heard and determined all matters ready for its decision, all suits, matters and things depending in Court and undecided, shall stand continued to the next succeeding Term. If from any cause the Court shall not sit on any day of the Term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before it be not sooner dispatched.

Oaths to be taken by the judge.

VI. EVERY person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this Commonwealth, and take the following oath:

YOU shall swear that well and truly you will serve this Commonwealth in the office of Judge of the High Court of Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the Laws and usages of Virginia, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by Law appointed. You shall not maintain by yourself, or by any other, privily or openly, any plea or quarrel depending in the Courts of this Commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. So help you GOD.

Such oath shall be taken before the Executive, and a certificate recorded in the said Court.

Penalty for acting without taking the oaths.

VII. IF any person shall presume to execute the said office, without having taken the said oaths, he shall forfeit and pay the sum of fifteen hundred dollars for his said offence.

Jurisdiction of the court.

VIII. THE said Court shall have general jurisdiction over all persons, and in all causes in Chancery, now pending therein, or which may hereafter be brought before it, whether by original process, appeal from any Inferior Court, *certiorari*, or other legal means, and also in such other cases, as by any statute, are, or shall be made cognizable therein: But no person shall commence an original suit in any matter of less value than thirty-three dollars and thirty-three cents, except it be against the Justices of any County or other Inferior Court, on pain of having the same dismissed with costs.

In what cases to be considered as always open.

IX. THE said Court shall be considered as always open, so as to grant injunctions, writs of *ne exeat*, *certiorari*, and other process heretofore usually granted in vacation.

Officers to be appointed.

X. THE said Court shall have power to appoint a Clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the Legislature may appoint, as also a Serjeant at Arms: And in case of a vacancy in the recess of the said Court, the said Judge may make the like appointments under his hand and seal, during a vacation; and such succeeding Clerk or Serjeant, having, in any Court of Record, taken the oaths required by Law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in Term time.

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XI. IT shall be lawful for the High Court of Chancery to fend any matter of Law to the General Court, for their opinion to be certified thereupon.

The court may require the opinion of the General Court in matters of law. May proceed against other absent defendants as against absent debtors.

XII. ALTHOUGH any of the Defendants, whether debtors or others, in any suit instituted in the said Court, should be absent from the Commonwealth, the Court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the Commonwealth.

XIII. THE said Court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that Court, or in any other Court whatsoever, as justice or convenience to the parties may require, and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the Courts of Chancery in *Virginia*.

May direct issues to be tried. Mode of trial in all other cases.

XIV. IF a majority of the Judges of the General Court be interested in any suit, which in the case of any other person would have been proper for the Jurisdiction of such Court, it may be lawful to institute such suit in the High Court of Chancery, where proceedings shall be had conformably to the rules of the General Court, and process shall be returnable as the High Court of Chancery shall direct; and thereafter an appeal may be entered to the Court of Appeals.

Suits properly cognizable in the General Court may be tried in the Court of Chancery, when a majority of the judges of the former are interested.

XV. IT shall be lawful for the said Court to arrange the business thereof, in the most convenient and equitable manner.

XVI. ANY party thinking himself aggrieved by a decree of the Court of a County, City, or Borough, in Chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the Clerk of the High Court of Chancery, a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some Counsel attending the High Court of Chancery, and also lodging with the petition a bond executed by the appellant or his agent, and a surety or sureties with the like condition as is annexed to other appeal bonds, and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the Clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a *superfedeas*, if necessary, to enjoin from proceeding in execution of the decree; and the Court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced.

When appeals may be made from decrees in county courts where not entered when the decrees were pronounced.

XVII. PROVIDED always, That whenever an appeal is prayed for from any Inferior Court to the said High Court of Chancery, or bond is given for the removal of any suit in Chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds.

By whom bond and security may be given in appeals, &c.

XVIII. THE said Court, or the Judge thereof in vacation, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a *superfedeas* to stop the execution of any decree pronounced by an Inferior Court, at any time within three years after pronouncing the same; the party praying such appeal and *superfedeas*, complying with the terms which the said Court or Judge shall annex to such order.

How appeals may be obtained from decrees in county courts where not entered when the decrees were pronounced. Process, how to be issued.

XIX. ALL original process to bring any person to answer any bill, petition or information in the said Court, and all subsequent process thereupon, shall be issued and signed by the Clerk in the name of the Commonwealth, and bear teste by the Judge of the said Court; shall be returnable to the first or seventeenth days of the term, which shall be next after the suing out such process, and may be executed at any time before the return day thereof. And if any process shall be executed so late that the Sheriff hath not reasonable time to return the same before the day of appearance, and thereupon any subsequent process shall be awarded, the Sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time.

Return day.

XX. ALL appeals from decrees in Chancery, obtained in any Inferior Court, shall be made to the third day of the next term.

Appeals to be made to the third day of the next term.

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Rule, to be
observed in
the pleadings.

XXI. IN all suits in the said Court, the following rules and methods shall be observed: The complainant shall file his bill within one calendar month after the day of appearance, or may be ruled on the requisition of the defendant to file such bill, and if he fails to do so within one calendar month after such rule, the suit may be dismissed with costs; and if he shall fail to file the same within three months after the *subpœna* shall be returned executed, the suit shall stand *ipso facto* dismissed with costs.

XXII. AND upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the Clerk of the Court; for which costs, an attachment, or other process of contempt, or an execution may issue, at the election of the defendant, returnable on any return day.

XXIII. THE complainant may amend his bill before the defendant or his Attorney hath taken out a copy thereof, or in a small matter afterwards, without paying costs; but if he amend in a material point after such copy obtained, he shall pay the defendant all costs occasioned thereby.

XXIV. IF the defendant shall not appear on the day of appearance, (which in all cases shall be the second day after the Term to which the *subpœna* is returnable) an attachment shall be awarded and issued against him, returnable to the next Term, which being returned executed, if the defendant doth not appear, or being brought into Court upon any such process, shall obstinately refuse to answer, the complainant's bill shall be taken as confessed, and the matter thereof decreed accordingly.

XXV. THE defendant within three calendar months after his appearance and bill filed, shall put in his answer to be filed with the Clerk in the office, at the expiration of which time, if no answer be filed, the Clerk, upon request, shall issue an attachment, returnable to the next Court; and if no answer be filed upon the return of such attachment executed, or a copy thereof left at the defendant's usual place of abode, or last place of residence, the complainant's bill shall be taken as confessed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and such subsequent process of contempt may issue as was heretofore issuable out of the General Court sitting in Chancery in like cases.

XXVI. NO process of contempt shall issue unless the *subpœna* be returned served by a sworn officer, or affidavit be made of the service thereof.

XXVII. EVERY defendant may swear to his answer before any Judge of this or of the General Court, or any Justice of the Peace.

XXVIII. IF the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the *subpœna* at least three months before the said time for filing his answer, the plaintiff may have a general commission to take depositions, or he may move the Court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, That the Court for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

XXIX. AFTER answer filed, and no plea in abatement to the jurisdiction of the Court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other Court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such Court, and also of infants and *femes covert*.

XXX. WHEN a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

XXXI. THE complainant shall reply, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the Clerk of the Court, which being expired, and no replications or excep-

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tions filed, the suit shall be dismissed with costs; but the Court may order the same to be retained if they see cause, on payment of costs.

XXXII. IF the complainant's Attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the Clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in Court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs.

XXXIII. IF upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the Court.

XXXIV. UPON a second answer adjudged insufficient, costs shall be doubled.

XXXV. IF a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs.

XXXVI. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt as if no answer had been put in.

XXXVII. RULES to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the Clerk in his office, and shall be entered in a rule book for the information of all parties, attorneys, or solicitors, concerned therein.

XXXVIII. NO defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing.

XXXIX. AFTER an attachment with proclamation returned, no plea or demurrer shall be received, unless by an order of Court, upon motion.

XL. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the Clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in Chancery, where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common Law.

XLI. IF a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill.

XLII. IF the complainant shall not proceed to reply to, or set for hearing as before mentioned, any plea or demurrer before the second Court after filing the same, the bill may be dismissed of course with costs.

XLIII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two calendar months after, but if adjudged good, the defendant shall have his costs.

XLIV. IF any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed.

XLV. AFTER any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged, and infirm, or going out of the country,

When plaintiffs may ob-

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tain commif-
fions *de bene*
effe.

the Clerk may iffue a commiffion for taking the examination of fuch witneffes *de bene effe*; the party praying fuch commiffion, giving reasonable notice to the aduerfe party, of the time and place of taking the depositions.

After a gene-
ral commiffion
fix months al-
lowed for tak-
ing depositions
When caufes
are to be fet
for hearing.

XLVI. WHENEVER a general commiffion fhall iffue for taking depositions upon anfwer and replication, fix months from the time of the replication fhall be allowed the parties for taking their depositions, and either party at the expiration of the faid fix months may fet the fame for hearing, nor fhall any deposition taken after that time be read as evidence on the hearing, except the fame was taken by confent of the parties, by fpecial order of Court, or out of the State.

Proceedings in
the office to
be regulated
by the court.

XLVII. THE Court in their fittings may regulate all proceedings in the office, and for good caufe fhewn, may fet afide any difmiffions, and re-inftate the fuits on fuch terms as fhall appear equitable.

Proceedings in
court to be
read before
figning.

XLVIII. FOR prevention of errors in entering up the decrees and orders of the Court, the proceedings of every day fhall be drawn up at large by the Clerk, and read in open Court the next day, (except thofe of the laft day of each term, which fhall be drawn up, read, and corrected the fame day) and any neceffary corrections made therein, when they fhall be figned by the Judge of the Court, and preferved among the Records.

Compleat re-
cords to be
made in fuits
determined.

XLIX. AND for the more entire and better prefervation of the Records of the Court, when any caufe fhall be finally determined, the Clerk fhall enter all the pleadings therein, and other matters relating thereto together in a book to be kept for that purpofe, fo that an entire and perfect Record may be made thereof, and thofe wherein the title to lands is determined, fhall be entered in feparate books to be kept for that purpofe only.

Writs of *cer-*
tiorari ne ex-
eat and *injun-*
ction, how
granted.

L. THE Court in feflion, or the Judge in vacation, may grant writs of *certiorari*, for removing before the faid Court the proceedings in any fuit in Chancery, depending in any County or other Inferior Court, writs of *ne exeat* to prevent the departure of any defendant out of the Country, until fecurity be given for performing the decree, and writs of injunction to ftay execution of judgments obtained in any of the Courts of common Law, fubject nevertheless to the rules following:

Rules as to
writs of *cer-*
tiorari.

LI. NO writ of *certiorari* fhall be granted to remove any fuit, unlefs the matter in difpute be of value fufficient to entitle the High Court of Chancery to original jurifdiction therein, nor unlefs ten days notice of the motion be given in writing to the aduerfe party, nor in vacation but upon fuch petition and affidavit as are by Law directed for writs of *certiorari* to be granted by the Diftrict Courts; and in all cafes, bond and fecurity fhall be given for performing the decree of the faid High Court of Chancery, before the iffuing of the *certiorari*.

As to writs of
ne exeat, and
how they may
be difcharged.

LII. WRITS of *ne exeat* fhall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the Court in term time, or the Judge in vacation, fuch writ may be granted or refufed as fhall feem juft; and if granted, he fhall direct to be endorsed thereon in what penalty, bond and fecurity fhall be required of the defendant.

LIII. IF the defendant fhall by anfwer fatisfy the Court that there is no reafon for his reftRAINT, or give fufficient fecurity to perform the decree, the writ may be difcharged.

As to injunc-
tions.

LIV. NO injunction fhall be granted to ftay proceedings in any fuit at Law, unlefs the matter in difpute be of value fufficient to admit of original jurifdiction in the faid High Court of Chancery, nor unlefs the Court in term time, or the Judge thereof in vacation, fhall be fatisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and fhall order the fame.

LV. WHERE any injunction fhall be granted, the Clerk fhall endorfe on the *subpœna* that the effect thereof is to be fufpended, until the party obtaining the fame fhall give bond with fufficient fecurity in the office of the Court in which the judgment to be enjoined fhall have been obtained.

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LVI. THE party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the Clerk's office of that Court in which the proceedings at Law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at Law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpoena* that the bond is filed.

Court may appoint commissioners in cases which require reports and make them an allowance for their trouble.

LVII. IT shall be lawful for the High Court of Chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs.

Method of proceeding against defendants in custody who refuse to enter their appearance.

LVIII. IF any defendant or defendants shall be in custody upon any process of contempt, and be brought into Court by virtue of a writ of *Habeas Corpus*, or other process, and shall refuse or neglect to enter his or her appearance according to the rules of the Court, or appoint an Attorney of the Court to do the same for him, the Court in such case may direct an Attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance, or to appoint an Attorney as aforesaid, or shall be forth coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof, and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor, or administrator.

How appeals may be obtained from decrees in the High Court of Chancery where not entered when the decrees were pronounced.

LIX. WHEREAS many persons against whom decrees may have been rendered in the High Court of Chancery, may desire to appeal from such decrees, but have been hindered from doing so, at the term in which the said decrees were pronounced: *Be it enacted*, that if upon a petition to any Judge of the Court of Appeals, or the Judge of the High Court of Chancery in vacation next after the Term, when such decree shall have been rendered, for relief in such a case, it shall appear to his satisfaction, that the failure to appeal from his decree, at the time, or during the Term when it was pronounced, did not arise from any culpable neglect in the petitioner, or that upon the whole circumstances of the case, the petitioner ought to have the benefit of an appeal, it shall be lawful for the said Judge to grant the said appeal, which grant of appeal, shall be as effectual, both for staying proceedings on the said decree, and for bringing the same before the Court of Appeals for their decision, as if the same had been duly made during the Term when the said decree was pronounced.

Proceedings on decrees may be stayed during the pendency of bills of review.

LX. AND whereas upon bills of review in the said High Court of Chancery, the Judge of the said Court may think it reasonable, during the pendency of such bills, or until cause shall be shewn to the contrary, to stay proceedings on the decree, which such bills are intended to review: *Be it enacted*, that in such case, the Judge of the said High Court of Chancery, either in Term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said Court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made, or until the further order of the said Judge; or the said Judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, That the said Judge of the High Court of Chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

Former acts repealed.

LXI. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

LXII. This Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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C H A P. LXV.

An Act reducing into one, the several Acts and Parts of Acts concerning the General Court, and prescribing the Manner of proceeding therein in certain Cases.

[Passed the 13th of December, 1792.]

General Court
to consist of
ten judges:
how chosen &
commissioned.
Where to be
held.
Terms.
Regulations
respecting ad-
journment.

Oaths to be
taken by the
judges.

I. **B**E it enacted by the General Assembly, That the General Court of this Commonwealth shall consist of ten Judges, to be chosen and commissioned in the manner directed by the Constitution of the Commonwealth. Any three of the said Judges shall constitute a Court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the ninth day of *June* and the ninth day of *November*, or if either of those days shall be *Sunday*, then on the succeeding day, and shall continue their Session for sixteen juridical days at each Term, unless the business before them be sooner dispatched. If a sufficient number of Judges should not attend on the first day of any Term, or on any other day during the Term, any one of the said Judges may adjourn the Court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such Court, shall stand continued over to the next succeeding Term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the Commonwealth, and take the following oath of office, to wit:

YOU shall swear that well and truly you will serve this Commonwealth in the office of a Judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to Law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself, or other, privily or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not deny or delay any person of common right, for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial Justice, without fraud, favor, affection, or partiality. So help you GOD.

By whom to
be administered.
Penalty for
acting with-
out taking the
oaths.

Which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable such Judge to do all the duties of his office, and such certificate shall be recorded in the General Court, or District Court, where such Judge shall first sit. If any person shall presume to sit in Court or execute the said office, without having taken the said oaths, he shall for such offence forfeit the sum of fifteen hundred dollars.

Officers to be
appointed by
the court.
Sheriff of the
county in
which the
court sits to
attend.

II. THE said Court shall appoint a Clerk, one or more assistant Clerks, if necessary, a Cryer and Tipstaff, the first removable for misbehaviour in the manner directed by the Constitution, the others at pleasure; who shall be entitled to such fees or salaries as shall be established by Law. And the Sheriff, or so many of the Under-Sheriffs as shall be thought necessary, of the County where such Court may be held, shall attend the said Court during their Sessions.

Jurisdiction of
the court.

III. THE jurisdiction of the said Court shall be general over all causes, matters and things at common Law, as well criminal as civil, except in such cases, as by the Constitution of the United States of *America*, or of this Commonwealth, or any Statute made by the Congress of the said United States, or the General Assembly of this Commonwealth, are or shall be vested in any other tribunal; in any of which cases the jurisdiction of the

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General Court shall cease, unless concurrent jurisdiction be thereto expressly given by this Act, or some other Statute. The said Court shall have jurisdiction in all causes, matters and things therein depending at the commencement of this Act; and no discontinuance shall take place in any case whatsoever, by reason of the passing of this Act. The said Court shall continue to have jurisdiction, in all cases, suits and motions against public debtors and public defaulters of every denomination, for and in behalf of the Commonwealth. If the Judge of the High Court of Chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such Court, it shall be lawful to institute such suit in the General Court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the General Court shall direct; and thereafter an appeal may be had to the Court of Appeals. Writs of *scire facias* may be issued from, and be tried in the General Court, upon all judgments which have been or shall be obtained therein; the said Court may fine Sheriffs, Deputy-Sheriffs, or Coroners, for not returning executions issued, or to be issued from the said Court, and enter up judgments against the said officers, for all money or tobacco, for which they have made or shall make themselves respectively liable by Law upon such executions; may award executions upon replevy bonds, or bonds to have goods forth-coming at the day of sale; may quash executions if illegally or improvidently issued or executed, and award new ones; and finally, may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the said Court; any Law to the contrary, or seeming to the contrary, notwithstanding. The said Court shall have power to hear and determine upon all errors in matters of fact, that shall or may have happened in the proceedings depending in the said Court.

IV. THE said Court shall have power to issue writs of *mandamus* to the District Courts.

May award writs of *Mandamus* to the district courts. Further description of jurisdiction.

V. THE said Court shall likewise have jurisdiction to hear and determine motions against the delinquent subscribers of the *Potomac* and *James River* Companies, and for securities against their principals; and for Sheriffs against their deputies and securities, or either of them.

VI. FOR good cause shewn, the General Court may direct the trial of any cause depending before a District Court, to be had by a Jury at their own bar, for which purpose the Sheriff, or any other officer attending them, shall summon a Jury qualified as the Law now directs in cases of Juries in the General Court; or may cause a suit depending in one District to be tried in another.

May for good cause direct any suit in a district court to be tried at their own bar or in another district.

VII. UNLESS good cause be shewn to the contrary, the General Court shall direct a suit depending before a District Court, in which a Judge of the General Court is a party, to be removed to be tried at the bar of the General Court.

Suits in which judges are parties, to be removed to the Gen. Court.

VIII. THE General Court shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons dying intestate, and to do all other things concerning wills and administrations, according to Law.

Jurisdiction relative to wills, administrations, &c.

IX. THE said Court shall have power and authority to receive *probat* of all deeds whatsoever, concerning lands in any part of this Commonwealth, to issue commissions for the privy examination of any *feme, covert* and to admit the same to Record; as also to receive proof of any other deed or instrument of writing whatsoever, and to admit the same to Record therein, if they shall be of opinion that the same is proper to be done. A deed for lands now or at any time hereafter partly proved in the General Court, may either be fully proved there, or shall be delivered by the Clerk thereof to any person authorized to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in the Court of the District or County in which the lands lie.

Deeds partly proved, may be either fully proved therein or delivered to the parties to be fully proved in the district or county courts.

X. IF a question of Law in any criminal case be adjourned to the General Court by any District Court, the same may be therein argued and determined, although such criminal be not present.

Rules respecting adjourned cases.

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XI. ON the adjournment of any question of Law in any civil suit, the said Court shall hear, determine, and certify such their determination on the same, to the Court from whence the question was adjourned; but no costs shall be incurred on any adjourned question.

Rules respect-
ing process.

XII. ALL original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said Court, and all subsequent process thereon, all attachments or other writs of what nature soever awarded by the said Court, shall be issued and signed by the Clerk of the said Court in the name of the Commonwealth, shall bear teste by the Clerk, and be returnable on the first day of the next succeeding Court, except *subpoenas* for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by Law.

The court to
direct the ap-
pearance day.

XIII. THE appearance day to all writs and process awarded by the said Court, shall be according to the direction thereof.

Grand jury to
be summoned.
Proceedings
on indict-
ments, pre-
sentments, &c.

XIV. THE Sheriff for the time being of the County in which the General Court shall be held, shall before every meeting of the General Court, summon twenty-four Freeholders of this Commonwealth, qualified as the Law directs for Grand Jurors, to appear at the succeeding General Court on the first day thereof, which the Sheriff is hereby empowered to do, as well without his County as within the same, and the said twenty-four men, or any sixteen of them shall be a Grand Jury, who shall be sworn to enquire of and present all offences against the Commonwealth, which are cognizable in the said Court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the Court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

XV. THE rules and proceedings in the General Court, in all cases, not otherwise specially directed, shall be the same as in the District Courts in similar cases, and the said Court shall have the same power of awarding and refusing costs, as the District Courts have in like cases.

Keeper of the
public jail to
attend the
court.

XVI. THE keeper of the public jail, shall constantly attend the General Court, and execute the commands of the Court.

The clerk to
transmit lists
of fines impos-
ed by the court
to the sheriffs.

XVII. THE Clerk of the General Court shall annually before the last day of January, transmit to the Sheriff of each County within this Commonwealth, a list of all fines imposed by the said Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five *per centum* commissions; and the said Clerk shall transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account.

Former acts
repealed.

XVIII. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Commence-
ment of this
act.

XIX. THIS Act shall commence in force, from and after the passing thereof.

C H A P. LXVI.

An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 12th of December, 1792.]

The common-
wealth divided
into districts,
and a superior
court to be
held in each at
certain places

I. **B**E it enacted by the General Assembly, That this Commonwealth shall be divided into Districts, and a Superior Court holden in each, in the manner, and at the times and places herein after mentioned; that is to say:---The Counties of *Henrico, Hanover, Chesterfield, Goochland, and Powhatan*, shall compose one District, and a Court shall be holden for the same at the Capitol in the City of *Richmond*, on the first day of *April*, and

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and on certain days.

the first day of *September* in every year; the Counties of *James City*, *Charles City*, *New-Kent*, *Surry*, *Gloucester*, *Mathews*, *York*, *Warwick*, and *Elizabeth City*, shall compose another District, and a Court shall be holden for the same at the City of *Williamsburg*, in the former Capitol, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Richmond*, *Westmoreland*, *Lancaster*, and *Northumberland*, shall compose another District, and a Court shall be holden for the same at *Northumberland Court-house*, on the first day of *April*, and first day of *September*, in every year; the Counties of *Essex*, *Middlesex*, *King & Queen*, and *King William*, shall compose another District, and a Court shall be holden for the same at *King & Queen Court-house*, on the fifteenth day of *April*, and fifteenth day of *September*, in every year; the Counties of *Spottsylvania*, *Caroline*, *King George*, *Stafford*, *Orange*, and *Culpeper*, shall compose another District, and a Court shall be holden for the same at *Fredericksburg*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Frederick*, *Berkeley*, *Hampshire*, *Hardy*, and *Shenandoah*, shall compose another District, and a Court shall be holden for the same at *Winchester*, on the fifteenth day of *April*, and the first day of *September*, in every year; the Counties of *Augusta*, *Bath*, *Rockbridge*, *Rockingham*, and *Pendleton*, shall compose another District, and a Court shall be holden for the same at *Staunton*, on the first day of *April*, and the first day of *September*, in every year; the Counties of *Albemarle*, *Louisa*, *Fluvanna*, and *Amberst*, shall compose another District, and a Court shall be holden for the same at *Charlottesville*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Fairfax*, *Fauquier*, *Loudon*, and *Prince William*, shall compose another District, and a Court shall be holden for the same at *Dumfries*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Harrison*, *Monongalia*, *Ohio*, and *Randolph*, shall compose another District, and a Court shall be holden for the same at *Monongalia Court-house*, on the third day of *May*, and the twentieth day of *September*, in every year; the Counties of *Washington*, *Russell*, and *Wythe*, shall compose another District, and a Court shall be holden for the same at *Washington Court-house*, on the second day of *May*, and the second day of *October*, in every year; the Counties of *Norfolk*, *Isle of Wight*, *Princess Anne*, *Nansemond*, and *Southampton*, shall compose another District, and a Court shall be holden for the same at *Suffolk*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Prince George*, *Sussex*, *Dinwiddie*, *Nottoway*, and *Amelia*, shall compose another District, and a Court shall be holden for the same at *Petersburg*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Brunswick*, *Greensville*, *Lunenburg*, and *Mecklenburg*, shall compose another District, and a Court shall be holden for the same at *Brunswick Court-house*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Prince Edward*, *Backingham*, *Charlotte*, *Halifax*, and *Cumberland*, shall compose another District, and a Court shall be holden for the same at *Prince Edward Court-house*, on the first day of *April*, and the first day of *September*, in every year; the Counties of *Bedford*, *Campbell*, *Franklin*, *Pittsylvania*, *Patrick*, and *Henry*, shall compose another District, and a Court shall be holden for the same at *New-London*, in the late Court-house of *Bedford County*, now belonging to *James* and *John Callaway*, who have agreed to put the same in repair, at their own expence, for the use of the District Court, to be holden in *New-London*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Accomack*, and *Northampton*, shall compose another District, and a Court shall be holden for the same at *Accomack Court-house*, on the fourteenth day of *May*, and the fourteenth day of *October*, in every year; the Counties of *Greenbrier*, *Botetourt*, *Montgomery*, and *Kanawha*, shall compose another District, and a Court shall be holden for the same at *Lewisburg* in *Greenbrier*, and *Botetourt Court-house*, alternately, on the eighteenth day of *May*, and the eighteenth day of *October*, in every year, until the Proprietor of the *Sweet Springs* shall erect a sufficient Court-house and Prison for the purposes of this Act, after which time the *Sweet Springs* shall become the Seat of the District Court. And if any of the said several days be *Sunday*, the Courts shall in that case respectively begin on the succeeding day. Each Court shall sit, if business require it, twelve days successively, *Sundays* exclusive (unless such sitting shall interfere with some other District Court in the same circuit) and no longer, and shall be a Court of Record.

Length of the sessions.

II. THOSE Counties which shall hereafter be made, shall, if taken from one County, or from two or more Counties lying in the same District, remain in the District to which they formerly belonged; and if taken from two or more Counties lying in different Districts,

Counties hereafter made to what districts to be annexed.

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the Counties so to be made, shall be annexed (unless it be otherwise declared by the Legislature) to such of the Districts in which the old Counties lie, as shall be approved by the Executive, subject to the revision of the General Assembly.

Two of the judges of the Gen. Court to attend each district court.

III. IT shall be the duty of two of the Judges of the General Court to attend each District Court at their respective Terms; and the said two Judges shall constitute a Court for such District. In case of a temporary appointment of a Judge made by the Executive, such Judge shall take the place of him in whose stead he was appointed: *Provided nevertheless*, that if any one of the said Judges shall not attend the Court, to which he shall be so allotted, in such case the other Judge shall constitute a Court, under the restrictions herein-after mentioned.

Each judge of the General Court to qualify as a judge of the District Courts. And may act as such, without qualifying as a judge of the General Court. Penalty for acting as a judge of the district courts without qualifying as such.

IV. EACH Judge of the General Court, besides the oaths required by Law to be taken by him as such, shall take another oath as Judge of the District Courts, in the same form as that prescribed by Law for a Judge of the General Court, changing the words "General Court," for "District Courts;" which oaths may be taken before the Executive; any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, and to act as a general Conservator of the Peace throughout the Commonwealth. Such certificate shall be recorded in the General Court, or District Court where such Judge shall first sit. Any person appointed a Judge of the General Court may act as a Judge of the District Courts, without having taken the oaths as a Judge of the General Court. Any Judge who shall sit as a Judge of a District Court without having taken the oaths herein required to be taken by him, shall forfeit the sum of fifteen hundred dollars, to be recovered by action of debt or information in any Court of Record, one half to the use of the Commonwealth, and the other half to the use of the Informer.

Regulations respecting adjournment of the courts and continuance of causes when they do not sit or do not finish the business.

V. IF neither of the Judges shall attend on the first day of any District Court, such Court shall stand adjourned from day to day until a Court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. If a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term shall not have heard and determined all matters ready for their decision, all such suits and things depending in Court and undecided, shall stand continued to the next succeeding Term. If from any cause the Court shall not sit on any day in a Term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched.

Their jurisdiction.

VI. THE jurisdiction of the said Courts respectively, shall be over all persons, and in all causes, matters or things at common Law, which were cognizable in the General Court on the twenty-second day of *December*, one thousand seven hundred and eighty-eight, and which shall amount to one hundred dollars, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of *error*, *superfedeas*, *mandamus*, *certiorari* to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever, except in the cases herein after mentioned, and such cases as by the Constitution of this Commonwealth, or some particular Statute heretofore made or hereafter to be made, are or shall be exclusively vested in, or reserved to the General Court. They shall also have the same jurisdiction concerning mills; wills, roads, and letters of administration, public debtors, whether Sheriffs or others, and the recording of deeds for lands and other property within the District, and *caveats*, as the General Court heretofore had by Law, allowing the person entering any *caveat* to return a certified copy thereof, from the Register to the District Court office, within thirty days from the time of entering the said *caveat*. And the said Courts shall hear and determine all controversies touching the same. *Provided also*, That writs of *habeas corpus*, appeal, *error*, *superfedeas*, *mandamus* and *certiorari*, and controversies concerning mills, wills, roads, *caveats*, and letters of administration, shall not be heard or determined by any District Court, unless such writ of *error*, *superfedeas*, *mandamus*, and *certiorari*, relate to some record or proceeding within the said District, or the person praying the *habeas corpus*, or the mills, or roads, or lands for which the *caveats* have been instituted be within the same, or the wills or letters of administration be cognizable by the Court of some County within the said District. Those cases in which the Court of Admiralty heretofore had jurisdiction by Law, and which are not taken away by the Constitution of the United States, are hereby transferred to the District Courts to be proceeded on as the Law requires in the said Court of Admiralty.

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VII. THE Court shall have power to try all issues and enquire of damages by a Jury in all causes before them, and to determine all questions concerning the legality of evidence and other matters of Law which may arise; for which trial the Court shall cause the Sheriff attending them, to summon, impanel, and return Jurors.

Mode of trial.
Jurors to be summoned & impanelled.

VIII. THE Court shall hear and determine motions against Sheriffs or other Officers, and Attornies at Law for refusing to pay money due to Clients, for the Directors of the James River and Patowmac Companies, and for securities against their principals, or against each other for contribution, in all cases and according to the rules prescribed by Law.

Further description of jurisdiction.

IX. THE Court when a question new or difficult arises, may adjourn any matter of Law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court, may appeal thereupon as of right, or obtain a writ of error thereto from the Court of Appeals, not of right but at the discretion of the Court.

New or difficult questions may be adjourned to the General Court.

X. ON an adjournment of a question to the General Court, or an appeal or writ of error to the Court of Appeals, the same proceedings shall be had as in cases heretofore going from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question.

XI. EACH of the said District Courts in Term time, or any Judge thereof in vacation, shall, and may have and exercise the same power of granting injunctions to stay proceedings on any judgment obtained in any of the said District Courts, as is now had and exercised by the Judge of the High Court of Chancery in similar cases, and the said District Courts may proceed to the dissolution or final hearing of all suits commencing by injunction, under the same rules and regulations as are now prescribed by Law for conducting similar suits in the High Court of Chancery.

The District Courts in term time, or any judge in vacation may grant injunctions to judgments obtained therein.

XII. WHENSOEVER there shall be a vacancy in the office of Clerk of any District Court, it shall be lawful for a majority of the Judges of the General Court to appoint, by commission under their hands and seals. *Provided*, that when such vacancy shall happen during the Session of a District Court, or the Judges of the General Court shall neglect to supply any vacancy until the ensuing Session of the District Court in which the vacancy shall be, it shall be lawful for the Judges attending such District Court to appoint a Clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the Judges of the General Court. And where the Clerk of any District Court cannot attend, it may be lawful for the Judge or Judges of such Court, to appoint a Clerk *pro tempore*.

Vacancy in the office of clerk, how to be supplied.

When clerks *pro tempore* may be appointed.

XIII. EVERY person appointed Clerk of any District Court, having taken the oath for giving assurance of fidelity to the Commonwealth, and the oath required to be taken by Clerks of Courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the Clerks respectively, before any Court of Record in the Commonwealth, and a certificate thereof shall be entered of Record in his District, wherein at the first Session after his appointment, he shall moreover enter into bond, with sufficient security, in the penalty of ten thousand dollars, payable to the Governor or Chief Magistrate, and his Successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feisance or mis-feisance of the Clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied.

Every clerk to take the oaths of fidelity and of office, and to enter into bond with security for performance of his duty.

XIV. EACH Clerk shall hold his office during good behaviour, shall be removable on conviction upon an indictment or information, for mis-user or non-user in office, and shall reside and keep his office at the District Court-house of which he is Clerk; but when it is held alternately at different Court-houses, then he shall keep his office at either the one or the other Court-house, as he may think best. The Clerks fees shall be the same with those of the County Courts for similar services, and for all other services, the same as those of the Clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the Clerks of the County Courts now are.

Tenure of their office. How removable. To reside and keep their offices at the District court-houses; their fees.

XV. A TAX of one dollar shall be, and is hereby imposed on all final judgments in the District Courts, which shall be paid by the party obtaining the same, to the Clerk of

Taxes on judgments and process.

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the Court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and be taxed in the bill of costs in like manner as is by Law directed, and the taxes on appeals from the District Courts, and also on Attornies practising therein, shall be the same; to be collected, accounted for, and paid by the Clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the County Courts. But no tax shall be demanded on the judgments rendered on any appeal, writ of *error*, *supersedeas*, special verdict, or case agreed, transferred from the General Court to the District Courts.

Criminal jurisdiction.
In what cases two judges shall be necessary to constitute a court.

Proviso.
When the court is divided in a criminal case, the question to be considered as adjudged in favor of the criminal.
Mode of proceeding in criminal cases when two judges do not attend.

Certain cases excepted.

Questions of law in criminal cases may be adjourned to the General Court.

A Jailor to be appointed in each district. District jails to be subject to the direction of the judges. The judges to make allowances to the jailors. Keepers of county jails, used as district jails, to act as keepers of the district jails. District jailors to be exempted from serving in the militia and on juries.

Poor prisoners not to be detained for non-payment of prison fees.

XVI. THE District Courts to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them, under the regulations hereinafter prescribed; that is to say: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment, or burning in the hand, two Judges shall be necessary to proceed upon the trial of the issue, whether in Law or fact. *Provided always*, That if only one Judge shall attend the said Court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one Judge shall constitute a Court for such purpose. When two Judges shall attend, all questions arising in criminal cases, and submitted to the Court, in case the Court shall be divided, shall be considered as adjudged in favor of the criminal; and if the Court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged. When two Judges do not attend, all criminal cases depending in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death, or burning in the hand, shall stand continued over to the next Court to be holden for that district; and if two Judges do not attend at such next Court, every prisoner whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next Term, and render himself pursuant to his recognizance, and there shall not be a sufficient Court to try such prisoner, on or before the third day of that Court, such prisoner shall be forthwith discharged. *Provided always*, That any one Judge may hear and determine a motion in behalf of the Commonwealth, for giving judgment and awarding execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted. A District Court may adjourn a question of Law in any criminal case, to the General Court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present.

XVII. A PUBLIC Jailor shall be from time to time appointed to each District by the Governor and Council, who shall give bond and security to the Governor and his successors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and shall be amenable to the Judges of the District Court; and the said Judges shall have the direction of the District Jail, and they are hereby authorized and required, from time to time, to order and direct such allowance to be made for the prisoners confined therein, and to fix what shall be paid to the keeper thereof for his trouble, as the said Judges shall think reasonable, and moreover to certify such allowance, from time to time, to the Auditor, who is hereby directed to debit the same, and give a warrant upon the Treasurer for the payment thereof. *Provided nevertheless*, That whenever the Jail of a County is used as a District Jail, the keeper of the County Jail, and no other, shall act as keeper of the Jail of the said District. The Jailor during his continuance in office, shall be exempted from serving in the militia, and on juries. The keeper of the District Jail shall constantly attend the said Court, and execute the commands of the said Court from time to time, and take or receive into his custody, all persons by the Court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt to the Court, and him or them safely keep until thence discharged by due course of Law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the Jailor shall be allowed by the public, seventeen cents *per* day, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or

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he be detained for such prison fees. The keeper of the District Jail, by order of any two Justices of his County, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public, a like sum and in like manner, as is by Law allowed for guards impressed by Sheriffs for securing prisoners. The fee to the Sheriff of the County, and to the District Jailor for keeping and dieting any such prisoner, shall be seventeen cents *per day*.

Guards may be impressed for the district jails. Fees for keeping and dieting prisoners.

XVIII. PRISON rules and bounds shall be assigned by the District Courts.

Prison rules to be assigned.

XIX. TO prevent misconstruction, it is hereby declared, that the Sheriff of the County in which any District Court shall sit, shall execute all judgments rendered by such Court in any criminal case, provided such judgments are by Law to be executed in the said County. Every District Court may make a reasonable allowance to the Sheriff attending the same for his trouble, as well for his services heretofore rendered, as those in future to be by him performed, to be paid as the Cryer of the General Court; and the Auditor of Public Accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as Cryers in the several District Courts, agreeable to the certificates of the Clerks of the said Courts, to be paid in the same manner as the Cryer of the General Court.

Judgments of the District Courts in criminal cases, by whom to be executed. Allowances to be made to sheriffs attending the courts.

XX. THE Judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an alteration be made therein, the forms shall be as nearly as may be, assimilated to those now used in the General Court.

The Court of Appeals to direct the forms of writs.

XXI. ALL writs, summonses, and other legal process, shall be issued by the Clerk, bear teste in his name, and be returnable to the next Court to be holden for the District, except in the case of *subpœnas* for witnesses, which may be returnable immediately, if issued in Term time, or on any day of the Term.

Directions concerning process.

XXII. WRITS of *habeas corpus* may be granted by the said Courts, pursuing in all respects the Act, intituled, "*An Act directing the mode of suing out and prosecuting writs of habeas corpus*." And where any person shall be committed in any civil action to the Jail of any County or Corporation, for any cause or matter cognizable in the District Courts, it shall be lawful for the Clerk of the Court of the District wherein such commitment shall be, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in Jail, to issue a writ of *habeas corpus cum causa*, to remove the body of such prisoner into the District Jail, and the cause of his commitment into such District Court, returnable on the first day of the succeeding Court, if issued in vacation, on the last of the Term, if sued out whilst the Court is sitting.

Writs of *habeas corpus*, in what manner to be granted. How to be obtained by any mitted to a county jail in a civil action.

XXIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same on the proper return day in the next District Court; and if such Defendant being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *feri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick, to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

Process in suits against the Governor, Councillors, Judges, and Sheriffs.

XXIV. NO writ of *capias ad respondendum* shall be issued against any person in any other District than that in which he resides, until a *non est inventus* has been returned in his or her District, upon a *capias* issued against such Defendant in the same suit, and every writ issued contrary thereto, shall be void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant or otherwise, it shall be lawful to prosecute such persons jointly, in whatever District either of them may reside, and process shall be issued and served accordingly in any County or District wherein the non-resident Defendant or Defendants may

No person to be sued out of the district in which he resides until a *non est inventus* has been returned on a *capias* issued against him in such district.

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In what cases copies of bonds may be filed and defendants in suits thereon shall plead thereto.

be found; and where the bond or other writing on which such suits shall be founded, shall be filed in the General Court, in a County or other Inferior Court, in the Court of one District, and Oyer thereof shall be demanded by the Defendant or Defendants to a suit in another District, it shall be sufficient for the Plaintiffs, in the last mentioned suit, to file a copy of the bond or writing, attested by the Clerk of the Court, wherein the same is filed, and the Defendant or Defendants shall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If however the Defendant or Defendants shall in such case plead that the original bond or writing is not his or their deed, the Clerk of the Court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue for the inspection of the Jury.

In certain suits plaintiff must indorse on the writ the true species of action.

When the sheriff may take the engagement of an attorney to appear for the defendant. Defendant not to be committed for want of bail in certain suits.

XXV. IN all actions to recover the penalty for breach of any Penal Law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney shall on pain of having his suit dismissed with costs, indorse on the original writ or subsequent process, the true species of action, that the Sheriff, to whom the same is directed, may be thereby informed, whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the Sheriff may take the engagement of an Attorney practising in the District Court, indorsed on the writ, that he will appear for the Defendant or Defendants, and such appearance shall be entered with the Clerk in the office, on the first day after the end of the Court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the Court next preceeding. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the Defendant to prison, or detaining him in his custody for want of appearance bail, but the Sheriff in such case shall return the writ executed, and if the Defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against Defendants and their appearance bail, where such is taken. *Provided always*, that any Judge of the General Court in actions of trespass, assault and battery, trover and conversion, and in actions on the case where, upon proper affidavit or affirmation it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorized to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly.

In certain cases a judge may direct an appearance bail.

Directions to the sheriff where bail is required.

When the bail may defend the suit. How bail shall be given in *detinue*.

XXVI. IN all actions of debt, founded upon any writing obligatory, bill or note in writing for the payment of money or tobacco, all actions of *covenant* and *detinue*, in which cases the true species of action shall be indorsed on the writ as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the Clerk's office, before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of *detinue*, the bail piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, fuel for, or the alternative value, as the Court may adjudge.

Remedy against sheriff neglecting to take sufficient bail.

Exceptions to bail, when to be made, and determined.

Sheriff's remedy against bail adjudged insufficient.

XXVII. AND if the Sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the Sheriff depart this life, before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued. But the Plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office, on the first or second rule day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the Court at their next succeeding Term; and in all cases where the bail shall be adjudged insufficient, and judgment entered against

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the Sheriff, he shall have the same remedy against the estate of the bail as against the estate of the Defendant.

XXVIII. AND every judgment entered in the office against a Defendant and bail, or against a Defendant and Sheriff, shall be set aside, if the Defendant at the succeeding Court shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately. The Court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein.

Office judgments, when set aside.

Errors in the office, how rectified.

XXIX. IN every case where judgment shall be confirmed against any Defendant or Defendants and bail, or the Sheriff, his Executors, Administrators, or estate, as aforesaid, the Court upon motion of such bail, or of such Sheriff, his Executors or Administrators, or any other person on behalf of his estate, may order an attachment against the estate of such Defendant or Defendants, returnable to the next succeeding Court, and upon the execution and return of such attachment, the Court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs; and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fiere facias*, and out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the Defendant or Defendants when required.

Remedy of the bail and sheriff against the defendant's estate.

XXX. ANY Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person taking the same, before the next succeeding Court, to the Clerk of the said Court, to be filed with the papers in such action, and if the Plaintiff or his Attorney shall except to the sufficiency of the bail so taken, notice of such exception shall be given to the Defendant or his Attorney, at least ten days previous to the day on which such exception shall be taken, and if such bail shall be adjudged insufficient by the Court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken.

How special bail may be taken in the country and excepted to.

XXXI. EVERY special bail may surrender the principal before the Court where the suit hath been or shall be depending, at any time either before or after judgment shall be given; provided such surrender be made before the appearance day of the first *scire facias* against the bail returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly. Upon such surrender, the bail shall be discharged, and the Defendant or Defendants shall be committed to the custody of the Sheriff or Jailor attending such Court, if the Plaintiff or his Attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the Sheriff of the County where the original writ was served, and such Sheriff shall receive such Defendant or Defendants, and commit him, her, or them, to the Jail of his County, and shall give a receipt for the body or bodies of such Defendant or Defendants, which shall be by the bail transmitted to the Clerk of the Court where the suit is or was depending. When such surrender after judgment shall be to the Sheriff, he shall keep such Defendant or Defendants in his custody, in the same manner, and subject to the like rules, as are provided for debtors committed in execution, for the space of twenty days, unless the Creditor, his Attorney, or Agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the Creditor, his Attorney, or Agent, and if within the said twenty days, such Creditor, his Attorney, or Agent, shall not in writing charge the Debtor or Debtors in execution, he, she, or they shall be forthwith discharged out of custody, but the Plaintiff or Plaintiffs may nevertheless afterwards sue out any legal execution against such Debtor or Debtors, without suing out a *scire facias*.

Surrender of principal and proceedings thereupon.

XXXII. WHEN the Sheriff or other proper officer, shall return on any original or mesne process, that he hath taken the body of any Defendant and committed him to prison for want of appearance bail, the Plaintiff may proceed, and the Defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the Defendant shall not be discharged out of custody until he shall put in good bail, or the Plaintiff shall be ruled by the Court to accept an appearance without bail, and where any Defendant after appearance entered, shall be confined to prison, the Plaintiff may file his de-

Method of proceeding against a defendant in custody.

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claration, give a rule to plead, and deliver copies of such declaration and rule to the Defendant or his Attorney, and if the Defendant shall fail to enter his plea, within two months after receiving such declaration and notice, the Plaintiff may have his judgment by default, as in other cases.

What further process when a *capias* is returned. "not found." Proceedings on attachment returned "executed."

XXXIII. WHERE the Sheriff or other proper officer, shall return on any writ of *capias* to answer in any civil action, that the Defendant is not found within his bailiwick, the Plaintiff may either sue out an *alias* or a *pluries capias*, until the Defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the Defendant to force an appearance; and if the Sheriff or other officer shall return that he hath attached any goods, and the Defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the Plaintiff shall file his declaration, and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand, unless the Plaintiff shall choose in any such case to have a writ of enquiry of damages, and in other cases the damages shall be settled by a Jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer until such final judgment be entered, and then be sold in the same manner as goods taken upon a *feri facias*, and if the judgment shall not be thereby satisfied, the Plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the Defendant.

Where process is executed but not returned.

XXXIV. IF any writ or process shall be executed, and for want of a return thereof to the office from which it issued, an *alias*, *pluries*, attachment, or other process be awarded, the Sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession, but if it be not in his possession, then he shall return the subsequent process, with an indorsement of the execution of such first process, and the name of the appearance bail, if any was taken, and shall also return a copy of the bail bond, on which there shall be the same proceedings, as if the said first process had been duly returned.

Rules to be observed in the prosecution of suits.

XXXV. RULES shall be monthly held in the Clerk's office of each District Court, beginning the day after the rising of such Court. The Plaintiff shall file his declaration in the Clerk's office at the next succeeding rule day, after the Defendant shall have entered his appearance, or the Defendant may then enter a rule for the Plaintiff to declare, which if he fails or neglects to do, at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be non-suited, and pay to the Defendant or Tenant besides his costs, three dollars, where his place of abode is at the distance of twenty-five miles or under, from the place of holding the said District Court, and where it is more, ten cents for every mile above twenty.

XXXVI. ONE month after the Plaintiff hath filed his declaration, he may give a rule to plead with the Clerk, and if the Defendant shall not plead accordingly at the expiration of such rule, the Plaintiff may enter judgment for his debt, or damages and costs.

XXXVII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule day.

XXXVIII. NO plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof, by oath or affirmation, as the case may require. And no plea of *non est factum* offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation.

XXXIX. AND where any person other than the obligor shall be Defendant, such Defendant shall prove by oath or affirmation, that he or she verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last mentioned case, the plea of *non est factum* shall not be admitted or received without such oath or affirmation. And where a plea in abatement shall upon

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argument be adjudged insufficient, the Plaintiff shall recover full costs, to the time of over-ruling such plea, a lawyer's fee only excepted.

XL. THE Plaintiff in replevin, and the Defendant in all other actions, may plead as many several matters, whether of Law or fact, as he shall think necessary for his defence.

XLI. ON the return of the pluries, that the Defendant is not to be found, the Court instead of the process to outlawry formerly used, may order a proclamation to issue, warning the Defendant to appear at a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published at three successive Court days, at the door of the Court-house of the County to which the last process was directed, and also three times in the *Virginia Gazette*; and if the Defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

Proceedings on a pluries returned "not to be found."

XLII. ALL judgments by default for want of an appearance or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside on some day of the next succeeding District Court, shall be entered by the Clerk as of the last day of the Term, which judgment shall be final in actions of debt, founded on any specialty, bill or note in writing, ascertaining the demand, unless the Plaintiff shall choose in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a Jury, to be impanelled and sworn to enquire thereof; as is herein after directed.

Judgments by default, non-suits, &c. when to be entered. Plaintiff in judgment by default may have a writ of enquiry.

LXIII. BEFORE every District Court, the Clerk shall enter in a particular docket, all such causes, (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of Law is to be argued, in the same order, as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day.

Rules for docketing causes.

XLIV. IT shall be lawful for the District Courts, on giving judgment in any case removed by appeal, writ of error, *supersedeas*, or *certiorari*, from the Inferior Courts, either for the Appellant, Appellee, Plaintiff or Defendant, and in any cause originating in the District Courts, where the verdict or judgment shall be given for the Defendant, to award costs to the party or parties, in whose favor such judgment shall be given; and on all motions it shall be lawful for the said Courts to give or refuse costs at their discretion; and in all other causes where the Plaintiff shall recover debt or damages, the costs shall be governed by Law.

In what cases the court may award costs.

In what to be governed by law.

XLV. A *CERTIORARI* to remove proceedings on a forcible entry or detainer, or for any other purpose, except the removal of a suit from an Inferior Court, may be granted without notice.

When *certioraris* may be granted without notice.

XLVI. FOR preventing errors in entering up the judgments of the said Courts, the proceedings of every day shall be drawn up at large, by the Clerk against the next sitting of the Court, when the same shall be read in open Court, and such corrections as are necessary, being made therein, they shall be signed by the presiding Judge, and carefully preserved among the Records. On the last day of each Court, the proceedings therein shall be drawn up, read, corrected, signed and preserved as aforesaid.

Proceedings to be read and signed.

XLVII. WHEN any cause shall be finally determined, the Clerk of the District Court, shall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, so as to make a complete Record thereof; and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

Complete records to be made of causes determined.

XLVIII. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nihilis*, unless the Defendant resides in the District, or unless he be absent from the Commonwealth, and have no known Attorney within the same. But such *scire facias* may be directed to the Sheriff of any County in this Commonwealth, wherein the Defendant or his Attorney shall reside or be found, which being returned served, the Court may proceed to judgment thereon, as if the Defendant had resided in the District.

Proceedings on writs of *scire facias* for renewal of judgments in certain cases.

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how to be ob-
tained.

XLIX. IF any person or persons shall desire to remove any suit depending in any Inferior Court, into the District Court, provided the same be originally cognizable therein, a *certiorari*, for such removal, may be granted by the District Court, for good cause shewn upon motion, and ten days previous notice thereof, given in writing to the adverse party, or in vacation, the party desiring such writ, shall by petition to the Judges of the General Court, set forth his or her reasons, and make oath before a Magistrate of the truth of the allegations of such petition, whereupon any Judge of the said Court, may, under his hand, order the *certiorari* to issue, and direct the penalty of the bond, to be taken previous thereto, or may reject such petition, as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ, be given in writing to the adverse party, upon which order of the Judges, the Clerk shall issue the *certiorari*. *Provided*, that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco and costs, which shall be recovered against the party in such suit; but if any suit so removed by *certiorari*, shall be remanded to the Inferior Court, by *procedendo* or otherwise, such cause shall not afterwards be removed to the District Court, before judgment shall be given therein in the Inferior Court.

Rule respect-
ing suits re-
manded.

Punishment of
false swearers.

L. THE Clerks of the District Courts, shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit, shall wilfully make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

No writ of er-
ror or *super-
fedeas* before
final judg-
ment; or af-
ter five years
from the date
thereof; sav-
ing the rights
of infants, &c.

LI. NO writ of error or *superfedeas* shall be granted in any case, until a final judgment in the County or other Inferior Court.

LII. NO *superfedeas* or writ of error, shall be granted to any judgment in the District or County, or other Inferior Court, after the expiration of five years, from and after the date thereof; saving the rights of infants, *femes covert*, persons *non compos*, in prison, or beyond seas, until the expiration of two years after the disability ceases.

Appeals to the
District courts
in certain
cases.

LIII. WHERE any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment, or sentence of any County Court, or Court of Hustings, in any action, suit or contest whatsoever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of one hundred dollars, or three thousand pounds of tobacco or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the *probat* of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next Court of the District, in which such County is.

How a *super-
fedeas* may be
obtained.

LIV. THE party praying a writ of *superfedeas*, shall petition the District Court for the same, pointing out the errors he means to assign in the proceedings, and procure some Attorney practising in such Court respectively, to certify, that in his opinion there is sufficient matter of error for reversing the judgment, whereupon such Courts in their Session, or any Judge of such Court respectively in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just.

Writs of error
or *superfedeas*
not to be al-
lowed unless
judgment a-
mounts to a
certain sum.

LV. WRITS of error or *superfedeas*, may be granted by a District Court, or any Judge of the General Court, to a judgment of a County Court, where such judgment shall be of the value of thirty-three dollars, and thirty-three cents, or one thousand pounds of tobacco, or upwards.

Bond and se-
curity to be
given on ob-
taining an ap-
peal, writ of
error, &c.
Sufficient, if
given by one of
several parties.

LVI. BEFORE granting any appeal, or the issuing of any writ of error or *superfedeas*, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the Court or Judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of error or *superfedeas*, bond and security given by any party, shall be sufficient.

Judgment on
reversal.

LVII. IF upon hearing any writ of error or *superfedeas*, the judgment of the Inferior Court be reversed in whole or in part, the District Court shall enter such judgment thereupon, as ought to have been entered in the Inferior Court.

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LVIII. BONDS to be given in Court for obtaining writs of error, *superfedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an Obligor.

Bonds on appeals, &c. may be given by any responsible person.

LIX. WHERE the Defendant in any personal action appeals, or obtains such writ of error or *superfedeas*, if the judgment be affirmed, the damages besides costs shall be ten *per centum per annum* upon the principal sum and costs, recovered in the Inferior Court, in satisfaction of all damages or interest.

Damages upon affirmance.

LX. IN real or mixed actions the damages shall be thirty-three dollars and thirty-three cents, or two thousand pounds of tobacco besides costs, and where the Plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the Inferior Court be affirmed, the party appealing shall pay to the other all costs.

LXI. IF a Record on an appeal, writ of error, or *superfedeas*, be not delivered to the Clerk of the District Court before or during the second Term of such Court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the Court to the contrary; and after such dismissal, no writ of error, or *superfedeas*, shall be allowed.

Rule respecting filing records on appeals.

LXII. IT shall be the duty of the Attorney General to nominate and appoint proper persons to prosecute for the Commonwealth, in such Courts as he cannot attend himself.

Attorney General to appoint deputies.

LXIII. THE Clerk of each District Court shall annually before the last day of *January*, transmit to the Sheriff of each County within the District, a list of all fines imposed by the District Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for Insolvents, and five *per centum* commissions; and the said Clerks shall severally transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account.

Lists of fines imposed by the courts to be sent to the sheriffs, to be collected by them, and copies of such lists to be sent to the Auditor.

LXIV. THE said Courts shall have jurisdiction respectively in all causes, matters and things in the District Courts respectively depending at the commencement of this Act, and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any District Court at the commencement of this Act, by reason of the passing thereof, but the same shall be therein tried and determined as if this Act had never been made.

Jurisdiction as to causes now pending.

LXV. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and are hereby repealed.

Former acts repealed.

LXVI. THIS Act shall commence in force on the first day of *January*, one thousand seven hundred and ninety-three.

Commencement of this act.

C H A P. LXVII.

An Act to reduce into one, the several Acts concerning the County and other Inferior Courts of this Commonwealth.

[Passed the 3d of December, 1792.]

I. **B**E it enacted by the General Assembly, That in every County, City, Corporation, and Borough within this Commonwealth, in which the power of holding Courts hath been heretofore, or shall hereafter be vested by Law, a Court, to be denominated the Court of such County, City, Corporation, or Borough, respectively, shall hereafter con-

County and corporation courts to be held by the justices thereof.

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Any four of
them to con-
stitute a court.

tinue to be held by the Justices of such Counties, and the Magistrates of such Cities, Corporations, and Boroughs, respectively, at the times and places, and in the manner hereinafter directed; any four of which Justices or Magistrates shall constitute a Court, except in such cases where a greater number may by any Law be directed.

Justices shall
be sworn.

II. EVERY person appointed a Justice of the Peace for any County or Corporation, before his entering upon and executing the said office, shall publicly in the Court-house of his County or Corporation, and on a Court day, take the oath of fidelity to the Commonwealth, as also the following oaths, to wit:

Their oath.

YOU shall swear that as a Justice of the Peace, in the County (or Corporation of _____, in all articles in the commission to you directed, you shall do equal right to the poor and to the rich, to the best of your ability and judgment, and according to Law; and you shall not be of counsel of any quarrel hanging before you, and issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered without any concealment or embezzling; you shall not let, for gift, or other causes, but well and truly you shall do your office of a Justice of the Peace, as well within your County (or Corporation) Court, as without, and you shall not take any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you shall not direct, or cause to be directed, any warrant by you to be made, to the parties; but you shall direct them to the Sheriff or other Officer of the Commonwealth, or other indifferent person, to do execution thereof. So help you GOD.

The oath of a Justice of the County or Corporation Courts in Chancery:

Oath of a justice
in chancery.

YOU shall swear that well and truly you will serve the Commonwealth in the office of a Justice in the County (or Corporation) Court of _____, in Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the Laws and usages of the Commonwealth of Virginia, without favor, affection, or partiality. So help you GOD.

Penalty for
acting without
qualifying.

And if any person whatsoever shall presume to execute the office of a Justice of the Peace, or Magistrate of a County or Corporation Court, without first qualifying himself in the manner by this act before required, he shall for every such offence, forfeit and pay one thousand dollars, one moiety to the use of the Commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any Court of Record in this Commonwealth.

Courts may be
adjourned
from day to
day for six
days.

III. IF the business of any of the said Courts cannot be determined on the Court day, the Justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them, shall be heard and determined, or otherwise continued in the manner hereinafter directed.

How to be
adjourned
when the jus-
tices do not
attend.

IV. IF a sufficient number of Justices should not attend to form a Court on the first day of any Court, or any subsequent day thereof, it shall and may be lawful for any one Justice to adjourn the Court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters and things therein depending, shall stand continued to the next succeeding Court. If from any cause the Court shall not sit on any day in a Term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched. No discontinuance shall take place in any case by reason of the Justices failing to make a Court, or to adjourn; but in such cases, all suits, process, matters and things depending, shall stand continued, and all returns and appearances, shall be made to the next succeeding Court in course, in the same manner as if such succeeding Court had been the same Court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds and obligations, for appearance, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding Court, as if the next succeeding Court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the Court in course, shall stand continued in the same order to such Court, without any fee to the Clerk for the continuance of such as shall not then be called over.

Suits not to be
discontinued
by the justices
failing to hold
a court.

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Jurisdiction of
the court.

V. THE Justices of every such Court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said Courts, at the common Law, or in Chancery, within their respective Counties and Corporations, and all such other matters as by any particular statute, is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than five dollars, or two hundred pounds of tobacco, other than prosecutions on any penal Law of this Commonwealth; and also such cases as are by Law exclusively vested in any other tribunal.

Certain causes
excepted.

VI. WHEN the cause of action shall not exceed five dollars, or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one Justice of the Peace, who may give judgment, and thereupon award execution against the goods and chattels of the Debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the Sheriff or Constable to whom directed, in the same manner, as other writs of *fieri facias*, are to be executed and returned, but no execution shall be by him granted against the body of the Defendant.

Causes deter-
minable before
one justice.
But he may
not issue exe-
cution against
the defen-
dant's body.

VII. THE said Courts shall be held at the several respective places, at present assigned by Law for that purpose, or at such place or places, as shall be hereafter lawfully appointed, on the several days for holding Courts heretofore in such Counties or Corporations respectively appointed by Law, in the months of *March, May, August, and November*, in every year, except as herein after excepted, for the trial of all presentments, criminal prosecutions, suits at common Law and in Chancery, where the sum exceeds twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter shall be brought in any of the said Courts, and shall continue for the space of six days, unless the business be sooner determined; which Sessions of the said Courts shall be denominated the quarterly Sessions of such Courts respectively. *Provided always*, that in the Counties of *Montgomery, Washington, Russell, and Wytbe*, such Courts shall be held on the days now by Law respectively appointed for holding Courts in the months of *April, June, September, and November*; and in the Counties of *Henry and Cumberland*, in the months of *February, April, July, and October*; and in the Counties of *Norfolk, Princess Anne, Northampton, Nansemond, Stafford, Spotsylvania, Fairfax, Loudoun, Prince William, Berkely, and Ohio*, and in the Borough of *Norfolk*, in the months of *March, June, August, and November*; and in the County of *Pendleton*, in the months of *April, June, September, and December*; and in the County of *Hampshire*, in the months of *March, May, September, and November*, in every year; and in the Counties of *King George and Frederick*, in the month of *June*, annually, instead of the month of *May*.

Quarterly ses-
sions.

VIII. A MONTHLY Session of the said Courts shall be held in like manner, on the days heretofore by Law appointed for holding Courts in such Counties and Corporations respectively, in every month in which there shall not be a quarterly Session for the trial of petitions for small debts, or for trover and conversion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of *probat* and administration, and for the transaction of all business, which by Law is or shall be made cognizable in a County or Corporation Court, except such as has been herein assigned to the Court of quarter Sessions. *Provided nevertheless*, that injunctions in Chancery may be granted or dissolved, judgments on attachments against absconding Debtors, where the property attached shall not be replevied, entered up, and all matters touching the breach of the Peace, and good behaviour, motions on replevy bonds, and against Sheriffs and other public Officers and Defaulters, may be heard and determined either at a monthly or quarterly Court.

Monthly ses-
sions.Concurrent
jurisdiction of
monthly and
quarterly
courts.

IX. ALL original process to bring any person or persons to answer in any action or suit, indictment or information in the said Courts, and all subsequent process thereon, all process in Chancery awarded by the said Court, and all other writs of what nature soever, shall be issued and bear teste by the Clerk of such Courts respectively, and made returnable to the first day of the next succeeding quarterly Term; except *subpoenas* of injunction, attachments, petitions and *subpoenas* for witnesses, which shall be returnable to the next succeeding Court, be the same monthly or quarterly, as the case may require.

Method of is-
suing and re-
turning pro-
cess.

1792.

Special bail,
may be taken
in court.

X. SPECIAL bail may be taken in Court at the quarterly Sessions, or at the monthly Courts.

Proceedings
against absent
defendants, as
in the High
Court of
Chancery.
May hear and
determine ca-
veats against
grants for
land.
Executions,
when return-
able.

XI. THE County and Corporation Courts, at their quarterly Sessions, shall have similar jurisdiction with the High Court of Chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this State, or absconding to avoid being served with the process of the said Court; and may hear and determine all *caveats* against grants for lands lying within the jurisdiction of the said Courts respectively.

XII. ALL writs of execution upon judgments obtained in the quarterly or monthly Courts, and all executions and other process to enforce any decree in Chancery, obtained in either of the said Courts, may be made returnable to the first day of a quarterly or monthly Court, provided there be not less than fifteen, nor more than ninety days between the teste and return of such execution or process.

Courthouses
and other pub-
lic buildings
shall be erect-
ed and kept
in repair.

XIII. FROM time to time, forever hereafter, the Court of every County and Corporation within this Commonwealth, shall cause to be erected and kept in repair, (or where the same shall be already built, shall maintain and keep in good repair) within each respective County and Corporation, and at the charge of such County or Corporation, one good and convenient Court-house of stone, brick, or timber, and one common Jail and County Prison, well secured with iron bars, bolts, and locks, and also one Pillory, Whipping-Post, and Stocks; and where land shall not be already provided and appropriated for that purpose, such Court may purchase two acres, whereon to erect the said public buildings, for the use of their County or Corporation, and for no other use whatsoever. And to every Court-house, already built and established, two acres of the land, built upon and adjacent thereto, not having any house, orchard, or other immediate convenience thereon, shall be and remain appropriated to such Court-house, and the fee-simple thereof, is hereby declared to be in the Court of the same County, and their successors, to the use of such County as aforesaid; but where a Court-house is already built in any City or Town, the Land now laid off for the same, and the other public buildings, shall be judged and held to be sufficient. And if the Justices of any County or Corporation Court, shall at any time hereafter fail to keep and maintain a good and sufficient Prison, Pillory, and Stocks, every Member of the Court, so failing, shall forfeit and pay ten dollars, one moiety to the Commonwealth, the other moiety to the Informer; to be recovered with costs, by action of debt or information, in any Court of Record of this Commonwealth. And moreover, the Court so failing, shall be liable to the action of the Sheriff, from time to time, for all damages recovered against him, upon any escape for want of a sufficient Prison; and such Sheriff or his Executors, or Administrators, shall and may sue for the same by action of debt or information, brought in the General Court against the Justices so failing, or the survivors of them, and upon recovery in such suit, the Judges of the said Court, are hereby empowered and required to proportion how much every particular Justice of the Court so failing, who shall be then living, and the Executors or Administrators of such as shall be deceased, shall pay respectively, and to enter up judgment accordingly, whereupon one or more executions shall and may be issued.

Penalty for
failing to keep
a sufficient
prison, &c.

Public jail in
Williamsburg
to be used as
the jail there-
of, and of
James City
county.

XIV. ALL persons taken on civil or criminal process in the County of *James City*, may be committed to the public Jail in the City of *Williamsburg*, in like manner as if the same was within the limits of the said County; and the City of *Williamsburg* shall have a right to use the public Jail therein, as the Jail of the said City, and the District Jailor therein shall act as keeper of the Jail of the said City.

Prison rules to
be assigned.

XV. THE Justices of every County and Corporation, shall be, and they are hereby empowered and required, to mark and lay out the Bounds and Rules of their respective County and Corporation Prisons, not exceeding ten acres of land, adjoining to such Prison, which Marks and Bounds shall be recorded, and renewed from time to time, as occasion shall require; and every prisoner not committed for treason or felony, giving good security to keep within the said Rules, shall have liberty to walk therein, out of the Prison for the preservation of his or her health, and keeping continually within the said Bounds, shall be adjudged in Law a true prisoner.

Ducking-stool
may be pro-
vided.

XVI. AND if the Court of any County or Corporation, shall at any time think fit, they are hereby authorized and empowered, at the charge of their County or Corporation, to cause a Ducking-Stool to be built in such convenient place as they shall direct.

1792.

XVII. ALL process issuing from such Courts to bring any person to answer in any suit in such Courts, shall be executed three days at least before the day therein mentioned for the return thereof; and if any process shall be delivered to the Sheriff or Officer so late that he cannot execute the same three days before the return day, such process shall not be executed, but the Officer shall return the truth of the case. And if any original process be taken out within three days before the next Court day, such process shall be returnable to the next Court after the said three days, and not otherwise; and all process issued or returnable, in other manner than is herein before directed, shall be null and void. *Provided nevertheless*, that any Justice or Justices of Peace, by his or their warrant, may cause any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the same, or some other Justice or Justices, or before the next Court, although there be not three days between the execution of such warrant and the return thereof.

Process to be executed three days before return day.

When returnable, if issued within three days before the next court day.

If issued or returnable in any other manner to be void.

Criminal cases excepted.

XVIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff, or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same, on the proper return day, in the next Court; and if such Defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued, as in other cases.

Process in suits against the Governor, Councillors, Judges and Sheriffs.

XIX. IN all actions to recover the penalty for breach of any penal Law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover, or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney, shall, on pain of having his suit dismissed with costs, indorse on the original writ, or subsequent process, the true species of action, that the Sheriff to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the Sheriff may take the engagement of an Attorney practising in the County Court, indorsed on the writ that he will appear for the Defendant or Defendants, and such appearance shall be entered with the Clerk in the office on the first day after the end of the Court to which such process is returnable. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the Defendant to prison, or detaining him in his custody for want of appearance bail; but the Sheriff in such case shall return the writ executed, and if the Defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against Defendants and their appearance bail, where such is taken. *Provided always*, that any Justice of the Peace, in actions of trespass, assault and battery, trover, and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorized to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly.

In certain suits plaintiff to indorse on the writ the true species of action.

In which the sheriff may take the engagement of an attorney to appear for defendant; but shall not commit him for want thereof, or of bail.

Any justice may direct bail to be taken.

XX. IN all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be indorsed on the writ, as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail-bond to the Clerk's office before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery, as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge.

Directions to the sheriff where bail is required.

When bail may defend the suit.

How bail is to be given in detinue.

1792.

Remedy
against sheriff
neglecting to
return suffici-
ent bail.

Exceptions to
bail when to
be made.

Defendants
upon appear-
ance may be
ruled to give
special bail.

No bail to be
demanded of a
resident in one
county who is
sued in ano-
ther, until a
return of *non
est inventus*.

Provido.

Any justice
may take re-
cognizance of
special bail.

Exception to
bail, how to
be made.

The same
proceedings
against bail
and sheriffs as
in the District
courts.

Rules to be
held monthly
in clerk's of-
fice.
Rule days to
be appointed
by the courts.

Rules to be
given from
month to
month in the
office; but
may be set
aside at the
quarterly ses-
sions.

XXI. AND if the Sheriff or other Officer shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff or other Officer may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the Sheriff or other Officer depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *feri facias* may in either case be issued; but the Plaintiff shall object to the sufficiency of the bail during the fitting of the Court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

XXII. AND upon appearance of the Defendant in any personal action, where the Plaintiff shall move that the Defendant may be held to special bail, the Court may, if they see cause, rule him to give bail accordingly, or commit him in custody of the Sheriff or other Officer till such bail be given; and the person and persons becoming special bail, shall be liable to the judgment and recovery against such Defendant, unless he render his body in execution in discharge of his bail.

XXIII. NO bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one County in any other, until a *non est inventus* has been returned in the County or Corporation in which the Defendant resides, upon a *capias* issued in the same suit against such Defendant, and every writ issued contrary thereto without an indorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit* or *non sum informatus* thereon, but not afterwards. *Provided*, that no such writ issuing from the County or Corporation in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

XXIV. ANY Justice of the Peace, when the Courts are not fitting, may take recognizance of special bail in any action therein depending, which shall be returned by the Justice taking the same to the Clerk of the Court, before the next succeeding quarterly Court, to be filed with the papers in such action.

XXV. IF the Plaintiff or his Attorney shall except to the sufficiency of the bail so taken by a Justice out of Court, notice of such intended exception shall be given to the Defendant or his Attorney, at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the Court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken.

XXVI. THE same proceedings shall be had against the common bail and Sheriff, or other Officer in any suit, or either of them, their Executors or Administrators, and they or either of them may have the same remedy against the Defendant, or his Executors or Administrators, in the County and Corporation Courts at their quarterly sessions, as is directed to be had in any District Court in such cases.

XXVII. ALL imparlances to be taken, and pleadings to be filed, both in common Law and in Chancery, until an issue is joined, or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the Clerk's office, on such days as the Courts at their respective quarter Sessions, shall appoint; which rules shall be distinctly entered in a book, to be kept for that purpose, and the Clerk shall be allowed the same fees for entering such rules, as if the same had been made in Court.

XXVIII. ALL rules to declare, plead, reply, rejoin, and for other proceedings, shall be given from month to month, and shall be made and entered with the Clerk of the Court, in the same manner as rules are made and entered with the Clerks of the District Courts, in suits depending in them. *Provided nevertheless*, That the Court may at their quarterly Session next after any of the said rules and proceedings have been had in the Clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same, as to them may appear just and right.

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Office judgments when to be set aside.

XXIX. WHERE any final judgment shall be entered up in the office against any Defendant or Defendants and their securities, or against any Defendant or Defendants and Sheriff or other Officer, by default, execution may issue thereon after the next succeeding quarterly Court, unless the same be set aside during such Court, in like manner as office judgments in the District Courts may be set aside; and all office judgments so set aside, shall be immediately put at the end of the issue docket.

Directions concerning writs of *scire facias* to revive judgments.

XXX. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two nihil, unless the Defendant reside in the County or Corporation, or unless he be absent from the Commonwealth, and have no known Attorney within the same. But such *scire facias* may be directed to the Sheriff or other Officer of any County or Corporation in this Commonwealth, wherein the Defendant or his Attorney shall reside, or be found; which being returned served, the Court may proceed to judgment thereon, as if the Defendant had resided in the County or Corporation.

Rules in docketing causes.

XXXI. THE Clerk shall proportion the causes upon the docket, from the first day of the Court to the sixth, both inclusive, if in his opinion so many days will be expended in trying the causes ready for trial, and issue *subpœnas* for witnesses to attend the days to which the causes stand for trial. He shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket, unless where the Plaintiff at the calling the same, be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket.

Process where the defendant is not found.

XXXII. AND for the better ascertaining what process may be sued out, where the Sheriff or other Officer returns that the Defendant is not to be found in his bailiwick: *It is hereby further enacted*, That where any Sheriff, or other Officer, shall make such return, the Plaintiff or Plaintiffs in any civil action, shall and may sue out an attachment against the estate of such Defendant, returnable as hereinbefore is directed for the returns of original and other subsequent process thereupon, to force an appearance, or an *alias* or *pluries capias*, at the election of the Plaintiff or Plaintiffs; and if the Sheriff or other Officer, shall return any goods by him attached, the Plaintiff shall file his declaration, and be entitled to a judgment for his whole debt, and the goods so attached shall remain in custody of the Sheriff till such judgment obtained, and then be sold and disposed of, in the same manner as goods taken in execution upon a writ of *feri facias*; and if the judgment shall not be satisfied by the goods attached, the Plaintiff may have an execution for the residue. *Provided always*, that all goods so attached, shall and may be replevied by the Defendant's giving bond and security to the Sheriff or other Officer attaching the same, in like manner as by Law is directed on the execution of mesne process, or by the Defendant's appearance, and putting in good bail, if ruled by the Court to give special bail. But no Sheriff shall return upon any writ to him directed, that the Defendant is not found in his bailiwick, unless such Sheriff or his Officer, shall have actually been at the dwelling-house, or place of abode of such Defendant, and not finding him shall have there left an attested copy of the same writ or process; and where any Defendant shall be a known inhabitant of another County, and not of the County of that Sheriff to whom the process shall be directed, such Sheriff shall return the truth of the case, but not that the person is not found in his County, and thereupon such process issued from any County Court Clerk's office, as to such Defendant, shall abate and be dismissed.

When the sheriff may return that the defendant is not found.

Declarations, &c. to be preserved in the clerk's office.

XXXIII. THE Clerk of the Court shall carefully preserve the declarations, pleas, evidences, and all other papers relating to any cause in Court, and they shall be all filed together in the office.

In land causes pleadings to be in writing and complete records to be made up. Minutes of proceedings to be read in court and signed.

XXXIV. IN all cases where the title or bounds of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large with the judgment thereupon, in particular books kept for that purpose only.

XXXV. AND for preventing errors in entering the judgments of the Court, the Justices, before every adjournment, shall cause the minutes of their proceedings to be publicly read by the Clerk, and corrected where necessary, and then the same shall be signed by the first Justice in commission then sitting; which minutes so signed, shall be taken in a book, and carefully preserved among the records; and no proceedings or judgments of any Court, shall be of force, or valid, until the same be so read and signed.

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Suits shall not
abate for want
of form.

Costs upon a
plea in abate-
ment overru-
led.

Method of re-
covering debts
by petition.

Detinue and
trover for
goods, or the
value not ex-
ceeding twenty
dollars shall
be brought by
petition.
Plaintiff pro-
ceeding other-
wise shall be
non-suit.

Rules to be
observed in
the prosecu-
tion of suits
in chancery.

XXXVI. AND for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, that in all personal actions, where the declaration shall plainly set forth sufficient matter of substance for the Court to proceed upon the merits of the cause, the suit shall not abate for want of form; and that where a plea in abatement shall be pleaded in any action, and upon argument the same shall be adjudged insufficient, the Plaintiff or Plaintiffs in such action shall recover against the Defendant or Defendants full costs, to the time of overruling such plea, including the costs of that Court, a Lawyer's fee only excepted.

XXXVII. ANY debt or penalty, amounting to more than five dollars, or two hundred pounds of tobacco, and not exceeding twenty dollars, or eight hundred pounds of tobacco, may be demanded by petition to the Court of a County, City, or Borough. The Clerk of the Court shall draw the petition, stating therein how the debt became due, or by breach of what Act of Assembly the penalty was incurred, and shall issue a summons directed to the Sheriff or other proper officer, commanding him to summon the Defendant to appear and answer the petition; and the Defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account which shall be filed, when the debt shall have arisen by account, the Court shall, and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just.

XXXVIII. ANY person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the Defendant, and converted to his use, where the goods with the damages are not of greater value than twenty dollars, or eight hundred pounds of tobacco. Whosoever shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a Jury, that he might have brought a petition by this Act, shall be non-suit.

XXXIX. *AND be it further enacted*, That in all suits in the County or Corporation Courts in Chancery, the following rules and methods shall be put in practice and observed, to wit:

XL. THE Complainant shall file his bill on the first rule day after the return of the *subpœna* executed, or upon the first appearance of the Defendant, upon pain of having the same dismissed by the Defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand dismissed with costs.

XLI. UPON the Complainant's dismissing his bill, or the Defendant's dismissing the same for want of prosecution, the Defendant shall recover his costs.

XLII. THE Complainant may amend his bill before the Defendant appears, or in a small matter, afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the Defendant shall be put to any extraordinary costs, such costs shall be paid before the Complainant shall be at liberty to amend his bill.

XLIII. IF any Defendant shall not appear upon attachment returned executed, or being brought into Court upon any such process, shall obstinately refuse to answer the Complainant's bill, such bill shall be taken for confessed, and the matter thereof decreed accordingly.

XLIV. THE Defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next Court; and if no answer be put in upon return of the attachment executed, the Complainant's bill shall be taken for confessed, and the matter thereof decreed.

XLV. AND if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the Complainant's bill shall be taken for confessed, and the matter decreed as aforesaid.

XLVI. NO process of contempt shall issue without oath made of the service of the *subpœna*, unless the same be returned served by a sworn Officer.

XLVII. IF the Defendant does not file his answer within three months after the Plaintiff shall have filed his bill, having also been served with the *subpœna* at least three months before the said time for filing his answer, the Plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the Court to bring in the Defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the Court, for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

XLVIII. EVERY Defendant shall be at liberty to swear to his answer, before any Justice of the Peace.

XLIX. WHEN any cross bill shall be preferred, the Defendant or Defendants in the first bill shall answer thereto, before the Defendant or Defendants in the second bill shall be compellable to put in his or their answer to such cross bill.

L. THE Complainant shall reply or file exceptions, at the next rules after the Defendant's putting in his answer; and if the Complainant shall not then reply, nor file exceptions, his bill shall be dismissed with costs.

LI. WHEN the Complainant files exceptions against the answer of any Defendant or Defendants, as insufficient, if the Defendant puts in a sufficient answer at the next rules, the same shall be received without costs, but if the Defendant's Attorney insists on the sufficiency of the answer put in, and neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the Plaintiff may set down his exceptions, to be argued the next Court; and after exceptions so filed, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs.

LII. AND if upon argument, the Complainant's exceptions shall be over-ruled, or the Defendant's answer adjudged insufficient, the Complainant shall pay to the Defendant, or the Defendant to the Complainant, as the case shall be, such costs as shall be allowed by the Court.

LIII. UPON every second answer adjudged insufficient, costs shall be doubled. If any Defendant shall put in a third insufficient answer, which shall be so adjudged, such Defendant shall be examined upon interrogatories, and committed till he shall perfectly answer those interrogatories, and pay costs.

LIV. IF the Defendant after process of contempt, put in an insufficient answer, which shall be so adjudged, the Complainant shall not be obliged to take out a new *subpœna*, but may go on to the attachment with Proclamation, as if no answer had been put in.

LV. WHERE the Complainant conceives sufficient matter to be confessed by the Defendant's answer, he may set down the cause for, and proceed to hearing.

LVI. AFTER answer filed, and no plea in abatement to the jurisdiction of the Court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other Court ever thereafter, delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such Court, and also of infants and *femes covert*.

LVII. NO Defendant shall be admitted to put in a rejoinder, unless it be filed at the next rules after replication put in, but the Complainant may proceed to the examination of witnesses.

LVIII. AFTER an attachment with Proclamation returned, no plea or demurrer shall be received, unless by order of Court, upon motion.

LIX. IF the Complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down to be argued; or if he thinks the plea good,

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but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the Complainant shall have the same advantage as if the same plea were found false by verdict at the common Law.

LX. IF a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer shall thereafter be received, but the Defendant shall answer the allegations of the bill.

LXI. THE Complainant at the next rules after a plea or demurrer put in, may cause the same to be set down to be argued; but if the Complainant shall not proceed to have the same set down, before the second Court after plea or demurrer put in, the bill may be dismissed of course, with costs.

LXII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer shall be adjudged insufficient, and the Defendant shall answer at the next rules; but if adjudged good, the Defendant shall have his costs.

LXIII. IF any Defendant shall obstinately insist on a demurrer, and refuseth to answer, where the Court shall be of opinion that sufficient matter is alleged in the bill to oblige him to answer, and for the Court to proceed upon, the bill shall be taken for confessed, and the matter thereof decreed accordingly.

Issues to be tried when necessary.

LXIV. THE said Court in its discretion may direct an issue to be tried at their own bar whenever it shall be judged necessary.

Right of appeal, how to be exercised.

LXV. THE right of appeal from the County and Corporation Courts to the High Court of Chancery, and to the District Courts, shall be exercised in the same manner as prescribed in the Acts "*Reducing into one the several Acts concerning the High Court of Chancery*, and, "*Reducing into one the several Acts concerning the establishment, jurisdiction, and powers of District Courts.*"

When the plaintiff appeals, special bail bound to answer the judgment of the district court.

LXVI. IF the Plaintiff or Demandant appeals, then the special bail given by the Defendant or Tenant in the County or Inferior Court, shall also stand bound to answer the judgment of the District Court, and such Appellant shall give bond with security, in the sum of sixty-three dollars and thirty-three cents, that he will prosecute his appeal with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the Defendant or Appellee.

After issue joined no cause to be removed by certiorari or habeas corpus.

Rule respecting suits remanded.

LXVII. NO writ or writs of *certiorari* shall be received or allowed by the Justices of any County Court or other Inferior Court, to whom any such writ or writs shall be directed and delivered, nor shall any cause be removed by *habeas corpus* after issue or demurrer joined, in the cause or causes depending in such Court or Courts, and intended to be removed by such writ or writs, but they shall and may proceed in the said cause or causes as though no such writ had been sued forth, or delivered to them or any of them; and if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from either of the District Courts, or from the High Court of Chancery.

Injunctions, how to be obtained.

LXVIII. BEFORE any injunction in Chancery shall be granted to stay proceedings at Law in any action, suit, or judgment whatsoever, in any County or Corporation Court, if the Court shall not be otherwise satisfied with the matter of equity, the party praying such injunction shall make oath before the Court, or before some Magistrate, of the truth of the allegations of his injunction-bill; which affidavit shall be certified at the foot of the bill, and he, she, or they, shall moreover enter into bond, with one or more sufficient securities, in the Clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due, to the Plaintiff or Plaintiffs, in the action, suit, or judgment, so to be stayed, and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpoena* that the bond is filed.

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LIX. THE proceedings of the said Courts in common Law cases, shall as nearly as may be, conform to the practice in the District Courts. And in Chancery cases, the same shall conform to the practice of the High Court of Chancery in like cases, except in such cases as are or shall be otherwise particularly directed by any Act of the General Assembly.

LXX. THE Clerks of the several County and Corporation Courts in this Commonwealth shall be, and they are hereby empowered and required, upon the application of any party who hath obtained, or shall obtain any judgment, decree or final order in such Courts, to issue any legal or proper writ of execution or attachment as the case may require, as also to issue attachments against Executors, Administrators, or Guardians, who shall fail to account when ordered so to do by such Court, directed to the Sheriff of the same, or any other County, provided there be fifteen days at least, and not more than ninety days, between the teste and return of such writ.

LXXI. NOTHING in this Act before contained, shall be construed to enlarge, alter or abridge any of the powers, jurisdictions, or constitutions of any Court of any City, Town, Corporation, or Borough, within this Commonwealth, but the same shall remain as if this Act had not been made; any thing herein to the contrary, or seeming to the contrary, notwithstanding: *Provided always*, That the respective Corporation Courts, or Courts of Hustings of any City, Town, or Borough, shall have jurisdiction only in suits or controversies instituted between the respective inhabitants or citizens of such City, Town, or Borough, and between one or more of the inhabitants of such City, Town, or Borough, and any person or persons not an inhabitant or inhabitants of this Commonwealth, and in either case only where the contract hath been made, or the cause of action hath accrued, within such City, Town, or Borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the County Courts.

LXXII. NOTHING in this Act before contained, shall be construed to prejudice, or in any manner affect the charters of the City of *Williamsburg* and Borough of *Norfolk*, or either of them.

LXXIII. NO person being a Member of any Corporation Court, Court of Hustings, or Common-Councilman of any City, Town, or Borough whatsoever, within this Commonwealth, except Common-Councilmen of the City of *Williamsburg*, or Borough of *Norfolk*, shall, while a Member of such Corporation Court, Court of Hustings, or Common-Council, be capable of acting as a Justice of any County Court.

LXXIV. THE Clerks of the several County and Corporation Courts, shall annually, on or before the first day of *July*, transmit to the Auditor a list of all fines imposed by their respective Courts within the next preceding year; and if no fine shall have been imposed within such period, the Clerk shall certify accordingly. Every Clerk failing to perform the aforesaid duty, shall forfeit and pay one hundred and fifty dollars, to be recovered by the Auditor, on motion to the General Court, and applied to the use of the Commonwealth, provided ten days previous notice be given in writing of every such motion.

LXXV. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

LXXVI. THIS Act shall commence and be in force, from and after the first day of *May*, one thousand seven hundred and ninety-three.

C H A P. LXVIII:

An Act reducing into one, the several Acts concerning the Adjournment and Places of Session of certain Courts in certain Cases.

[Passed the 17th of October, 1792.]

I. **B**E it enacted by the General Assembly, That so often as it shall appear necessary, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation, bearing date one month at least before the first day of meeting, and disper-

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Proceedings at common law shall conform to the practice of the district courts, and in chancery to that of the High Court of Chancery; Clerks shall issue executions on the application of any person obtaining judgment; and attachments against guardian, &c. failing to account.

Powers of corporation courts not enlarged or abridged by this act. What suits are cognizable therein.

Charters of *Williamsburg* and *Norfolk* not to be affected by this act.

Magistrates of corporations and common-councilmen not to act as justices of any county. Exception.

Lists of fines imposed by the courts to be sent to the auditor.

Former acts repealed.

Commencement of this act.

Governor and Council may by proclamation change

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the place of holding the courts of appeals, and chancery, and the general court, and the time of their meeting.

fed throughout the several Counties, to cause the Court of Appeals, the High Court of Chancery, and the General Court, to meet at any convenient place within this Commonwealth, there to hold their respective Sessions immediately succeeding each Proclamation. If it shall so happen that the cause of adjournment shall occur within the space of a month next preceding the day of meeting, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation dispersed as aforesaid, to postpone the time of meeting beyond the day, taking care that one month at least shall intervene between the date thereof, and such new day, and that the new day does not fall within the month next preceding the stated term.

Judges may adjourn if they think they cannot sit with safety.

II. IF after a Session begun, a majority of the Judges of the aforesaid Courts who are present, shall be of opinion, and so record, that they cannot sit with safety at the place fixed by Law, or the Proclamation aforesaid, it shall be lawful for them to adjourn to the succeeding Term; and thereupon all business shall stand continued over.

Copies of the proclamations to be sent to the judges.

III. COPIES of any Proclamation of adjournment shall be sent under signature of the Governor, and Seal of the Commonwealth, to each of the Judges aforesaid, whose Court may be so adjourned.

No discontinuance if courts not held in usual terms.

IV. THERE shall be no discontinuance in any proceeding whatsoever, if the Courts aforesaid, or either of them, should not be holden in their usual terms.

Executive may direct courts to be held in other buildings, when those erected for the purpose are destroyed. *Provido.*

V. IT shall in like manner be lawful for the Executive, whensoever any building or buildings duly appointed for the holding of any Court shall be destroyed, by Proclamation to direct such Court to be holden in any other building or buildings, until the building or buildings so destroyed shall be rebuilt. *Provided always,* that the Court of Appeals, High Court of Chancery, and General Court, shall continue to be holden in such case, in the City of *Richmond*; the District Courts in the Counties in which they are appointed to be holden by Law; and the County and Corporation Courts within their respective Counties and Jurisdictions.

Repealing clause.

VI. ALL and every Act and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXIX.

An Act to reduce into one, the several Acts declaring who shall be Conservators of the Peace within this Commonwealth.

[Passed the 17th of October, 1792.]

Who shall be conservators of the peace.

I. **B**E it enacted by the General Assembly, That the Judges of the Court of Appeals, High Court of Chancery, and General Court, shall be Conservators of the Peace throughout the Commonwealth; and the Justices of the Peace in each County and Corporation shall be Conservators of the Peace within their several Counties and Corporations, respectively; and the said Judges and Justices within the limits aforesaid, respectively, shall have power to demand of such persons as are not of good fame, sufficient surety and main-prize of their good behaviour.

May demand of persons of evil fame, security of their good behaviour.

Repealing clause.

II. EVERY Act, clause, and part of any Act, within the purview of this Act, shall be, and the same is hereby repealed.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the passing thereof.

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C H A P. LXX.

An Act to reduce into one, all Acts and Parts of Acts respecting County and Corporation Clerks.

[Passed the 2d of November, 1792.]

I. **B**E it enacted by the General Assembly, that every person hereafter admitted into office by any County or other Inferior Court, as Clerk or Deputy-Clerk of such Court, shall at the time of his admission, or appointment to such office, take the following oath:

Clerks of county and other inferior courts how qualified.

I, A. B. do swear that I will well and truly exercise the office of _____ according to the best of my skill and judgment, making due entries and record of all orders, judgments, decrees, opinions or proceedings of the Court, and carefully filing and preserving in my office, all books and papers whatsoever, which shall be delivered me in charge, or otherwise come to my hands or possession by virtue of my said office; and that I will not wittingly or willingly commit any malfeasance of office, but in all things and at all times keep my said office free and accessible to every person having a right or claim to business therein, and faithfully execute the duties thereof, without favor, affection, or partiality. So help me GOD."

And if any person shall presume to execute the office of Clerk or Deputy Clerk of any County, or other Inferior Court, without taking such oath, he shall forfeit and pay fifteen hundred dollars, and suffer one year's imprisonment without bail or mainprize.

Penalty for acting without qualifying.

II. IF any Clerk shall wittingly make any false entry, or rase, alter or change any record in his keeping belonging to his office, every such Clerk so offending shall be amerced and imprisoned at the discretion of a Jury; and shall moreover be liable to the action of the party grieved. And if any judgment be reversed, by reason of any such false entry, rasure, alteration, or change, the party grieved may sue by writ of error, or otherwise according to Law, if he see it expedient for him.

How punished for making false entries or altering records. Party injured, how to be relieved.

III. EVERY Clerk of a County or other Inferior Court shall, at the time of his appointment and qualification as aforesaid, enter into bond, with security, to be approved of by the Court, in the penalty of three thousand dollars, payable to the Governor and his successors, for the time being, with condition for the due and faithful execution of his office, and that he will not remove or carry, or suffer to be carried or removed out of the County or Corporation, the records and papers of the Court whereof he is Clerk, or any part thereof, except in cases allowed by Law; which bond shall by such Clerk be transmitted within three months to the Clerk of the Court of the District in which the said County or Corporation may be, to be by him registered and preserved among the papers of his office, and may be prosecuted upon against any such Clerk and his securities, in the name of the Governor, or his successors, for the use of any person or persons who shall or may be injured, at his, her, or their costs and charges, who shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of the said bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any Plaintiff or Plaintiffs who shall sue on such bond, but may be put in suit and prosecuted from time to time, for the benefit and at the proper costs and charges of any party injured, until the whole sum of three thousand dollars, the penalty expressed in such bond, shall be recovered; and such Clerk failing to transmit such bond to the Clerk of the said District Court for the time being, within the term aforesaid, shall forfeit and pay three hundred dollars, or presuming to execute his office without entering into such bond, shall forfeit and pay six hundred dollars, and suffer three months imprisonment.

Bond and security to be given by clerks when appointed. Condition.

To be transmitted to the clerks of the District courts

Penalty on clerks for failure.

IV. IT shall not be lawful for the Court of any County or Corporation, or the Clerk of any such Court, to remove, or cause to be removed, the records and papers of the same, or any part thereof, without the County or Corporation, except in cases of actual invasion or insurrection, where in the opinion of the Court the same will be endangered, or where for want of such opinion, occasioned by the suddenness of the alarm or danger, the Clerk shall at his own discretion remove the same, returning them as soon as the alarm or danger

Records of County courts not to be removed out of the county, except in invasions or insurrections.

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ceases, or except also in other cases heretofore provided for by Law; any Member of a Court, or Clerk of the same, offending herein, shall forfeit and pay six hundred dollars.

Clerks appointed since June 1776, to reside in their counties.

Where the clerks of county courts shall keep their offices.

Penalties how to be recovered.

When the clerks are to account for the public monies received by them.

Punishment in case of fraud therein.

How a clerk is to be appointed when the court is equally divided.

Clerks offices to be annually inspected.

Clerks to keep lists of executions in books, and constantly carry them to their court.

Repealing clause. Proviso.

Commencement of this act.

V. EVERY Clerk appointed since the fourth day of *June*, one thousand seven hundred and seventy-six, shall reside within the County or Corporation in which he shall hold his office; and every Clerk of a County or Corporation Court, shall keep his office at the Court-house of the County in which he resides, or at such other convenient place, as the Court of the County or Corporation may direct, under penalty of being incapacitated therefrom, by information in the General Court. *Provided always*, that the Clerks of County and Corporation Courts may keep their several offices at any place within their respective Counties or Corporations, until otherwise directed by their Courts as aforesaid, and until an office built with brick and covered with tile, lead, or slate, with so much land as the Court shall judge necessary thereunto appurtenant, shall be provided for the use of the said Clerks and their successors, at the expence of their Counties or Corporations respectively, to be assessed in their levies.

VI. ALL the penalties by this Act imposed, shall be prosecuted for, and recovered by bill, plaint, or information, in any Court of Record, one moiety to the use of the Informer, and the other moiety to the use of the Commonwealth.

VII. THE Clerks of the several Courts aforesaid, shall respectively, on or before the first day of *April*, and first day of *October*, in every year, account for on oath, and pay into the Public Treasury, all the monies which by an Act, intituled, "*An Act to reduce into one, the several Acts concerning the Public Revenue*," they are authorized to receive, after a deduction of five *per centum* therefrom, as a commission for the service thereby imposed, and in case of fraud herein by any Clerk, he shall, on conviction thereof, be deprived of his office.

VIII. WHENSOEVER the Court of any County or Corporation within this Commonwealth shall be so divided in the appointment of a Clerk, that neither of the Candidates shall be elected, the High Sheriff of such County, or the presiding Magistrate of such Corporation Court, shall decide in favor of one of those Candidates, between whom the Court shall be divided.

IX. THE Justices of the several County and Corporation Courts, shall annually appoint two or more fit persons of their number, to inspect the Clerk's office of their County or Corporation, and to report to the next Court, the condition in which they find the papers and Records.

X. THE Clerk of every County or Corporation Court, shall enter in a docket or book to be kept by him for that purpose, a list of all executions by him issued, the name of the person to whom delivered; and what return is made thereon, in case the same be returned, and shall constantly carry the said book to his Court.

XI. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

XII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXI.

An Act concerning Counsel and Attornies at Law.

[Passed the 19th of November, 1792.]

Method of obtaining a license.

I. FOR prescribing the mode of licensing Counsel and Attornies at Law, and regulating their practice, *Be it enacted by the General Assembly*, That before any person shall be licensed to practise as Counsel or Attorney at Law, in any of the Courts of this Commonwealth, he shall produce to those authorized hereby to grant licenses, a certificate

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from the Court of that County, where he hath usually resided for the last preceding twelve months, that he is a person of honest demeanor, and is upwards of twenty-one years of age; and three of the Judges of the Superior Courts upon such certificates being produced to them, may, and they are hereby authorized and empowered, to grant to the person producing the same, a license under their hands and seals, to practise the Law in the Superior and Inferior Courts of this Commonwealth, if after examination they shall be of opinion that he is duly qualified.

II. EVERY Counsel and Attorney before he shall be permitted to practise in any of the Courts of this Commonwealth, shall first produce his license in each Court where he intends to practise, and in the presence of such Court shall give assurance of fidelity to the Commonwealth, and shall moreover take the following oath of office, to wit:

Counsel and Attornies how qualified.

I, A. B. do solemnly swear, that I will honestly demean myself in the practice of the Law, as Counsel or Attorney, and will in all respects execute my office, according to the best of my knowledge and abilities.

If any person shall presume to practise as Counsel or Attorney in any of the said Courts without a license first obtained as aforesaid, or without qualifying himself in such Court in the manner before directed, he shall for every such offence forfeit and pay the sum of one hundred and fifty dollars for every cause he shall prosecute or defend in any of the said Courts; one moiety to the use of the Informer, the other moiety to the use of the Commonwealth, to be recovered by action of debt in any Court of Record.

Penalty for practising without qualifying.

III. EVERY person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such license, or if licensed, the Judges of any Court, in which such person may practise, on proof thereof being made to them, may supersede his license.

Who incapable of obtaining a license, or practising.

IV. IF the Judges of the General Court, either in the General Court or District Courts, from their own observation, detect any mal-practice in either of the said Courts, in any Counsel or Attorney of those Courts, or either of them, or if a complaint in writing be made to them of such mal-practice in the said Courts, or in the Court of any County or Corporation, the party accused shall be summoned to shew cause why an information should not be filed against him. And if such information should be ordered, and the Counsel or Attorney thus offending, should be found guilty of the matter therein charged, the said Judges either in the General Court or District Courts, as the case may happen, may either suspend his license, during a certain time, or vacate it altogether, as they shall judge most proper. The Judges of the Court of Appeals, and of the High Court of Chancery, shall have the like power, over Counsel and Attornies practising at the bars of their respective Courts, and in case an information should be directed by the Judges of either of the said Courts, they may cause a Jury to be impanelled to try such information, in like manner as informations are tried in the General Court, or in the District Courts. *Provided always*, That nothing herein contained shall be construed to hinder the Justices of any County Court, or other Inferior Courts, from causing any Attorney practising in such Courts to find security for his good behaviour, or fining such Counsel or Attornies for misdemeanor, or contempts offered to them, in the same manner as if this Act had never been made.

Licenses of Counsel and Attornies may be suspended or vacated for mal-practices.

Power of County courts over Attornies practising therein.

V. NO Counsel or Attorney who shall prosecute any suit in an Inferior Court, in which an appeal may be prayed, shall be permitted to appear, or prosecute such appeal in any Superior Court, to which the same may be carried or removed; and any Counsel or Attorney who shall appear to, or prosecute such appeal in any Superior Court, shall forfeit the sum of sixty dollars, to be recovered with costs by action of debt in any Court of Record within this Commonwealth. The whole penalty shall be appropriated to him, who will sue for and recover the same.

Appellants Attorney in the Inferior court, not to prosecute the appeal under penalty.

VI. IF any suit shall be dismissed for the non-attendance of an Attorney practising either in the Superior or Inferior Courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismissal, or any other neglect of his duty, to be recovered in any Court of Record within this Commonwealth.

Attornies to pay costs of suits dismissed for their non-attendance, and liable to party for damages.

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May be proceeded against in a summary way for money received for their clients.

Penalty on Attornies engaging to appear for defendants and failing.

Only two Attornies of a side.

Exception.

Power of Attorney to confess judgment before suit brought, void.

No Justice or officer to appear as Attorney in the court whereof he is a member or officer. Exception.

Lawyers fees.

In the General Court.

In the High Court of Chancery. In the District Courts.

In the County Courts.

Not to recover more than the legal fees.

VII. AND every Attorney receiving money for his Client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any Court of Record, in the same manner as Sheriffs are liable to be proceeded against for money received on executions.

VIII. IN all cases where the Sheriff is authorized by Law to take the engagement of an Attorney indorsed upon the writ, that he such Attorney will appear for the Defendant or Defendants, every Attorney thus entering into such engagement, who shall fail to enter an appearance agreeable thereto, shall forfeit to the Defendant or Defendants eight dollars, for which judgment shall be immediately entered, and execution may issue thereon.

IX. THE Judges of the General Court, of the District Courts, and the Justices of the County or other Inferior Courts, shall not suffer in suits hereafter to be commenced, more than two Attornies to argue on any one side, except in criminal cases, unless good cause be shewn for departing from this regulation.

X. IF any Attorney or other person practising as an Attorney, shall presume to appear under any Power of Attorney made before action brought, for confessing or suffering judgment to pass by default or otherwise, for any Defendant in any Court of Record within this Commonwealth, such Attorney shall for every such offence forfeit and pay fifteen hundred dollars to such Defendant, for his own use, to be recovered with costs, by action of debt or information in any Court of Record, and moreover shall be liable to an action for damages at the suit of the party grieved.

XI. NO Justice of Peace, Sheriff, Under-Sheriff, or Clerk of any County Court, shall appear or plead as Attorney for any person or persons whatsoever, in the Court of the County whereof he is a Member, Officer or Clerk, except only as general Attorney for any person or persons not residing or being within this Commonwealth, under penalty of being fined by such Court in the sum of thirty dollars for every such offence, to the use of the same County towards lessening the levy thereof.

XII. THE Lawyers in this Commonwealth shall not demand, nor directly or indirectly, or by any device, way or means whatsoever, take or receive before the suit or suits they are or shall be employed in, shall be finally determined, any greater or other fees or rewards for the following services, than what are herein particularly mentioned and expressed, that is to say: Lawyers practising in the General Court may demand and receive for an opinion or advice, where no suit is, or shall be brought and prosecuted or defended, by the Attorney giving such advice, but not otherwise, three dollars and fifty-eight cents; and in any suit other than where the title or bounds of land shall or may come in question, eight dollars and thirty-three cents; in those where the title or bounds of lands, shall or may come in question, sixteen dollars and sixty-six cents; in any suit in Chancery, the fee last mentioned; in any suit in a District Court, where the title or bounds of land shall or may come in question, five dollars; and in all other cases two dollars and fifty cents, except in causes transferred from the General Court, in which the fee shall be the same as in the General Court. And Lawyers practising in the County Courts, or other Inferior Courts, for services to be by them done in such Courts, may demand for an opinion or advice, where no suit is or shall be brought or prosecuted, or defended, by the Attorney giving such advice, but not otherwise, one dollar and sixty-seven cents; and in any suit at common Law, other than the actions hereafter mentioned, or by petition, two dollars and fifty cents; in all Chancery suits, or real, mixed, or personal actions, where the title or bounds of lands, shall or may come in question, five dollars; on a petition for a small debt, one dollar and twenty-five cents; and any Lawyer for attending a survey in the Country, for every day he shall attend, may demand three dollars and fifty-eight cents, which last mentioned fee may be taxed in the bill of costs. And every Lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above services, before he has performed the said services, or finished the said suits, shall forfeit and pay one hundred and fifty dollars for every offence; one half to the Governor for the time being, for the use of the Commonwealth, and the other half to the Informer, to be recovered by action of debt or information in any Court of Record within this Commonwealth.

XIII. NO Lawyer in any suit to be brought for his fees or services, shall recover more than the fees above-mentioned, notwithstanding any agreement, contract, or obligation, made or entered into by the party against whom such suit shall be brought.

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Lawyers fees
to be taxed
in the bills of
costs.

XIV. THE Clerks of the High Court of Chancery and General Court respectively, shall tax in the bill of costs on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land shall or may come in question, a fee of sixteen dollars and sixty-six cents, and in all other cases in the said last mentioned Court, the Clerk shall tax a fee of eight dollars and thirty-three cents, where the party obtaining such decree or judgment employed a Lawyer, except against Executors or Administrators, or where the Plaintiff may not recover more costs than damages; and the Clerks of the respective District Courts, and County Courts, or other Inferior Courts, shall tax in the bill of costs in all judgments in any action where the title or bounds of land shall or may come in question, and on all decrees in Chancery, either when the Plaintiff shall recover or be non-suited, or where his suit shall be dismissed, five dollars; and in all other actions or suits, except such as are brought by petition in the County or other Inferior Courts, two dollars and fifty cents, for an Attorney's fee, if the party employed one, except against Executors or Administrators, or where the Plaintiff may not recover more costs than damages; and except also such suits as have been transferred from the General Court to the District Courts, in which last mentioned suits the same fees shall be taxed as if they had been determined in the General Court. And in all suits by petition, the Clerks of the said County Courts, and other Inferior Courts, shall tax in the bill of costs, where an Attorney shall be employed, one dollar and twenty-five cents as an Attorney's fee, against the party who shall be cast, except against Executors or Administrators.

XV. ALL and every Act and Acts, clause or clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Repealing
clause.

XVI. THIS Act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
Act.

C H A P. LXXII.

An Act reducing into one Act, the several Acts directing the Manner of proceeding in cases of Impeachment.

[Passed the 18th of October, 1792.]

I. **B**E it enacted by the General Assembly, that the process against any person impeached by Resolution of the House of Delegates, shall be summons, attachment, and distress, bearing teste, the first of them, the day of emanation, and the others, the return day of the process preceding, and shall be issued and signed by the Clerk of that Court where such impeachment is, by the Constitution, directed to be tried, as soon as such impeachment shall be notified to him by the Attorney-General, or any other person or persons appointed by the House of Delegates to prosecute the same.

Process in im-
peachments.

II. A COPY of the articles of impeachment shall be delivered to the party accused, whensoever he shall require it, and the Court shall from time to time make such rules for compelling him to answer, and bring the matter to issue speedily, as to them shall seem reasonable.

Copy of the
articles to be
delivered to
the party ac-
cused.

The court
may hasten
the issue and
trial.
None to be
found guilty
but by a jury.

Jury, how to
be summoned.

III. NO person shall be found guilty on an impeachment, but by a Jury, for which purpose, as soon as any matter of fact shall be put in issue, the Clerk of such Court shall issue a *venire facias* to the Sheriffs of the Senatorial District, wherein the person accused resides, commanding them to summon in their Counties to the first day of the next succeeding Court, in proportions as nearly equal as possible, twenty-four Jurors qualified according to Law for the trial of other criminal cases, which process may be repeated by order of the Court as often as it shall be necessary. The prosecutor for the Commonwealth, and the person accused, shall in open Court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a Jury, and shall try the impeachment, render a verdict, and proceed in the same manner as is prescribed in the

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case of an indictment in the District Courts. The Jurors shall have the same allowance, and be subject to like penalties as in the case of venire-men, attending District Courts. If twenty-four Jurors should not appear, by-standers may be summoned to make up the deficiency.

Party accused may have counsel.

IV. THE party accused may have one or more Counsel without petitioning the said Court.

May challenge jurors.

V. A PERSON impeached may for good cause, challenge a Juror either before or after the names shall be struck.

No impeachment shall be tried during the Session of the Assembly. Persons found guilty on impeachments, how to be punished.

VI. NO impeachment shall be tried during the Session of the General Assembly, unless the party accused shall request it.

Repealing clause.

VII. A PERSON found guilty on impeachment, shall be either for ever disabled to hold any office under Government, or removed from such office, *pro tempore*, or subjected to such pains or penalties as any Act of the General Assembly may direct.

VIII. ALL and every Act, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXIII.

An Act concerning Grand Juries, Petit Juries, and Venire-men.

[Passed the 29th of November, 1792.]

Grand Juries to be summoned to every District court.

I. **F**OR the more regular enquiry into breaches of penal Laws, and trials of matters of fact in the several Courts of Justice within this Commonwealth, by Juries; *Be it enacted by the General Assembly,* That the Sheriff of each County, where a District Court is appointed to be holden, shall before every meeting of such Court, summon twenty-four of the most discreet Freeholders of the District, not being Ordinary Keepers, Constables, Surveyors of Highways, or Occupiers of Mills, to appear at the succeeding District Court, on the first day thereof, which the said Sheriff is hereby empowered to do, as well without his County as within the same; and the said twenty-four Freeholders, or any sixteen of them, shall be a Grand Jury, who shall be sworn to enquire of and present all Treasons, Murders, Felonies, or other misdemeanors whatsoever, which shall have been committed or done within the District, for which they are impannelled; and if a sufficient number of the said Freeholders should not attend on the first day of the Court, the Sheriff shall summon from the by-standing Freeholders, qualified according to Law, a sufficient number to form together with such of the first mentioned Freeholders as do attend, a Grand Jury.

Their duty.

By-standers may be summoned if all the jurors do not attend.

Grand jurors to be summoned to every quarterly session of the County courts.

Their duty.

II. THE Sheriff of each County, and the Serjeants of the Cities of *Williamsburg*, *Richmond*, and Borough of *Norfolk*, and other Corporations within this Commonwealth, shall before every Quarter Session of the County or Corporation Courts, respectively summon twenty-four Freeholders of his County or Corporation, not being Ordinary Keepers, Constables, Surveyors of Highways, or Owners or Occupiers of a Mill, out of which number shall be impannelled a Grand Jury of sixteen at the least, who shall be sworn to enquire into the breach of penal Laws, and make presentment of the offenders; but shall present such offences and breaches only, as shall have been committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by Law; and such Grand Juries having presented all such matters as come to their knowledge shall be discharged, always observing that when they make presentment, to write the name and surname of the Prosecutor or Informer, and the Town or County in which he shall reside, with his title or profession, under such presentment, for the more effectual prosecution thereof.

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III. AN oath in the following words, shall be administered to the foreman of a Grand Jury;

Oath to be administered to the foreman of every Grand jury.

YOU as foreman of this inquest, shall diligently enquire into, and true presentment make of all such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service; you shall present no person through malice, hatred or ill-will; nor shall you leave any unpresented through fear, favor, or affection, or for any reward, hope, or promise thereof, but in all your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you GOD.

The following oath shall be administered to the other Jurors:

To the other jurors.

THE same oath that A. B. your foreman, hath now taken before you on his part, you and each of you, shall well and truly observe and keep on your respective parts. So help you GOD.

IV. PROVIDED, That the Inhabitants of any Corporate Town, shall not be Grand Jurymen for the County in which such Corporate Town shall be.

Inhabitants of a corporate town not to act as Grand jurymen of the county. What offences may be presented by Grand juries of County courts.

V. EVERY such Grand Jury for a County or Corporation, shall and may present all offences made penal by the Laws of this Commonwealth, although the recovery of the fines for such offences shall be otherwise directed by the Laws inflicting the same; and although the forfeiture or penalty thereby inflicted, shall not amount to five dollars, or two hundred pounds of tobacco.

VI. IN a presentment to the County or Corporation Court, if the penalty of the offence exceed not five dollars, or three hundred pounds of tobacco, or to the District Court, if the penalty exceed not twenty dollars, or one thousand pounds of tobacco, no information thereupon shall be filed, but a summons shall be issued against the Defendant to answer the presentment, and such summons having been served upon him, or a copy thereof having been left at the place of his usual abode, where the prosecution shall be in the County or Corporation Court, at least ten days before the return day, if he do not appear, judgment shall be entered against him for the penalty, and if he do appear, the Court shall in a summary way, without a Jury, hear and determine the matter of the presentment, in the form in which it shall have been made, and give judgment thereupon according to Law, and the very right of the cause, disregarding any exception that may or might be taken to the form of the presentment.

Method of prosecuting presentments in the County and District courts, where the penalties do not exceed certain sums.

VII. EVERY Freeholder summoned to appear on a Grand Jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the Courts respectively, not exceeding eight dollars, unless good cause be shewn to the contrary, at or before the next Court, to the use of the Commonwealth.

Penalty on a person summoned as a Grand juror and failing to attend.

VIII. GRAND JURORS shall be privileged from arrests in all cases, except Treason, Felony, and breaches of the Peace during their attendance at Court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode, and all such arrests shall be void.

Grand jurors privileged from arrests.

IX. NO Grand Jury shall make presentment of their own knowledge, upon information of fewer than two of their own body, nor in the District Courts where the penalty inflicted by Law is less than five dollars, or two hundred pounds of tobacco.

Rules in making presentments.

X. IN case of the sickness, death, or non-attendance of any Grand Juror or Grand Jurors, after he or they shall be sworn, it shall be lawful for the Court to cause others to be sworn in his or their stead.

Others may be sworn in the room of Grand jurors failing to attend after they are sworn. Officer to summon jurors at every court.

XI. FOR the trial of all causes in the District Courts, and in the County and other Inferior Courts where a Jury may be necessary, the Sheriff or other Officer attending such Courts respectively, shall every day the Court sits, summon a sufficient number of bystanders, or others qualified as herein after is directed, to attend the Court that day, that out of them may be impannelled sufficient Juries for the trial of causes depending in such Courts; and if any person so summoned shall fail to attend the Court accordingly, he shall be fined eight dollars, to the use of the Commonwealth.

Fine, if they fail to attend.

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Qualifications
of jurors.In the Super-
ior courts.In County
courts.
Infants not to
serve as jurors.Jurors shall
not be chal-
lenged after
they are
sworn.Juries *de me-
diatate lin-
guæ*.Jurors how to
give evidence.How punish-
ed for con-
tempt.When the
sheriff may
converse with
them.Penalty on
sheriff for
failing to
summon a
Grand jury.Allowance to
venire-men.Penalty on
them for fail-
ing to attend.Penalty on a
juror taking
any thing for
giving his ver-
dict.Who may be
summoned as
jurors in
James City
county.Repealing
clause.Commence-
ment of this
act.

XII. NO person shall be capable to be of a Petit-Jury, for the trial of Treason, Felony, breach of the Peace, misprision of Treason, breach of a penal Law, or any other pleas of the Commonwealth, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments, in any Court of Record in this Commonwealth, or to be a Juror in any cause whatsoever, depending in the District or any other of the Superior Courts of the Commonwealth, unless such person be a freeholder, and possessed of a visible estate, real or personal, of the value of three hundred dollars at the least. No person shall be capable to be of a Jury for the trial of any cause whatsoever, in any County Court or other Inferior Court, unless he be possessed of a visible estate, real or personal, of the value of one hundred and fifty dollars at the least. No person under the age of twenty-one years, shall serve as a Juror. No Sheriff or other Officer shall, at any time summon or return any Juror, not qualified as this Act directs. *Provided always*, that no exceptions against any Juror, on account of his estate or age, or any other legal disability, shall be allowed after he is sworn.

XIII. JURIES *de medietate lingue* may be directed by the Courts respectively.

XIV. JURORS knowing any thing relative to the point in issue shall disclose the same in open Court.

XV. ANY Juror guilty of a contempt to the Court, may be fined by such Court in any sum not exceeding thirty dollars.

XVI. NO Sheriff shall converse with a Juror, but by order of the Court, after the Jury have retired from the bar.

XVII. IF any Sheriff shall fail to summon a Grand-Jury, and return a pannel of their names as herein directed, he shall forfeit and pay twenty dollars, for the use of the Commonwealth.

XVIII. EVERY venire-man summoned and attending the District Court for the trial of any person charged with a criminal offence, shall have the same allowance for travelling and attendance, as is provided in the case of witnesses attending the said Courts, to be paid by the Public. If any person so summoned as a venire-man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next District Court, every such person may be fined by the Court, not exceeding six dollars, to the use of the Commonwealth.

XIX. IF any Juror upon any inquest whatsoever, shall take any thing by himself, or another, to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him who will sue for the same, and the other half to the Commonwealth.

XX. THE Sheriff of the County of *James City* for the time being, and his Under-Sheriffs and Deputies, and every of them, shall be, and are hereby empowered and authorised, to summon Jurors of the inhabitants of *James City* County, in all and every part of the City of *Williamsburg*, as well in that part lying in the County of *York*, as *James City*, to serve on Juries on the days appointed for holding Courts in the said County of *James City*.

XXI. ALL and every Act and Acts, clauses and parts of acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

XXII. THIS Act shall commence in force, from and after the passing thereof.

C H A P. LXXIV.

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An Act directing the Method of proceeding against free Persons charged with certain Crimes; declaring the Mode of proceeding on Indictments, Informations, and Prosecutions on Penal Statutes; and for preventing vexatious and malicious Prosecutions, and moderating Amercements.

[Passed the 13th of November, 1792.]

I. **B**E it enacted by the General Assembly, that when any person, not being a slave, shall be charged before a Justice of the Peace, with any criminal offence, which in the opinion of such Justice ought to be examined into by the County or Corporation Court, the said Justice shall take the recognizance of all material witnesses to appear before such County or Corporation Court, and immediately by his warrant commit the person so charged to the County or Corporation Jail, and moreover shall issue his warrant to the Sheriff of the County or Serjeant of the Corporation, requiring him to summon the Justices of the County or Corporation, to meet at their Court-house on a certain day, not less than five, nor more than ten days after the date thereof, to hold a Court for the examination of the fact, which Court shall consider, whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the County or Corporation, or must be tried in the District Court. If they shall be of opinion, that the fact may be tried in the County or Corporation, the prisoner shall be bound over to the next Grand-Jury, to be held for that County or Corporation, then to be tried, or, upon refusing to give sufficient bail, shall be remanded to the County or Corporation Jail, there to remain until such Court, or until he or she shall be bailed. If they shall be of opinion that the prisoner ought to be tried in the District Court, they shall take the depositions of witnesses, and bind such as they shall think proper, by recognizance to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to jail, any two of the Justices by warrant under their hands and seals, shall direct the Sheriff or his Deputy, or Serjeant, to remove the prisoner, and commit him or her to the District Jail, there to be safely kept until he or she shall be discharged by due course of Law; by virtue of which warrant, the Sheriff or his Deputy, or Serjeant, as soon as may be, shall remove the prisoner, and deliver him or her with the warrant to the Keeper of the District Jail, who shall receive and keep him accordingly. And for enabling the Sheriff or his Deputy, or Serjeant, safely to convey and deliver such prisoner, the said two Justices, by their warrant, shall empower him, as well within his County as without, to impress such and so many men, horses, and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the Law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant.

Free persons charged with criminal offences, how, and by whom to be committed.

Examining court, how to be summoned, and what its powers.

How criminals shall be conveyed to the District jails.

II. IF such prisoner shall in the opinion of the Court be bailable by Law, they shall enter that opinion in their proceedings, and also the sums of money in which he and his bail ought to be bound, and he or she shall not be removed within twenty days after the examining Court, but shall and may be admitted to bail, before any Justice of the same County or Corporation within that time, or at any time afterwards before any Judge of the General Court. When any prisoner shall be thus admitted to bail by any Judge of the General Court, the Judge shall transmit the recognizance to the Clerk of the District Court, and give a warrant for the deliverance of the prisoner; and the warrant being put into the hands of the Officer in whose custody the prisoner shall be, he shall thereupon be delivered, if he be detained for no other cause.

When bailable before a justice of the peace, or a judge of the General Court.

III. ANY two Judges of the General Court when it is not sitting, may admit to bail a prisoner when they shall think him or her entitled thereto, and grant a warrant for his deliverance, notwithstanding the Justices before whom the examination was, shall have been of a different opinion.

When bailable before two Judges of the General Court.

IV. WHEN the Justices shall have determined that a prisoner ought to be tried for an offence in the District Court, the Clerk of the Court where such examination shall be had, shall issue a *venire facias* to be directed to the Sheriff or Serjeant, commanding him to cause twelve good and lawful men, freeholders of his County or Corporation, of the

Juries how formed.

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No Justice
committing a
criminal or
sitting on the
examining court
to be sworn on
the Petit Jury

neighbourhood of the place where the fact shall have been committed, to come before the Judges of the District Court, at the time the witnesses shall be bound to appear there, which writ shall be executed by the said Sheriff or Serjeant, and the freeholders summoned by virtue thereof, or such of them as appear and be not challenged, together with so many other good and lawful men of the by-standers, being freeholders within this Commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of such by-standers shall be a lawful Jury for the trial of the prisoner. No Justice of the Peace, or Member of a Corporation Court, who shall have committed any person for examination by the Court of his County or Corporation, or shall have been a Member of the examining Court, shall be sworn on the Petit-Jury impanelled for the trial of such person.

Process
against per-
sons not in
custody, in-
dicted of trea-
son or felony.

V. AFTER any person shall be indicted of Treason, or Felony, if he or she be not already in custody, the Sheriff shall be commanded to attach his or her body, by writ, or by precept which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias*, shall be immediately made returnable forthwith, in which the Sheriff shall also be commanded to seize his or her chattels, and safely to keep them; and if he return that the body is not found, and the indicted cometh not, an exigent shall be awarded, and the chattels shall be sequestered; but if he or she come, and yield himself or herself, or if he or she be taken before the return of the fourth *capias*, the goods and chattels shall be saved to him or her, otherwise they shall go and be vested as by Law is herein-after directed.

Prisoner to
have copy of
the indict-
ment and pan-
nel.

VI. IN all trials for such offences, the prisoner shall have a copy of the indictment, and of the pannel of the Jurors, who are to try him or her, whensoever he or she shall require it before trial or sentence.

Jurors how
challenged by
the prosecutor
for the Com-
monwealth.

VII. WHENSOEVER an Inquest be about to be taken in any Court, in which Inquest the Commonwealth is a party, if he who appears and sues in behalf of the Commonwealth, will challenge any of the Jurors, he shall assign a cause certain for his challenge, and the truth of such challenge shall be judged of by the Court; and if such challenge be sufficient, the Juror shall be rejected, or if insufficient, he shall be admitted, and in either case the Inquest shall be proceeded in.

How many
may be per-
emptory
challenged by
the prisoner.

VIII. NO person arraigned for Treason, shall be admitted to a peremptory challenge above the number of twenty-four, nor shall any person arraigned for Murder or Felony, be admitted to a peremptory challenge above the number of twenty.

Prisoners to
be tried at the
first term.

IX. WHEN the Grand Jury shall have presented to the District Court, a bill of indictment against any person charged with Treason or Felony, the Court shall cause the offender to be arraigned and tried the same Term, if he be in the custody of the Jailor, or if he be bailed and forth-coming agreeable to his recognizance, unless they see good cause to adjourn the trial to the next Term; and shall allow him Counsel to assist him at his trial if he desire it.

To be allowed
counsel.

When they
shall be bailed,
or discharged
if not tried.

X. WHEN any prisoner committed for Treason or Felony, shall apply to the Court the first day of the Term, by petition or motion, and shall desire to be brought to his trial before the end of the Term, and shall not be indicted in that Term, unless it appear by affidavit that the witnesses against him cannot be produced in time, the Court shall set him at liberty, upon his giving bail in such penalty, as they shall think reasonable, to appear before them at a day to be appointed of the succeeding Term. Every person charged with such crime, who shall not be indicted before, or at the second Term after he shall have been committed, unless the attendance of the witnesses against him appears to have been prevented by himself, shall be discharged from his imprisonment, if he be detained for that cause only; and if be not tried at or before the third Term after his examination before the Justices, he shall be forever discharged of the crime.

Their witness-
es, how to be
summoned
and paid for
their attend-
ance.

XI. IF a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining Court, or on the trial at the District Court, the Clerk of the said Court, or of the County or Corporation Court, (as the case may be) shall issue *subpoenas* for such witnesses, who, being summoned, and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases.

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XII. EXECUTION of a sentence of death shall not be done in less than thirty days after judgment shall have been given against the prisoner.

A sentence of death not to be executed in less than thirty days. Charges of prosecution, to be defrayed out of the prisoner's estate if convicted.

XIII. WHERE the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no estate, or not sufficient to be found; and the Auditor is hereby directed to transmit to the Sheriff of the County where the estate of the said prisoner shall be, an account of the said expences, and the Sheriff shall distrain and be accountable for the same as for public taxes.

XIV. TO the end that a certain and adequate mode may be fixed by Law for the regular payment of the expences attending the examination and trial of criminals in the County and other Inferior Courts, in all cases where such expences ought to be paid by the public: *Be it enacted*, that the several County and Corporation Courts within this Commonwealth, having jurisdiction in such examinations and trials, shall annually, in the month of *September* or *October*, cause to be certified to the Auditor of Public Accounts, all claims for expences accruing after the first day of *January*, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and maintenance of criminals in their respective Counties and Corporations, for conveying them to the District Jails for further trial, and for imprisonments for misdemeanor or breach of the Peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed; and the Auditor is hereby authorized and required to liquidate and adjust the said claims, and to grant warrants on the Treasury to the respective claimants for the amount of their claims.

Expences attending criminal prosecutions in the County courts how to be liquidated and paid.

XV. THE Clerks of the District Courts shall enter in books to be kept for that purpose, the names of Jurors attending for the trial of prisoners, and the names of witnesses appearing on behalf of the Commonwealth or the prisoner, with accounts of the days they shall have attended, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and certify such entries to the Auditor of Public Accounts.

Attendance of venire-men and witnesses in the District Courts to be certified to the Auditor.

XVI. WHERE any person shall be feloniously stricken or poisoned in one County or Corporation, and shall die of the same stroke or poisoning in another County or Corporation, the offender shall be examined according to Law, by the Court of the County or Corporation where such stroke was given, or poison administered, and he shall be tried in the Court of the District in which such County or Corporation lies.

Where offender to be examined and tried, when one feloniously stricken or poisoned in one County dies in another. Where accessaries shall be examined and tried.

XVII. IN like manner an accessary to a Murder or Felony committed, shall be examined by the Court of that County or Corporation, and tried by the Court of that District in which he became accessary; and shall answer upon his arraignment, and receive such judgment, order, execution, pains, and penalties, as are used in other cases of Murder or Felony.

XVIII. WHENSOEVER in Treason or Felony any person shall stand mute on his arraignment, or persists after being admonished by the Court in not answering to the indictment, or in peremptorily challenging above the number of Jurors which by Law he may be allowed to challenge peremptorily, or shall be out-lawed, he shall be considered as convicted, and the same judgment, execution, and disabilities, shall take place and be awarded as if he had been convicted by verdict, or confession of the crime.

Prisoner standing mute, or peremptorily challenging more jurors than he legally may, or outlawed to be deemed convicted. How criminals are to be conveyed to the Counties where the offences were committed.

XIX. IF Treason or Felony be committed in a County or Corporation, different from that in which the Culprit shall be arrested, any Justice of that County or Corporation, in which he or she is arrested, may by his warrant cause the offender to be put into the custody of the Sheriff or Serjeant, to be by him conveyed to the County or Corporation where the offence was committed (and every Sheriff or Serjeant while he shall officiate in execution of this Act, may impress so many men, horses, and boats, as may be necessary for the safeguard and conveyance of the offender into such other County or Corporation) and there brought before some Justice thereof, who shall proceed in like manner, as if the offender had been brought before him in the first instance; and the Sheriff or Serjeant for removing a criminal from one County or Corporation to another, shall be allowed the same fee *per* mile for such service as is allowed to Sheriffs for removing criminals from the County to the District Jail, to be paid in like manner as other expences for criminal prosecutions.

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Copy of depositions and of the warrant of commitment to be sent to the attorney for the Commonwealth in the District.

Additions of defendants estate or degree, &c. in indictments.

Words "force and arms" in indictments, not essentially necessary.

No indictment to be quashed or judgment thereon reversed for omission of the name of any parish, town, &c.

Rules respecting the filing of informations for trespasses or misdemeanors.

When the defendant shall recover his costs thereon.

Fines to be assessed by Juries.

No fines to be imposed by sheriff, &c. for default of common summons.

Process on presentments for offences not capital.

Penalty on private persons suffering

XX. WHEN any person shall be removed to be tried for Treason or Felony, in the District Court, the Clerk of the Court for the County or Corporation from whence the prisoner is removed, shall immediately after the Court holden for his or her examination, transmit to the Attorney for the Commonwealth in the District Court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination.

XXI. IN indictments in which the exigent shall be awarded in the names of the Defendants in such indictments, additions shall be made of their estate or degree, or mystery, and of the Counties of which they were or be, or in which they be or were conversant, and if on the process upon the said indictments in which the said additions be omitted, any outlawries be pronounced, they shall be void, frustrate, and holden for none, and before the outlawries be pronounced, the said indictments shall be abated by the exception of the party wherein the said additions be omitted.

XXII. IN any inquisition or indictment, the words "force and arms," or any particular words descriptive of any particular kind of force and arms, shall not of necessity be put or comprised.

XXIII. NO indictment for High Treason, misprision of Treason, Murder, or other Felony, or offence whatsoever, shall be quashed for the omission of the name of any Parish, Town, Ville or Hamlet, within any County of this Commonwealth, nor shall such omission after conviction on such indictment, be any cause to stay or arrest judgment, nor shall any judgment on such indictment be liable to be reversed on a writ of error by reason of such omission.

XXIV. NO information for a trespass or misdemeanor, shall be filed in any Court but by express order of the Court, entered on Record, nor unless the party supposed to be culpable, shall have failed to appear and shew good cause to the contrary, having been required to do so by a summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode; and the name and surname of the Prosecutor, and the Town or County in which he shall reside, with his title or profession, shall be written at the foot of the information, before it be filed, and of every bill of indictment for any trespass or misdemeanor before it be presented to the Grand-Jury.

XXV. IF the Grand-Jury to whom such a bill of indictment last mentioned, is preferred, shall not find the bill, or if the Defendant shall appear to shew cause against the filing such information, or to answer such information or indictment, and the Prosecutor shall not proceed further, or if the Defendant shall be found not guilty by the Petit-Jury, or a judgment shall be given for him, he shall recover his costs against the Prosecutor, with an Attorney's fee, if one was employed, and the allowances to witnesses to be taxed in the bill of costs, and may have execution for them, as the manner is in civil cases.

XXVI. IN every such information or indictment, the fine or amercement, which ought to be according to the degree of the fault and the estate of the Defendant, shall be assessed by twelve honest and lawful men, either those by whom the offender shall have been convicted, in case of a verdict, or those who shall be impannelled for that special purpose, where judgment shall be given against him upon the argument of a demurrer, or by his confession or default.

XXVII. NO Escheator, Sheriff, Coroner, or other Inquisitor, shall hereafter have power of amercement for default of common summons; save only the Judges of the General and District Courts, or the respective County or Corporation Courts.

XXVIII. UPON presentment made by the Grand-Jury of an offence not capital, the Court shall order the Clerk to issue a summons or other proper process against the person or persons so presented, to appear and answer such presentment at the next Court, and thereupon hear and determine the same according to Law.

XXIX. IF any private person having any prisoner in his keeping, arrested for suspicion of Felony, Treason, or Murder, and the person that is so arrested, escape by negligent

keeping, before that he be brought to the Jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the Court of that District in which such escape was made.

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criminals to escape.

XXX. NO Sheriff, Under-Sheriff, nor Escheator, nor any other person, shall take or seize the goods of any person accused or indicted of, or for, Treason, Murder, or other Felony, except only in such cases where he shall be commanded by the precept of *capias* herein before directed, to seize the chattels of a person not in custody, against whom an indictment for any such offence shall have been previously found, upon pain to forfeit double the value of the goods so taken, to him that is so hurt in that behalf, by action of debt, to be pursued in any Court of Record.

None to seize the goods of criminals until they are forfeited.

XXXI. WHENSOEVER any person shall happen to be attainted, convicted, or outlawed, of any Treason, Misprision of Treason, Murder, or Felony, whatsoever, there shall in no case be a forfeiture to the Commonwealth, of dower, or of lands, slaves, or personal estate, but the same shall descend and pass in like manner as is by Law directed in case of persons dying intestate; nor shall any attainder work a corruption of blood; any Law or usage to the contrary in any wise notwithstanding.

Estates of persons convicted, attainted, or outlawed of treason, felony, &c. to descend and pass as if they had died intestate. No attainder to work a corruption of blood. Reservation of the rights of all persons, other than the offenders.

XXXII. SAVING to all and every other person and persons, bodies politic and corporate, their heirs and successors, and to every of them (other than to such offender as shall be attainted, convicted, or outlawed) all such right, title, interest, entry, leases, possession, condition, profit, commodity, and hereditaments, as they or any of them had, or should, or of right ought to have, before or at the time of the said attainder, conviction, or outlawry.

XXXIII. APPROVERS shall never be admitted in any case whatsoever.

Approvers in no case to be admitted. Actions &c. on penal laws within what time to be commenced;

XXXIV. ALL actions, suits, bills, indictments, or informations, which shall be had, brought, sued, or exhibited upon any penal Act of Assembly, not affecting life or limb, made or to be made, shall be had, brought, sued, or exhibited within one year next after the offence committed against such penal Act, and not after.

XXXV. NO special bail shall be requirable in any suit brought upon a penal Law, unless by such Law, bail shall be expressly directed.

When special bail shall be requirable in such actions.

XXXVI. IN all cases where a fine is laid upon the Justices of any County, one action may be brought against them all jointly.

How suits may be brought for fines against Justices.

XXXVII. WHERE the penalty incurred by the breach of any penal Law shall not exceed twenty dollars, or eight hundred pounds of tobacco, the same may be sued for and recovered in the manner directed by Law for debts of like amount.

Penalties not exceeding 20 dollars or 800 lbs. tobacco, how recoverable.

XXXVIII. *AND be it further enacted*, that in all indictments for assaults and batteries, and other offences not capital, now depending or hereafter to be prosecuted, it shall be lawful for the Court before whom the same shall be depending, upon good cause to them shewn, to compel the Prosecutor to find security for payment of the costs, and if such Prosecutor shall fail to give security accordingly, the indictment shall be dismissed with costs.

Prosecutors for offences not capital, may be compelled to give security for costs.

XXXIX. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act (except as herein after provided) shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done, or claim which may have accrued, before the commencement of this Act.

Repealing clause. *Provido*.

XL. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

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C H A P. LXXV.

An Act declaring at what Time Restitution shall be made of Goods stolen.

[Passed the 22d of October, 1792.]

Courts before whom felons are convicted, may award restitution of the goods stolen by them.

I. **B**E it declared and enacted by the General Assembly, that if any Felon or Felons do rob or take away any money, goods, or chattels, from any person within this Commonwealth, whether from their person or otherwise, and thereof the said Felon or Felons be afterwards convicted or attainted, that then the party so robbed, shall be restored to his said money, goods, or chattels; and the Court before whom such Felon shall be convicted or attainted, shall have power to award, from time to time, writs of restitution accordingly.

Repealing clause.

II. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXVI.

An Act for Limitation of Actions; for preventing frivolous and vexatious Suits; concerning Jeofails, and certain Proceedings in civil Cases.

[Passed the 19th of December, 1792.]

Limitations of real actions.

I. **B**E it enacted by the General Assembly, that all writs of *formedon* in descender, remainder, or reverter of any lands, tenements, or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath or have, or hereafter may have any right or title of entry into any lands, tenements, or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards.

Exception.

II. *PROVIDED* nevertheless, that if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be, or were under the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not within this Commonwealth at the time of such right or title accrued, or coming to them, every such person, and his or her heirs, shall and may, notwithstanding the said twenty years are, or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards.

Rules in writs of right.

III. IN all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seizin of his ancestor or predecessor, within fifty years, or any other possessory action upon the possession or seizin of his or her ancestor or predecessor, within forty years, next before the teste of the writ; but no person shall maintain a real action upon his own possession or seizin, but within thirty years next before the teste of the writ.

Limitation of personal actions, except accounts between merchants, &c. Case, account trespass *quare clausum fregit*, debt, detinue, and replevin, to be brought within five years

IV. ALL actions of trespass *quare clausum fregit*, all actions of trespass, detinue, action *sur trover*, and replevin for taking away of goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandise between merchant and merchant, their factors, or servants; all actions of debt, grounded upon any lending, or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after, that is to say: The said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass,

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debt, detinue, and replevin for goods and chattels, and the said action of trespass *quare clausum fregit*, within five years next after the cause of such action, or suit, and not after; and the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the cause of such actions or suits, and not after; and the said action upon the case for words, within one year next after the words spoken, and not after.

after the cause of action accrued. Trespass, assault, battery, wounding and imprisonment, in three years. Slander within one year.

V. JUDGMENTS in any Court of Record within this Commonwealth, where execution hath not issued, may be revived by *scire facias*, or an action of debt brought thereon, within ten years next after the date of such judgment, and not after; or where execution hath issued and no return is made thereon, the party in whose favor the same was issued shall and may obtain other executions, or move against any Sheriff or other Officer, or his or their security, or securities, for not returning the same for the term of ten years from the date of such judgment, and not after.

Within what time the plaintiff must proceed on a judgment on which execution hath not issued; when it hath issued, but hath not been returned.

VI. *PROVIDED*, That if any person or persons entitled to such judgment, where execution hath not issued, or where execution hath issued, and no return made (in either case) shall be, or were under the age of twenty one years, *feme covert*, *non compos mentis*, imprisoned, or not within this Commonwealth at the time of such judgment being awarded, whether execution hath issued thereon or not, every such person, his or her heirs, executors, or administrators, shall and may, notwithstanding the said ten years are or shall be expired, have the benefit of said judgment where no execution hath issued by reviving the same by *scire facias*, or by action of debt, and where execution hath issued and no return made, every such person or persons, his or her heirs, executors, or administrators, may have the benefit of other executions, or may move against any Sheriff or other Officer, or his or their security, or securities, for the same within five years after such disabilities removed, and not after.

Proviso in favour of infants *femes covert*, persons *non compos*, imprisoned, or out of the state.

VII. ALL actions or suits founded upon any account for goods, wares, and merchandise sold and delivered, or for any articles charged in any store account, shall be commenced and sued within one year next after the cause of such action or suit, or the delivery of such goods, wares, and merchandise, and not after; except that in case of the death of the creditors or debtors, before the expiration of the said term of one year, the further time of one year from the death of such creditor or debtor, shall be allowed for the commencement of any such action or suit.

On store account within one year.

VIII. AND to prevent imposition or deception herein, the respective time or date of the delivery of the several articles charged in any such account, or any receipt taken for the delivery of them, shall be particularly specified. And if any merchant or trader shall wilfully post-date, any article or articles in such account, or the receipt taken for the delivery of them, he shall forfeit and pay ten-fold the amount of the article or articles, or of the receipt taken for the delivery of them, so post-dated, to be recovered with costs in any Court of Record, by petition, where the penalty incurred shall be under sixteen dollars and sixty-six cents, or amounts to that sum only, and by action of debt or information, where the penalty shall be more than sixteen dollars and sixty-six cents, to the Informer, where the Informer prosecutes, or to the Commonwealth, where the prosecution shall be first instituted on the Public behalf.

In store accounts the dates of the delivery of the articles to be specified. Penalty for post-dating such accounts.

IX. AND to prevent any doubt in the construction hereof, it is hereby declared, that the before mentioned limitation of one year, shall take place and be computed, from the respective dates or times of delivery of the several articles entered or charged in any such account; and that all such articles as shall have been of more than one year's standing when the action or suit was commenced, shall be disallowed and rejected, and verdict shall be given, or judgment rendered for no more than the amount of such articles as appear to have been actually charged or delivered within one year next before the commencement of the suit as aforesaid.

Limitation to commence from the respective dates or delivery of the articles. Verdict or judgment to be given only for what was delivered within the year.

X. *PROVIDED nevertheless*, That if in any of the said actions or suits, judgment be given for the Plaintiff, and the same be afterwards reversed by error, or a verdict pass for the Plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the Plaintiff, that he take nothing by his plaint, writ or bill, in all such cases the

Proviso with-in what time plaintiff may re-commence his action where the

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judgment is
arrested or re-
versed.

party Plaintiff, his heirs, executors, or administrators (as the case shall require) may commence a new action or suit, from time to time, within one year next after such judgment reversed, or such judgment given against the Plaintiff, and not after.

In the compu-
tation of
time under the
act of limita-
tions, certain
periods not to
be accounted
part thereof.

XI. *PROVIDED always*, That in all questions which may arise in any Court of Record upon any Act for limitation of actions, making entries into lands, or limitation of evidence, in the computation of time, the several periods between the twelfth day of *April*, one thousand seven hundred and seventy-four, and the twelfth day of *April*, one thousand seven hundred and seventy-eight, and between the first day of *January*, one thousand seven hundred and eighty-one, and the fifth day of *January*, one thousand seven hundred and eighty-two, and between the fifth day of *May*, one thousand seven hundred and eighty-three, and the twentieth day of *October*, in the same year, shall not be accounted any part thereof, so as to bar such action, entry, or evidence.

Infants, *femes*
covert, per-
sons *non com-*
pos, imprison-
ed, beyond seas
or out of the
country may
bring suit
within the
time limited
after such im-
pediments re-
moved;

XII. *PROVIDED also*, That if any person or persons that is or shall be entitled to any such action of trespass, detinue, action sur trover, replevin, actions of account, actions of debt, actions of trespass, for assault, menace, battery, wounding, or imprisonment, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond the seas, or out of the Country, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited after their coming to, or being of full age, discovert, of sane memory, at large, and returned from beyond the seas, or from without this Country, as by other persons, having no such impediment, should be done.

Except per-
sons out of the
country bring-
ing suits for
goods sold by
their factors.

XIII. *PROVIDED always*, That all suits hereafter brought in the name or names of any person or persons residing beyond the seas, or out of this Country, for recovery of any debt due for goods actually sold and delivered here, by his or their factor, or factors, shall be commenced and prosecuted within the time appointed and limited by this Act, for bringing the like suits, and not after, notwithstanding the saving herein before contained, to persons beyond the seas at the time their causes of action accrued. *Provided nevertheless*, that if any factor shall happen to die before the expiration of the time in which suit should have been brought, such principal shall be allowed two years from the death of such factor, to commence and prosecute his, her, or their action, for any debt due to him, her, or them, on account of any contract or dealing with such factor.

Proviso.

In what cases
the defendants
shall not have
the benefit of
this act.

XIV. *PROVIDED also*, That if any person or persons, defendant or defendants to any of the aforesaid actions, shall abscond or conceal themselves, or by removal out of the Country, or the County where he or they do or shall reside, when such cause of action accrued, or by any other indirect ways or means, defeat or obstruct any person or persons who have title thereto, from bringing or maintaining all, or any of the aforesaid actions within the respective times limited by this Act, that then and in such case, such defendant or defendants are not to be admitted to plead this Act in bar to any of the aforesaid actions; any thing in this Act in any wise to the contrary notwithstanding.

XV. *PROVIDED also*, That this Act shall not extend to any action which shall be commenced against any Master or Commander of a Ship or Vessel, who shall discharge or cause to be put on shore any sick or disabled sailor belonging to his Ship or Vessel, or any servant without taking due care for their maintenance and cure, or carrying any debtor, servant, or slave out of this Commonwealth contrary to Law.

When the
plaintiff shall
not recover
costs.

XVI. AND for the relief of the good people of this Commonwealth against causeless and vexatious suits, and for the better enabling them to recover their just rights. *Be it enacted*, that in all actions of assault and battery, and slander, commenced and prosecuted in any District Court, if the Jury find under the sum of sixteen dollars and sixty-six cents, and in the like actions commenced and prosecuted in any County Court, if the Jury find under six dollars and sixty-six cents, the plaintiff in either case, shall not recover any costs.

Where no
more costs
than damages.

XVII. AND in all actions of trespass, and all other personal actions, where the Court before whom the trial shall be, shall not be satisfied, and enter upon the record, that the freehold, title, or interest of land mentioned in the Plaintiff's declaration, was or might

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have been in question, or that the trespass was wilful or malicious, if the Jury find under six dollars and sixty-six cents, the Plaintiff shall not recover more costs than damages; and if more costs are awarded, the judgment shall be void, and shall be amended upon a motion at any time, by the Court who awarded the same, and the party injured shall be redressed, as to such costs so wrongfully awarded, in case the same be levied upon him. And where several persons shall be made Defendants in any action of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof, any one or more of them shall be acquitted by verdict, every Defendant so acquitted shall have and recover his costs of suit in like manner as if a verdict had been given against the Plaintiff or Plaintiffs and acquitted all the Defendants, unless the Court before whom such cause shall be tried, shall be satisfied that there was reasonable cause for making such person or persons Defendant or Defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the Defendant, he shall recover his costs against the Plaintiff, and have execution for the same.

Remedy
where more
costs shall be
awarded.
Where the de-
fendant shall
have his costs.

XVIII. *PROVIDED always*, That nothing herein contained, shall be construed to extend to Executors or Administrators, in such cases where by the Law they are not liable to the payment of costs of suit.

Exception as
to executors
or administra-
tors.

XIX. AND in all actions of trespass *quare clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence or involuntary, the Defendant or Defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon, or upon some of them, the Plaintiff or Plaintiffs shall be enforced to join issue; and if the said issue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs shall be non-suited, the Plaintiff or Plaintiffs shall be clearly barred from the said action or actions; and all other suits concerning the same:

In trespass
*quare clau-
sum fregit*, if
the defendant
pleads a dis-
claimer and
involuntary
trespass with
tender of a-
mends if it be
found for the
defendant, or
the plaintiff
be non-suited,
he shall be
barred.

XX. IN all actions where the Plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate, if the same might be originally prosecuted or maintained by the Executors or Administrators of such Plaintiff; and if the Defendant die after such interlocutory judgment, and before final judgment, such action shall not abate, if the same were originally maintainable against the Executors or Administrators of such Defendant, but the Plaintiff (or, if he be dead, after such interlocutory judgment, his Executors or Administrators) shall and may have a *scire facias* against the Defendant, if living, after such interlocutory judgment, (or, if he died after, against his Executors or Administrators) to shew cause why damages in such action should not be assessed, and recovered by the Plaintiff or Plaintiffs; and if such Defendant, or his Executors or Administrators, shall appear at the return of such writ, and not shew or allege any matters sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned, that the Defendant, or his Executors or Administrators, had nothing whereby to be summoned, or could not be found in the County, shall make default, a writ of enquiry of damages shall be thereupon awarded, which being executed, judgment final shall be given for the said Plaintiff, his Executors or Administrators prosecuting such writ or writs of *scire facias*, against such Defendant, his Executors or Administrators. And if there be two or more Plaintiffs or Defendants, and one or more of them should die, if the cause of action should survive to the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the writ or action shall proceed, at the suit of the surviving Plaintiff or Plaintiffs, against the surviving Defendant or Defendants. And in all actions, real, personal and mixed, if either party should die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living.

Where a suit
shall not abate
by the death
of either party

XXI. IN all actions upon any bond, or on any penal sum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the Plaintiff or Plaintiffs may assign as many breaches as he or they shall think fit; and the Jury, upon trial of such action or actions, shall and may assess damages for such of the breaches as the Plaintiff shall prove to have been broken, and on such verdict the like judgment shall be entered

Rules in ac-
tions for non-
performance
of covenants,
&c.

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On bonds for
payment of
money.

In other actions
of debt.

Powers of attorney for
confessing
judgments and
releasing errors before
suit brought,
void.

Suits brought,
by persons residing out of
the state to be
dismissed, if
security be not
given for the
costs.

Actions of account may be
brought
against executors or administrators of
guardians,
bailiffs, and
receivers, and
by one joint
tenant or tenant in common
against the other.
Process in real
actions.

Judgments
not to be reversed for certain
defects in
the process or
pleadings.

as heretofore has been usually done in such actions. And where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the Plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a Jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the Plaintiff shall have sustained thereby, and execution shall issue for so much; and judgment shall remain as a security to the Plaintiff, his Executors and Administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the Defendant, and assign any other breach, and thereupon damages shall be assessed, and execution issued as aforesaid. And in all actions which shall be brought upon any bond or bonds, for the payment of money, wherein the Plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and the interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment the Defendant shall bring into Court the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only. And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the Defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar.

XXII. ALL powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever within this Commonwealth, before action brought, shall be, and are hereby declared to be absolutely null and void.

XXIII. EVERY action at common Law, or suit in equity, commenced in the name of a person not residing in *Virginia*, unless he be employed abroad in the service of the Commonwealth, or of the *United States of America*, shall be dismissed, if security be not given with the Clerk of the Court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall at any time during such non-residence, have been given to the demandant, or Plaintiff, or his Attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the Tenant or Defendant, and also of the fees which will become due to the Officers of the Court.

XXIV. ACTIONS of account shall and may be brought and maintained against the Executors or Administrators of every guardian, bailiff and receiver, and also by one Joint Tenant or Tenant in Common, his Executors or Administrators, against the other as bailiff, for receiving more than comes to his just share or proportion, and against the Executors or Administrators of such Joint Tenant, or Tenant in Common.

XXV. PROCESS in all real actions, other than writs of right, shall be according to the course of the common Law, except that the returns shall be according to the Laws of this Commonwealth, but all effoins, views and vouchers be, and are hereby taken away; and after one imparlance, unless the Tenant shall plead non-tenure, joint tenancy, or several tenancy, in abatement, and then, after such plea shall be over-ruled, he shall put himself upon the grand assize, and the mise shall be joined upon the mere right, and be tried at the next Court by twelve Jurors, to be summoned, tried, and sworn as in all other actions. And to remove all delays and groundless pretences in saving the default of the Tenant, no excuse shall be admitted but non-summmons; and such excuse being allowed, he may imparle, and at the next Court, shall either plead in abatement, or put himself upon the grand assize, as aforesaid.

XXVI. NO judgment after a verdict of twelve men, shall be stayed or reversed for any defect or default in the writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of Attorney, or for the appearance of either party, being under the age of twenty-one years, by Attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters testamentary, or commission of administration, to be brought into Court; or for omission of the words "with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quantity of merchandise, day, month, or year, in the de-

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claration or pleading, (the name, sum, quantity or time being right in any part of the Record or proceeding) or for omission of the averment, "this he is ready to verify," or, "this he is ready to verify by the Record," or for not alledging "as appeareth by the Record," or for omitting the averment of any matter, without proving which, the Jury ought not to have given such verdict, or for not alledging that the suit or action is within the jurisdiction of the Court, or for any informality in entering up the judgment by the Clerk; neither shall any judgment entered upon confession, or by *nil dicit*, or *non sum informatus*, be reversed, nor a judgment after enquiry of damages be stayed or reversed for any omission or fault, which would not have been a good cause to stay or reverse the judgment if there had been a verdict.

XXVII. WHERE a demurrer shall be joined in any action, the Court shall not regard any other defect or imperfection in the writ, return, declaration or pleading, than what shall be specially alledged in the demurrer, as causes thereof, unless something so essential to the action or defence, as that judgment according to Law, and the very right of the cause cannot be given, shall be omitted.

What defects to be regarded in case of demurrer.

XXVIII. IN controversies affecting lands, tenements, or hereditaments, possession of part shall not be construed a possession of the whole, when an actual adverse possession can be proved.

When a possession of part of lands shall not be deemed a possession of the whole.

XXIX. ACTUAL possession need not be proved to maintain a writ of right.

Actual possession not necessary to maintain a writ of right.

XXX. PRIVATE Acts of Assembly may be given in evidence without pleading them specially.

Private Acts of Assembly may be given in evidence.

XXXI. PAPERS read in evidence, though not under seal, may be carried from the bar by the Jury.

Jury may take with them papers, though not under seal.

XXXII. INTERPRETERS may be sworn truly to interpret when necessary.

Interpretors may be sworn. Rule respecting non-suits.

XXXIII. EVERY person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the Jury retire from the bar.

XXXIV. NOT more than two new trials shall be granted to the same party in the same cause.

How many new trials may be allowed.

XXXV. AFTER issue joined in an ejectment on the title only, no exception of form or substance shall be taken to the declaration in any Court whatsoever.

Exceptions to declarations in ejectment when to be made.

XXXVI. ANY instrument to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation as if it were actually sealed.

Scrolls by way of seals valid.

XXXVII. IF in detainue the verdict shall omit price or value, the Court may at any time award a writ of enquiry to ascertain the same. If on an issue concerning several things in one count in detainue, no verdict be found for part of them, it shall not be error, but the Plaintiff shall be barred of his title to the things omitted.

What omissions in verdicts in detainue may be remedied and how.

XXXVIII. WHERE there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the Defendant may apply to the Court, to instruct the Jury to disregard such faulty count.

Where one of several counts is faulty, and there are general damages, the verdict shall be good. Executions & other process duly served good, though not directed to any sheriff. Any judge of the General Court or justice may take special bail.

XXXIX. AN execution, writ, or other process appearing to be duly served in other respects, shall be deemed good, although it be not directed to any Sheriff.

XL. Any Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail, in any action depending in any Court of Record within this Commonwealth, which shall be transmitted by the person taking the same, before the next succeeding Court, to the Clerk of the said Court, to be filed with the papers in such action: The form of which recognizance shall be in the following words, to wit:

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Form of the
recognizance
of special bail.

" County to wit: MEMORANDUM, That upon the day of , in the year , E. F. of the County of , personally appeared before me (one of the Judges of the General Court, or a Justice of the County aforesaid, as the case may be) and undertook for C. D. at the suit of A. B. in an action of now depending in the [naming the Court where the suit is depending] that in case the said C. D. shall be cast in the said suit, he the said C. D. will pay and satisfy the condemnation of the Court, or render his body to prison, in execution for the same, or that he the said E. F. will do it for him."

XLII. THE person taking such bail as aforesaid, shall, if required, at the same time, deliver to the person or persons acknowledging the recognizance aforementioned, a bail piece, in the words and form following, to wit:

Bail piece.

" County to wit: C. D. of the Parish of in the County aforesaid, is delivered to bail, on a cepi corpus unto E. F. of the Parish and County aforesaid, at the suit of A. B. the day of , in the year .

How notices
may be given
where no par-
ticular mode is
prescribed by
Law.

XLII. NOTICE on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be prescribed, shall be good, if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place, at the dwelling-house, or other known place of residence of such person.

A judgment
by confession
equal to a re-
lease of errors.
Laws of costs
not to be in-
terpreted as
penal laws.
Regulations in
this act to be
observed in all
the courts of
this Common-
wealth.
Repealing
clause.

XLIII. A JUDGMENT on confession, shall be equal to a release of errors.

XLIV. THE law of costs shall not be interpreted as penal laws.

XLV. FOR removing all doubts concerning the Courts to which this act may apply. *Be it further enacted*, That all things herein contained, shall be the rules of decision and proceeding in all Courts whatsoever within this Commonwealth.

XLVI. ALL and every Act or Acts, and all parts of Acts containing any thing within the purview of this Act, shall be, and are hereby repealed.

Provide

XLVII. *PROVIDED*, That nothing herein contained shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the same shall remain in the same condition as if this Act had never been made.

Commence-
ment of this
act.

XLVIII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXVII.

An Act for reducing into one, all Acts and Parts of Acts, concerning Suits brought for Sterling Money, and for ascertaining the Rate of Exchange, and Damages upon Protested Bills of Exchange.

[Passed the 12th of November, 1792.]

Preamble.

I. **W**HEREAS bills of exchange are accounted in all payments as ready money, and it is expedient for the advancement of trade and commerce, that the credit of such bills should be preserved by making the same a sufficient security, and expediting the recovery of money thereupon:

Fifteen per
cent damages
and five per
cent per an-
num, interest
to be paid on
protested bills.

II. *BE it enacted by the General Assembly*, That where any bill of exchange is or shall be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested for non-acceptance or non payment, the drawer or indorser shall be subject to the payment of fifteen *per centum* damages thereon, and the bill shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid.

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How suits may be brought & judgment entered thereon.

III. IT shall be lawful for any person or persons, having a right to demand any sum of money upon a protested bill of exchange, to commence and prosecute an action of debt for principal, damages, interest, and charges of protest, against the drawers or indorsers jointly, or against either of them separately; and judgment shall and may be given for such principal, damages and charges, and interest upon such principal, after the rate aforesaid to the time of such judgment, and for interest upon the said principal money, recovered after the rate of five *per centum per annum*, until the same shall be fully satisfied.

In all bills of exchange is to be expressed what sum in current money was paid therefor.

Penalty for interting any other sum.

IV. IN all bills of exchange given for any debt due in current money of this Commonwealth, or for current money advanced and paid for such bills, the sum in current money that was paid, or allowed for the same, shall be mentioned and expressed in such bill, and in default thereof, in case such bill shall be protested, and a suit brought for the recovery of the money due thereby, the sum of money expressed in such bill, shall be held and taken as current money, and judgment shall be entered accordingly; and if any person so receiving or purchasing a bill of exchange, shall express, or cause to be expressed therein, any other than the true sum in current money allowed for the same, every such person so offending, shall forfeit and pay to the person drawing such bill, the whole sum of money for which such bill shall be drawn, to be recovered with costs by action of debt, in any Court of Record within this Commonwealth, wherein the same shall be cognizable.

Drawer may compel the drawee by bill in chancery, to discover the true rate of exchange.

V. AND that people may not be injured for want of due proof of the rate of exchange so given or allowed for such bills, where the same is not truly expressed therein, such bills being usually negotiated in secret, and with such caution that it can seldom be detected in the ordinary course of evidence: *Be it further enacted*, That it shall and may be lawful for any drawer of such bill of exchange, to exhibit a bill in Chancery, in any Court of Record in this Commonwealth, having Chancery jurisdiction, against the person to whom such bill shall be payable, to compel him to discover upon his corporal oath, the true difference of exchange given or allowed for such bill, and in that case if it shall appear that a less rate of exchange was given or allowed than is expressed, the drawee of such bill shall be discharged from the penalty herein before inflicted for the same, but shall be decreed to pay to the drawer, so much money as the rate of exchange allowed, shall be less than the rate of exchange expressed, together with the damages of fifteen *per centum* thereon, and costs of suit, to the time of such decree.

Judgment for a sterling debt to be discharged at such a difference of exchange as the court shall think proper.

VI. IN any action which hath been or shall be commenced, and is or shall be depending for the recovery of any sterling money, in any Court of Record within this Commonwealth, wherein the Plaintiff or Plaintiffs shall recover, such Court shall have power, and are hereby directed by rule to be entered at the foot of their judgment in such action, to order such judgment to be discharged or levied in current money, at such a difference of exchange as they shall think just; any law, usage, or custom, to the contrary in any wise, notwithstanding.

Where a person may declare for sterling money, & where not. Judgments on bonds, &c. payable in sterling, for current money debts, at what rate of exchange to be discharged. Repealing clause, Proviso.

VII. IF any person shall in any suit hereafter to be brought, declare for sterling money, except where the debt or duty is payable in sterling, the Plaintiff in every such suit shall be non-suited; and if any person shall after the passing of this act, take a bond, obligation, or note payable in sterling for any current money debt, and shall bring suit thereon, the Court before whom such suit shall be tried, upon proof being made thereof, shall order the judgment to be discharged or levied in current money, at the rate of thirty-three and one third *per centum*.

VIII. ALL and every Act or Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided*, That nothing herein contained, shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the same shall remain in the same condition as if this Act had never been made.

IX. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

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C H A P. LXXVIII.

An Act, directing the Method of proceeding in Courts of Equity against absent Debtors, or other absent Defendants, and for settling the Proceedings on Attachments against absconding Debtors,

[Passed the 26th of December 1792.]

Preamble.

I. **W**HEREAS creditors have experienced great difficulties in the recovery of debts due from persons residing without the jurisdiction of this Commonwealth, but who have effects here sufficient to satisfy and pay such debts: For remedy whereof,

Courts of equity may stop the effects of absent defendants, who fail to enter appearance, in the hands of other persons.

May direct them to deliver the effects to the plaintiff on his giving security.

And shall appoint a day for the defendants appearance. A copy of the order when & how to be published. If the defendant fails to appear, the bill may be taken for confessed and decree entered.

Plaintiff to give security for abiding such future order as may be made in the suit. Plaintiff failing to give security, effects to remain under the direction of the court. When and how persons affected by such decrees may have their causes reheard.

II. *BE it enacted by the General Assembly,* That if in any suit which hath been, or hereafter shall be commenced for relief in equity in the High Court of Chancery, or in any other Court, against any Defendant or Defendants who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to such absent Defendant or Defendants, and the appearances of such absentees be not entered, and security given, to the satisfaction of the Court for performing the decrees, upon affidavit that such Defendant or Defendants are out of the country, or that upon enquiry at his, her, or their usual place of abode, he, she, or they, could not be found so as to be served with process, in all such cases, such Court may make any order, and require surety if it shall appear necessary, to restrain the Defendants in this country from paying, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent Defendant or Defendants, and for that purpose may order such debts to be paid and effects delivered to the said Plaintiff or Plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the Court shall direct.

III. **THE** Court shall also appoint some day in the succeeding Term, for the absent Defendant or Defendants to enter his or their appearance to the suit, and give security for performing the decree, a copy of which order shall be forthwith published in some public new-paper published in this State, convenient to the place where the Court is held, and continued for two months successively, and another copy shall be posted at the front door of such Court. If such absent Defendant or Defendants, shall not appear and give such security within the time limited, or such further time as the Court may allow, for good cause shewn, the Court may proceed to take such proof as the Complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce due performance and execution thereof, by such ways and means as hath heretofore been used for enforcing other decrees, requiring the Plaintiff or Plaintiffs to give security as the Court shall approve, for abiding such future order as may be made for restoring the estate or effects to the absent Defendant or Defendants, upon his or their appearance and answering the bill; and if the Plaintiff or Plaintiffs shall refuse to give, or not be able to procure such security, the effects shall remain under the direction of the Court in the hands of a Receiver, or otherwise, for so long time, and shall then be finally disposed of, in such manner as to the Court shall seem just.

IV. **IF** any person or persons who shall be out of the Commonwealth at the time any decree is pronounced as aforesaid, shall within seven years from the passing such decree, return, and appear openly; or in case of his or her death, if his or her Heir, Executor, or Administrator, shall, within the said seven years, be, and appear openly within this Commonwealth, the Plaintiff or Plaintiffs, their Executors or Administrators, shall serve such person or persons so returning or appearing, with a copy of the decree, within a reasonable time after such return or appearance shall be known to the Plaintiff or Plaintiffs, and thereupon such Defendant or Defendants, or their Representatives, may within twelve months after such service, or those Defendants not served with a copy, or their Representatives, may, within seven years after the decree pronounced, appear in Court and petition to have the cause reheard; and upon their paying down, or giving security for payment of such costs as the Court shall think reasonable, they shall be admitted to answer the bill, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause: But, if the

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several Defendants, or their Representatives, upon whom the decree shall be so served, shall not within twelve months after such service, and the other Defendants, or their Representatives, upon whom no such service is made, shall not within seven years from the time of the decree pronounced, appear and petition to have the cause reheard as aforesaid, and pay or secure to be paid, such costs as the Court may think reasonable, all and every decree to be made in pursuance of this Act against any Defendant or Defendants so failing, shall stand absolutely confirmed against him, her, or them, by virtue of any Act or Conveyance, done or made, subsequent to the commencement of the suit; and at the end of such term, the Court may make such further order for quieting the Plaintiff or Plaintiffs in any such suits, in their possession and title to the estate and effects so sequestered or made liable, as to them shall seem reasonable.

V. IN all cases whatever, where a suit is or shall be depending in the High Court of Chancery, or other Court of Equity, concerning any matter or thing whatever against any absent Defendant or Defendants, the Court may, on satisfactory proof to them made, that such Defendant or Defendants, is or are out of this Commonwealth, or, that upon enquiry at his, her, or their usual place of abode, he, she, or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case; a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon if the appearance of such absent Defendant or Defendants be not entered, the Complainant may proceed in like manner as if an appearance had been entered. *Provided always*, that where such decree shall be made, such absent Defendant or Defendants, may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside; upon which the Court may make such decree as shall appear to be equitable.

The same proceedings to be pursued against other absent defendants as against absent debtors.

VI. IF any person shall make complaint to any Justice of the peace, that his debtor is removing out of the County or Corporation privately, or absconds or conceals himself, so that the ordinary process of Law cannot be served on him, such Justice shall grant an attachment against the estate of such debtor, or so much thereof, as shall be sufficient to satisfy the debt and costs of such Complainant; which attachment, where the debt or demand shall exceed five dollars or two hundred pounds of tobacco, shall be returnable to the next County or Corporation Court, and directed to and served by the Sheriff, or his Under-Sheriff, unless in case where the Sheriff is a party interested, and then, the same shall be directed to, and served by a Coroner, or Serjeant; and it shall be lawful for such Sheriff or Officer, to serve and levy the same, upon the slaves, goods and chattels of the party absconding, wherever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of the party absconding, and to summon such garnishee or garnishees to appear at the next Court to be held for the said County or Corporation, there to answer upon oath, what he or she is indebted unto such party, and what effects of such party, he or she hath in his or her hands, or had at the time of serving such attachment; which being returned executed, the Court may thereupon compel such garnishee to appear and answer as aforesaid.

Attachments against absconding debtors, how to be obtained, executed and returned.

VII. *PROVIDED always*, That every Justice of Peace, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, in double the sum to be attached, payable to the Defendant, for satisfying and paying all costs which shall be awarded to the said Defendant, in case the Plaintiff suing out the attachment therein mentioned, shall be cast in his suit, and also all damages which shall be recovered against the said Plaintiff for his suing out such attachment; which bond shall be by the same Justice, returned to the Court to which the attachment is returnable; and the party entitled to such costs or damages, may thereupon bring suit, and recover; and every attachment issued without such bond taken, or where no bond shall be returned, is hereby declared illegal and void, and shall be dismissed.

Party obtaining one first to give bond and security, otherwise it shall be void.

VIII. *PROVIDED also*, That all attachments shall be repleviable by appearance, and putting in good bail, if by the Court ruled so to do, or by giving bond with good security to the Sheriff or other Officer serving the same; which bond, the Sheriff or other Officer is hereby empowered and required to take, to appear at the Court to which such attachment shall be returnable, and to abide by and perform the order and judgment of such Court.

Attachments repleviable by appearance & giving bail, or security for appearance.

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Rules where
security is ta-
ken for ap-
pearance.

IX. *AND be it further enacted*, That upon the Defendant or Defendant's replevying any attached effects, by giving bond and security to the Sheriff or other Officer as aforesaid, the Sheriff shall return the name of the security by him so taken; and if such security shall be adjudged insufficient by the Court, and if the Defendant shall fail to appear and give special bail, if thereunto ruled by the Court, such Sheriff and security shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such security had been taken upon the execution of mesne process.

Method of
prosecuting
attachments
where the
debt does not
exceed 20 dol-
lars, or 1000
lbs. of tobac-
co.

X. *AND be it further enacted*, That it shall be lawful for any creditor, where his debt doth not exceed twenty dollars or one thousand pounds, of tobacco, to go before any Justice of the Peace of the County or Corporation where his debtor resides, and make oath how much is justly due to him, and that he hath grounds to suspect, and verily believes, that such debtor intends to remove his effects; and thereupon such Justice shall issue an attachment against the estate of such debtor, returnable to his next County or Corporation Court, directed to all Sheriffs, Serjeants, and Constables within the Commonwealth; and by virtue thereof, it shall be lawful as well for the Sheriff, Serjeant, or any Constable of the County or Corporation where such attachment shall be obtained, as for the Sheriff, Serjeant, or any Constable of other Counties or Corporations, to pursue and seize such effects, and to make return of such attachment to the Court where the same shall be returnable; and thereupon, such proceedings shall be had without a petition, as in other cases of attachment.

Where it is
under 5 dol-
lars, or 200
lbs. of tobacco.

XI. *AND* upon complaint made to a Justice of Peace, that any person indebted to the complainant in any less sum than five dollars, or two hundred pounds of tobacco, is removing out of the County or Corporation privately, or so absconds or conceals himself that a warrant cannot be served upon him, such Justice shall, taking bond and security, as in this Act is before directed, grant an attachment against the estate of such debtor, or so much thereof, as shall be of value sufficient to satisfy the debt and costs of the party praying such attachment, directed to the Sheriff, or any Constable of his County, or Serjeant, or any Constable of his Corporation, and returnable before himself or any other Justice thereof, who shall and may proceed thereupon, as upon an attachment returnable to the County or Corporation Court.

Where the
attachment is
not replevied,
the plaintiff
shall have
judgment.

Judgment
against the
garnishee.

XII. *AND* if any attachment returnable to the County or Corporation Court, or before a Justice of Peace, shall be returned executed, and the goods or effects attached shall not be replevied as this act directs, the Plaintiff shall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforesaid, shall be sold and disposed of, for and towards satisfaction of the Plaintiff's judgment, in the same manner as goods taken in execution upon a writ of *feri facias*. And where any attachment shall be returned served in the hands of any Garnishee, it shall be lawful upon his or her appearance and examination, in the manner by this act before directed, to enter up judgment and award execution against every such Garnishee and Garnishees, for all sums of money due from him, her, or them, to the person absconding, or in his, her, or their custody or possession, for the use of such person, or so much thereof as shall be of the value sufficient to satisfy the debt and costs of the Complainant; and all goods and effects whatsoever, in the hands of any Garnishee or Garnishees, belonging to such absconding person, shall be liable to satisfy such judgment.

Live stock at-
tached to be
supported by
the officer.

XIII. *AND WHEREAS* attachments are frequently served upon horses, cattle, hogs, sheep, and other live stock, which the Officers serving the same are obliged to retain in their custody for a length of time, before an order of Court can be obtained for the sale of such live stock, or for want of buyers, during which time such stock frequently perish for want of proper food, or are greatly impoverished, to the great detriment both of the creditor and his debtor: For remedy whereof, *Be it enacted*, that when any Sheriff or other Officer shall serve an attachment on horses or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such Officers, and they are hereby required to provide sufficient sustenance for the support of such live stock, until such stock shall be sold or otherwise legally discharged from such attachment; and upon the trial of any attachment, the Court before whom such attachment shall be tried, may and shall upon the motion of the Officer serving the same, settle and adjust what such Officer shall be allowed for his expences incurred by supporting such stock,

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And the expence defrayed out of the money arising from the sales.

to be taxed in the bill of costs against the party against whom such judgment shall be given on such attachment, and the same shall be retained by the Officer out of the money arising from the sale of such stock; and the said Officer shall and may retain the expences of supporting such stock, taken as aforesaid, out of the money arising from the sale, to be settled in manner aforesaid. And where the Plaintiff in any attachment shall be cast, the expences aforesaid shall be taxed in the bill of costs against such Plaintiff, for which the Defendant may take execution with the other costs.

XIV. *AND be it further enacted*, That upon proof being made before a Magistrate, that a debtor is actually moving or absconding as aforesaid on Sunday, it shall be lawful to issue and serve an attachment against such debtor, as is directed by this Act on any other day.

Attachments may be issued on Sundays.

XV. NO master of a ship or other vessel shall transport or carry any person whatsoever out of this Commonwealth, unless such person shall first have published for six weeks successively in the *Virginia Gazette*, his, or her resolution to depart therefrom, under the penalty of answering and paying every debt and duty such person at his or her departure out of this Commonwealth shall owe, or stand bound for to the Commonwealth, or to any Citizen thereof, by judgment, bond, bill, covenant, account, or by any other ways or means whatsoever, to be recovered against such master by action of debt, in any Court of Record within this Commonwealth.

Penalty on master of a vessel carrying any person out of the commonwealth, unless such person has advertised in the Gazette his intention to leave it.

XVI. EVERY master of every ship or other vessel offending herein, shall be liable to be sued at any time for any debt due or owing from the person so transported. And whenever any such action or suit shall be brought against him, the Court wherein the same shall be depending, may rule the Defendant to give special bail, and the Clerk shall endorse on the writ, that appearance bail is required: *Provided*, the Plaintiff shall make affidavit before a Magistrate of the cause of action, which shall be transmitted to the Clerk of the Court.

Such master may be sued at any time, & ruled to give special bail.

XVII. ALL and every Act or Acts, and part of Acts within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

XVIII. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. LXXIX.

An Act declaring the Law concerning the Escape of Debtors and other Prisoners.

[Passed the 24th of November, 1792.]

I. **F**OR the more effectual retaking and securing persons who escape out of Prison: *Be it enacted*, that if any person committed, rendered, or charged in custody, in execution, or upon mesne process, to any County or Corporation Prison, or to the Jail of any District, shall thence escape, it shall and may be lawful for any Justice of the Peace in the County or Corporation where such prisoner was in custody, upon oath of such escape before him made by the Sheriff, Under-Sheriff, Serjeant, Jailor, or other credible person, to grant unto any one demanding the same, one or more warrants under his hand and seal, directed to all Sheriffs, Mayors, Serjeants, Bailiffs and Constables, within this Commonwealth, reciting the cause of such prisoner's commitment, and time of his or her escape, and commanding them, and every of them in their respective Counties, Cities, Towns, and Precincts, to seize and retake such prisoner so escaped or going at large, and being so retaken, forthwith to convey and commit to the Prison where debtors are usually kept in the County or Corporation where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of Law; which warrant the Sheriff or other Officer is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, testifying his

Process against prisoners escaped.

Escape warrants.

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Return there-
of upon re-
taking the pri-
soner and pro-
ceeding there-
on.

receipt of such prisoner, and shall also make return of the execution of such warrant to the Court of that County, Corporation, or District from whence the prisoner escaped; and if he or she was there in custody, charged in execution, then the Sheriff or other Officer shall safely keep him or her, without bail or mainprize, until he or she shall make full payment and satisfaction to the Plaintiff or Plaintiffs, Creditor or Creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him or her shall be reversed or discharged by due course of Law. And if such prisoner shall have been in custody upon mesne process, in any action of debt, or upon the case, the Sheriff or other Officer to whom he or she shall be so recommitted, shall, in like manner, keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken, to the Court of that County, Corporation, or District wherein he or she was first arrested, and thereupon it shall be lawful for the said Court, upon the Plaintiff's or Creditor's filing his declaration, to proceed and give judgment thereon according as the truth of the case shall appear to them, in the same manner as if the Defendant had appeared in the said Court and refused to plead, unless such Defendant shall cause special bail to be entered in the said Court, and shall immediately plead to issue, and then upon certificate under the hand of the Clerk of the said Court, that such bail is given, delivered to the Sheriff or other Officer in whose custody such Defendant then shall be, it shall be lawful for the said Sheriff or other Officer to set at large such prisoner, and not otherwise; but where any prisoner escaped and retaken upon such warrant as aforesaid, shall thereafter be charged with Treason, Felony, or other Crime or Cause in behalf of the Commonwealth, for which he or she ought to be tried in the District Court, and shall be for such cause removed to the Jail of the District Court, every such prisoner shall be charged in the said District Jail, with all the causes wherewith he or she stood charged in the prison from whence he or she was removed, until he or she be thence delivered by due course of Law, in like manner as is herein before directed.

Mode of pro-
ceeding against
prisoners es-
caped from
the prison
rules.

II. WHEN any person in execution, who shall have obtained the liberty of the Prison Rules, by giving bond and security for the same, shall hereafter escape and go out of the same, the Sheriff or other Officer of the County or Corporation where such prisoner was in custody, shall, and he is hereby required immediately to apply to a Justice of the Peace for an escape warrant, to retake such prisoner according to the directions of this Act, and such Sheriff or other Officer shall, and he is hereby required immediately to give notice thereof to the Creditor at whose suit he was in custody, or to his Attorney or Agent, and shall assign over and deliver to such Creditor, or his Attorney, the bond by him taken for the liberty of the Prison Rules, who shall be obliged to receive the same; and thereupon it shall and may be lawful for such Creditor, or his Attorney, to pursue the method directed by this Act for retaking such Debtor upon the escape warrant aforesaid; and if he be retaken thereupon, and committed to Jail, the securities for his keeping the Prison Rules, shall be discharged from their bond, or such Creditor, or his Attorney, shall or may, at their election, commence and prosecute an action or suit at Law against the security or securities named in such bond, for the recovery of his debt, notwithstanding he shall have applied for and obtained an escape warrant against his Debtor, as aforesaid, if such Debtor is not retaken and committed to Jail thereupon; and the Sheriff or other Officer shall not be liable or answerable for the payment of the debt for which such prisoner was in custody, unless the security or securities named in the bond by him taken of such prisoner for the liberty of the Prison Rules, shall afterwards be found to have been insufficient for the payment of such debt at the time the same was taken.

Sheriff not li-
able, unless
the prisoner
escaped with
his consent, or
through his
negligence, or
unless he neg-
lected to re-
take him when
he might.
Action of debt
may be main-

III. AND whereas the situation of most Prisons in this Commonwealth, hath given opportunities to evil disposed persons to break open the same, and turn out Debtors and others in custody, to the hindrance of justice, prejudice of Creditors, and ruin of Sheriffs, who have been compelled to pay the debts with which such prisoners stood charged: For remedy thereof, *Be it further enacted*, that no judgment shall be entered against any Sheriff or other Officer, in any suit brought upon the escape of any Debtor in his or their custody, unless the Jury who shall try the issue, shall expressly find that such Debtor or prisoner did escape with the consent or through the negligence of such Sheriff (or Serjeant) or his Officer or Officers, or that such prisoner might have been retaken, and that the Sheriff (or Serjeant) and his Officers, neglected to make immediate pursuit. *Provided always*, that where any Sheriff or other Officer shall have taken the body of any Debtor in execution, and shall wilfully and negligently suffer such Debtor to escape, the person suing out such ex-

ecution, his Executors or Administrators, shall and may have and maintain an action of debt against such Sheriff or other Officer, his Executors or Administrators, for the recovery of all such sums of money, and tobacco, as are mentioned in the said execution, and damages for detaining the same; any Law, custom, or usage to the contrary, notwithstanding. If any private person have any prisoner in his keeping arrested for suspicion of Felony, Treason, or Murder, and the person that is so arrested escape by negligent keeping, before that he be brought to the Jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the Court of that District in which such escape was made.

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tained against Sheriff suffering debtor in execution to escape.
Penalty on private persons suffering criminals in their custody to escape.

IV. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that all rights, remedies, fines, forfeitures and penalties, incurred previous to the passing of this Act, shall remain in the same condition as if this Act had never been made.

Repealing clause.
Proviso.

V. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

G H A P. LXXX.

An Act to reduce into one, all Acts and Parts of Acts relating to the Appointment and Duties of Sheriffs.

[Passed the 23d of November, 1792.]

I. **B**E it enacted by the General Assembly, That the Court of every County within this Commonwealth, shall in the month of *June* or *July*, annually, nominate to the Governor or Chief Magistrate for the time being, three persons named in the commission of the peace, for such County, one of which persons so nominated, being approved by the Governor, with the advice of the Privy Council, shall be commissioned by the Governor, to execute the office of Sheriff in such County.

Sheriffs how to be nominated and appointed.

II. IF the Court of any County shall fail to nominate persons for the office of Sheriff, within the periods above prescribed, every Justice so neglecting, shall forfeit and pay the sum of two hundred dollars:

Penalty on the Justices for not making the nomination.

III. IF any person hereafter appointed Sheriff of any County, shall not within two months after his appointment, give bond and sufficient security, for the true and faithful performance of his duty as Sheriff, and also for the collection of taxes, the Clerk of the Court of such County shall, within one month thereafter, transmit to the Governor for the time being, a certificate of such neglect or failure, under the penalty of three hundred dollars.

If a sheriff fails to give bond and security in two months, the clerk of the court to certify it to the Executive.

IV. IF the person first commissioned to the said office of Sheriff, shall fail to give bond in two months after his appointment, and the Clerk shall certify the same as above required, or if the person first nominated shall fail to make application to the Governor or Chief Magistrate, for a commission, within one month after such nomination, the Governor, with advice of Council, is hereby authorized and required to issue a commission to some other person nominated by the Court, which commission, to all intents and purposes, shall supersede and annul the former commission; and if the person thereafter commissioned, or nominated as aforesaid, shall be guilty of the like neglect, the Governor, with the advice of the Council, is hereby authorized and required, in either case, to commission any other person or persons nominated by the Court, which last commission shall in like manner supersede the former.

When the sheriff fails to give bond and security, or the person first nominated fails to apply for a commission, the Executive may commission some other person.

V. IF any Sheriff shall die in the time of his sheriffalty, the Governor, with the advice of the Council, may, and is hereby empowered and required, to commission some other person nominated by the Court, to be Sheriff in his room.

How a sheriff is to be appointed in the room of one dying.

VI. EVERY person hereafter commissioned and qualified as aforesaid, shall be continued in office for one year after his qualification, and may, with his own consent, and the

How long they shall be continued in office.

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approbation of the Executive, be continued for two years, and no longer ; unless by some accident or impediment, a succeeding Sheriff shall be prevented from qualifying, in which case the preceding Sheriff shall continue to act, until a successor shall be qualified according to the directions of this Act.

How long they shall continue in office when appointed in the room of others dying.

VII. AND whereas inconveniences and disputes may arise, in case of the death of a Sheriff before his term of service may expire, and in such case the person appointed to succeed to the office of Sheriff, must serve one year from the time of such appointment, if not continued for two years, with his own consent, and with the approbation of the Executive, and in that case for two years from such appointment, which may occasion the Sheriffs in different parts of the country, to be appointed at different periods of the year : *Be it therefore enacted*, That when by the death of any Sheriff, another shall be appointed at any other time than in the months of *June* or *July*, the Governor, with advice of Council, may continue such successor in office, until the Court to be held in the months of *June* or *July* next after his two years continuance therein, shall expire ; any thing in this Act to the contrary notwithstanding.

Sheriffs to give bond and security for duly collecting and accounting for the public taxes.

VIII. EVERY person accepting the commission of Sheriff, shall, before his being sworn into, or executing his office, enter into one bond before the Justices of his County Court, payable to the Governor of this Commonwealth, for the time being, and his successors, for the use of this Commonwealth, with good and sufficient security, in the sum of thirty thousand dollars, for the true and faithful collecting, accounting for, and paying the taxes imposed by Law in his County ; which bond every County Court is hereby empowered and required to demand, take, and cause to be acknowledged before them in open Court, and recorded : And an attested copy thereof shall be transmitted by the Clerk to the Auditor of Public Accounts, which shall be admitted as evidence in any suit, motion or proceeding founded thereon.

When the Executive may appoint collectors of the public taxes.

IX. IF upon the refusal to act, or disability of any Sheriff, it shall appear proper to the Executive to appoint a Collector, it shall be lawful for them to make such appointment, and the person so appointed Collector, shall give bond and security in the same manner as the Sheriffs do for duly collecting and accounting for the public revenue, and shall possess every power, and be liable to every penalty, which the Sheriff would have possessed, or been liable to.

Sheriffs to give bond and security for duly collecting and accounting for all public levies, fines, &c.

X. EVERY person accepting the commission of Sheriff, shall likewise enter into another bond with two good and sufficient securities at the least, in the sum of , with a condition in the following form, to wit:

THE condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed Sheriff of the County of , by a commission from the Governor, under the seal of the Commonwealth, dated the day of , last past, If therefore, the said A. B. shall well and truly collect all levies, and account for and pay the same in such manner as is by Law directed, and also all fines, forfeitures, and amercements, accruing or becoming due to the Commonwealth in the said County, and shall duly account for and pay the same to the Treasurer of this Commonwealth for the time being, for the use of the Commonwealth, in like manner as is or shall be directed in case of public taxes, and shall in all other things truly and faithfully execute the said office of Sheriff, during his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue.

And for collecting and accounting for officers fees, and duly discharging the duties of his office.

And shall also enter into one other bond before such Court, with the like securities, in the sum of , with a condition, in the following form, to wit:

THE condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed Sheriff of the County of , by commission from the Governor under the Seal of the Commonwealth, dated the day of , last past, If therefore the said A. B. shall well and truly collect and receive all Officers fees and dues put into his hands to collect, and duly account for and pay the same to the Officers to whom such fees are due respectively, at such times as are prescribed and limited by Law, and shall well and truly execute, and due return make of all process and precepts to him directed, and pay and satisfy all sums of money and tobacco by him received by virtue of any such process, to the person or

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persons to whom the same are due, his, or their Executors, Administrators or Assigns; and in all other things shall truly and faithfully execute and perform the said office of Sheriff, during the time of his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue.

XI. WHICH bonds shall be made payable to the Governor or Chief Magistrate for the time being, and his successors, and entered of Record in the County Court. And in the name of the Governor or Chief Magistrate, or his successors, any person or persons injured, may and shall at his, her, or their costs and charges, commence and prosecute suits on such last mentioned bond, against the parties therein bound, their Executors or Administrators, and shall and may recover all damages which he, she, or they may have sustained by reason of the breach of the condition of his bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any Plaintiff or Plaintiffs, who shall sue upon such bond; but may be put in suit and prosecuted from time to time, for the benefit, and at the proper costs and charges of any party injured, until the penalty expressed in such bond shall be recovered. *Provided always*, that if any verdict or judgment shall pass for such Sheriff, or his security, the person at whose instance such suit shall be brought or prosecuted, shall pay such Sheriff or his security their costs.

Sheriff's bonds, to whom to be made payable. How suits may be brought thereon.

XII. NO person whatsoever shall be capable to serve or execute the office of Under-Sheriff, or Deputy-Sheriff of any County, for any longer time than two years in any period of four years, unless he shall produce to the Court of the County, satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal.

No person to act as a deputy Sheriff more than two years, unless he has collected and accounted for the public taxes. Sheriffs and collectors to deliver to persons paying officer's fees, taxes, &c. fair accounts and receipts.

XIII. EVERY Sheriff, Deputy-Sheriff, or Collector, who shall hereafter receive from any person or persons, any officers fees, dues, taxes, County levies; or poor rates, shall deliver to the person so paying, a fair and distinct account of the several articles for which he shall receive the same, and also a receipt for what shall be so paid him; and every Sheriff, Deputy-Sheriff, or Collector, failing herein, shall forfeit and pay to the person by whom such payment shall be made, the sum of four dollars for each offence; to be recovered with costs before any Justice of the Peace of the County, where such Sheriff, Deputy-Sheriff, or Collector, shall reside; and such Sheriff or other Officer shall moreover be liable to the party grieved for all damages he may sustain, by means of such Officer's demanding and receiving a greater sum than shall be really due; to be recovered by action of trespass on the case, before any Court of Record within this Commonwealth, in which action, where the Plaintiff shall recover, he shall also recover full costs.

Sheriffs and other officers to execute process within their counties, and on the bays, rivers, and creeks adjoining thereto.

Penalty for a false return thereof.

XIV. EVERY Sheriff himself, or by his lawful Officers, or Deputies, shall from time to time execute all writs and other process to him legally issued and directed, within his County, or upon any Bay, River or Creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting twenty dollars for every failure; one moiety to the Governor for the time being, for the better support of the Government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with costs by action of debt or information in any County Court of this Commonwealth; and such Sheriff shall be further liable to the action of the party grieved at common Law, for his or her damages; and for every false return, the Sheriff shall forfeit and pay sixty dollars, to be recovered, divided and applied in the same manner as last mentioned; and shall also in like manner, be liable to the party grieved for damages.

When the Sheriff may return that the defendant is not found.

XV. NO Sheriff shall return, upon any writ to him directed, that the Defendant is not found in his bailiwick, unless such Sheriff or other Officer shall have actually been at the dwelling-house or place of abode of such Defendant, and not finding him, shall have there left an attested copy of the same writ or process; and where any Defendant shall be a known inhabitant of any County, and not of the County of that Sheriff to whom the process shall be directed, such Sheriff shall return the truth of the case, but not that the person is not found in his County, and thereupon such process issued from any County Court Clerk's office as to such Defendant, shall abate and be dismissed.

No process to be served on Sundays. Nor on persons attending

XVI. *PROVIDED always*, That it shall not be lawful for any Sheriff or other Officer, to execute any writ or process upon the Lord's day, commonly called *Sunday*, nor upon any person attending his duty at any muster of militia, or any election of Members of the State

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musters of militia; Elections; or as witnesses;

Except in cases of treason, felony, riot, breach of the peace, and escape.

Bonds taken by sheriffs from prisoners except in cases directed by law, void.

Sheriffs not to take more than the legal fees.

Sheriffs to collect all levies, fines, &c. and poor rates, where appointed by the overseers of the poor. Not to distrain slaves where there is other sufficient distress, or to make unreasonable distresses.

May impress guards for securing criminals in jail.

Method of turning over prisoners by the sheriff to his successor.

Sheriffs commission for collecting taxes, fines, &c.

Sheriff shall not be obliged to go out of his county to pay money levied by execution, &c. Sheriffs remedy against his deputy in certain cases.

Legislature, or of that of the United States, or at any Election for the appointment of Electors to vote for a President of the United States; nor on any person attending as a witness, being duly summoned, at or on any order of survey issued from any Court, or as a witness attending on arbitration made by order of Court, or attending Commissioners appointed to take depositions in the case of contested Elections; and that all process so executed, shall be illegal and void, unless the same be issued against any person or persons for Treason, Felony, Riot, Breach of the Peace, or upon any escape out of prison or custody, and such process shall and may be executed at any time or place.

XVII. IT shall not be lawful for any Sheriff or his Officer, or Deputy, to take any obligation of, or for any person or persons in his custody, for or concerning any matter relating to his office, otherwise payable than to himself as Sheriff, and dischargeable upon the prisoner's appearance, and rendering himself at the day and place required in the writ, whereupon he was or shall be taken or arrested: And every obligation by any Sheriff taken in other manner or form, by colour of his office, shall be null and void; except in any special case, any other obligation is or shall be by Law particularly and expressly directed.

XVIII. NO Sheriff of any County within this Commonwealth, shall demand or take any other greater fee or reward whatsoever, nor shall have any allowance, reward, or satisfaction from the public, for any services or business by him done, other than the allowance given and provided by Law; all other services shall be by him done *ex officio*.

XIX. EVERY Sheriff shall collect and receive the taxes due to the Commonwealth, and shall also collect all levies, fines, forfeitures and amercements, and all Officer's fees, (and poor rates when appointed by the Overseers of the Poor to collect the same) and shall account for and pay the same in the manner directed by law.

XX. NO Sheriff or other Officer, nor any Collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or Officer's fees, shall at any time seize or distrain the slave or slaves of any person or persons, if other sufficient distress can be had, nor shall make or take unreasonable seizures or distresses, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the Plaintiff shall recover his full costs, although the damages given may not exceed seven dollars.

XXI. WHERE any person or persons accused of treason, felony, or other capital crime, shall be committed to any County jail, and the Sheriff shall have cause to suspect such person will attempt to escape, such Sheriff is hereby empowered and required to impress sufficient guard for securing such prisoner or prisoners, so long as he, she, or they continue in the said jail, to be paid by the Public, after the rate of fifty cents for each man *per day*, in the same manner as the charges of summoning and holding Courts, for the examination of criminals.

XXII. AND for removing all controversies, touching the manner of turning over prisoners upon a Sheriff's quitting his office: *Be it further enacted*, That the delivery of prisoners by indenture, between the old Sheriff and the new, or the entering upon record in the County Court, the names of the several prisoners and causes of their commitment, delivered over to the new Sheriff, shall be sufficient to discharge the late Sheriff from all suits or actions for any escape that shall happen afterwards.

XXIII. EVERY Sheriff shall have and may retain for all taxes, fines, forfeitures, and amercements, and all Officer's fees, except Clerks and Surveyor's fees and levies, an allowance of five *per centum* for collecting and paying the same, and no more.

XXIV. NO Sheriff shall be obliged to go out of his County to pay money levied by execution, or to give notice to creditors at whose suit any person may be in custody of such Sheriff.

XXV. THE High Sheriff of a County shall have the same remedy and judgment against his Under-Sheriff or Deputy, or the securities of such Under-Sheriff or Deputy, failing to pay the money by him received on any execution to the High Sheriff, or the party to whom the same is payable, his agent or attorney, or suffering any person in his custo-

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dy to escape, as the Creditor at whose suit the writ issued may have against the High Sheriff, or such Under-Sheriff or Deputy, or the securities of such Under-Sheriff or Deputy.

XXVI. AND to prevent disputes between Sheriffs and their several Deputies, which of them may have acted in serving of executions or process: *Be it further enacted*, That when any Under-Sheriff hath served any writ, execution, attachment, or other process whatsoever, he shall endorse on the back of such writ, the day of the month he or they shall have served the same, and subscribe his name, as well as that of his principal, to the return of such writ or other process; and every Under-Sheriff failing herein, shall be liable to the same penalty as is by Law inflicted on the Sheriff for a false return, and to be recovered and appropriated in the same manner.

Deputy Sheriff, to endorse on executions the time when received, and to subscribe his own and his principal's names to returns on process.

XXVII. WHERE the Sheriff of any County heretofore hath, or hereafter shall appoint any person to be his Under-Sheriff, to collect the taxes required by Law in his County, and such Under-Sheriff shall neglect, or refuse to account for, and pay such taxes to the Sheriff under whom he hath been or shall be appointed, or to the Treasurer at the time appointed for paying the same, it shall and may be lawful for the District Court, or Court of the County whereof he hath been, now is, or shall be Sheriff, upon motion to them made by such Sheriff, his Executors or Administrators, to give judgment against such Under-Sheriff, his securities, their Heirs, Executors or Administrators, for all the money wherewith he shall be chargeable, and five *per centum* damages, and five *per centum* interest thereon, and to award execution for the same; provided such Under-Sheriff, and his securities, have ten days previous notice of such motion: *Provided also*, That no execution shall be issued against an Under-Sheriff and his securities, for the five *per centum* damages, and interest thereon, unless judgment shall have been obtained against the High Sheriff for the same.

Sheriff's remedy against his deputy failing to account for public taxes received by him.

Proviso.

XXVIII. WHERESOEVER the lands of any Sheriff or Collector would have been bound for any debt due to the Commonwealth, they shall be bound in like manner, to the security or securities who may have paid the whole or a part of such debt, and it shall be lawful for the General Court, or District Courts to award a like execution against the said lands, on the motion of such securities, to that which would have been issued on behalf of the Commonwealth, provided that ten days previous notice shall be given to the principal, his Heir or Devisee, as the case may be.

Where Sheriff's lands would have been bound for public debts, they shall be bound in like manner for reimbursement of their securities paying such debts.

XXIX. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided*, That all rights and remedies given by such Act or Acts, and all such parts of Acts, shall be, and remain as if this Act had not been made.

Repealing clause. Proviso.

XXX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. LXXXI.

An Act concerning Coroners.

[Passed the 29th of November, 1792.]

I. **B**E it enacted by the General Assembly, That from time to time hereafter, as often as there shall be a vacancy in the office of Coroner, in any County or Corporation within this Commonwealth, the Court of such County or Corporation shall, at their next Session thereafter, nominate two fit and discreet persons, residing within such County or Corporation, to be Coroner thereof; one of which persons, being approved by the Governor, with the advice of the Council, shall be commissioned by the Governor to execute the office of Coroner within such County or Corporation during good behaviour.

Coroners, how to be nominated and commissioned.

II. IF any Court shall fail to make such nomination at the time prescribed by this Act, every Justice of such Court shall forfeit and pay the sum of one hundred and fifty dollars,

Penalty on the Court failing to make the

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nomination.

to be recovered by action of debt in any Court of Record within this Commonwealth, one half to the use of the informer, the other half to the use of the Commonwealth; or by information at the suit of the Auditor, in the General Court, in which case the whole penalty shall be to the use of the Commonwealth.

Several Coroners may be appointed in each county.

III. *PROVIDED* always, That nothing in this Act contained, shall be construed to restrain or prevent the County or Corporation Courts from nominating any person or persons to the Governor, to be Coroner within such County or Corporation, whensoever in their opinion a necessity may arise of having more than one Coroner in such County or Corporation.

But to act only within the limits of their respective counties.

IV. *PROVIDED* also, That no Coroner appointed for a County or Corporate Town, shall execute any of the duties of his office, except within such Town or County, for which he shall have been so appointed.

Oaths to be administered to them.

V. EVERY Coroner so commissioned, before he enters upon the duties of his office, shall, in open Court, take the oath of fidelity to the Commonwealth, and the following oath of office, viz.

I, A. B. do swear, that I will well and truly serve the Commonwealth, in the office of a Coroner, in the County or Corporation of _____, and therein will diligently and truly do all things appertaining to my said office, according to the best of my knowledge and power, both for the common weal, and the good of the Inhabitants within the said County or Corporation, taking such fees only as are by Law allowed. So help me GOD.

Not to serve executions until they have given bond and security.

Under a penalty.

And before he shall be at liberty to serve any writ of execution, shall moreover, in the Court of his County or Corporation, enter into bond with good and sufficient security, payable to the Governor for the time being, and his successors, for the use of the Commonwealth, in the penalty of ten thousand dollars, with condition for the true and faithful execution of his office. And if any Coroner shall presume to serve any such writ of execution without first taking the said oaths, and entering into bond as by this Act is directed, he shall forfeit and pay the sum of fifteen hundred dollars, one half to the use of the informer, the other half to the use of the Commonwealth; and shall moreover be liable to the same damages, judgment, and execution at the suit of the party grieved, in case of any misdemeanor or breach of duty in the execution thereof, as he would have been subjected to in the like case, after having been duly qualified to execute his said office.

Inquest to be taken by the Coroner, where any person is found wounded or dead, or where any house is broken.

VI. UPON request made to a Coroner to come and enquire upon the view of any person slain, drowned, or otherwise by misadventure, or suddenly dead, or wounded, or where houses are broken, he shall forthwith go to the place where any be slain, drowned, or otherwise by misadventure, or suddenly dead, or where any house is broken, and shall forthwith issue his precept to the Sheriff, Serjeant of a Corporation, or Constable of the County, or Corporation, directing him to summon at least twelve of the most intelligent and respectable freeholders of the vicinage, or County or Corporation, to appear before him at the same place with all convenient speed.

VII. AND when the said freeholders come to such place, the Coroner, upon the oath of twelve of them, shall enquire in this manner, to wit: If they know where the person was slain, whether it were in any house, field, bed, tavern, or company, and who were there: Likewise it is to be enquired, who were guilty either of the act or of the force, and who were present, either men or women, and of what age soever they be, if they can speak, or have any discretion.

Persons found guilty by the inquisition, to be committed until the examining court. Coroner to have the same power as a Justice to summon such court.

VIII. AND how many soever be found guilty by inquisition in any of the manners aforesaid, they shall be taken and delivered to the Sheriff or Serjeant, and shall be committed to the Jail, until the next Court to be holden within the County or Corporation, for the examination of such offender, and the Coroner shall have the like power and authority to summon such Court, and shall proceed in like manner as a Justice of the Peace before whom such criminal might have been charged with such offence, could or ought to do by Law.

1792.

Duty of the jury when any person is found slain.

IX. IF any person is found slain, first it is to be enquired whether such person were slain in the place where found, or not; and if such person were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, and ascertain in what manner such body was brought there. It shall be enquired also if the dead person were known, or else a stranger, and where such person lay the night before.

Coroner to keep in his hands estate of the murderer until he is taken.

X. AND if any person be found guilty of the murder, the Coroner shall immediately go into his house, and shall enquire what estate both real and personal he hath, and after such enquiry, the said Coroner shall cause all the estate to be valued, and keep the same in his hands, until the person found guilty by the Inquest be taken or surrender himself.

To commit to writing the evidence given to the jury.

XI. AND every Coroner upon any inquisition found before him, whereby any person or persons shall be indicted for murder or manslaughter, or as accessary or accessaries to the same before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the Jury before him, being material; and the said Coroner shall have authority by this Act to bind all such by recognizance or obligation, as do declare any thing material to prove the said murder or manslaughter, offences or felonies, or to be accessary or accessaries to the same, as is aforesaid, to appear at the Court to be holden within the County, City, or Borough, for the examination of such offender or offenders, then and there to give evidence against the party so indicted, at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made, to such Court.

And to take the recognizances of the witnesses to appear at the examining court.

XII. IN like manner it is to be enquired respecting them that be drowned, or suddenly dead, what marks of violence appear on their bodies; whereupon they shall proceed in the form aforesaid.

Where persons are drowned or suddenly dead.

XIII. AND immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried.

After inquest the dead body to be buried.

XIV. IF any person be dangerously wounded, the party accused shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die, the Defendant shall be kept; and if he recover health, he shall be attached by pledges according to the danger of the wound.

Person dangerously wounding another to be immediately arrested.

XV. ALSO all wounds ought to be viewed, the length, breadth and deepness, and with what weapons, and in what part of the body the wound or hurt is, and how many be guilty, and how many wounds there be, and who gave the wound; all which things must be inrolled in the roll of the Coroners.

Wounds to be viewed and described.

XVI. MOREOVER, if any be accused of any act done, as principal, they that be accused as accessary, shall be attached also, and safely kept in custody, until the principal be attainted or delivered.

Accessaries to be apprehended and confined.

XVII. IF any be suspected of the death of any man, he shall be taken and imprisoned, as before is said.

And any suspected of murder.

XVIII. IN like manner hue shall be levied for all murders, burglaries, and for men slain, or in peril to be slain, and all shall follow the hue and steps, as near as can be, and he that doth not, shall be amerced at the discretion of a Jury.

Hue to be levied of murders, burglaries, &c.

XIX. IF any be found guilty by inquisition taken in manner directed by this Act, and be not present, nor in custody, the Coroner shall straight issue his warrant to apprehend the person so found guilty, and the accessaries, if any; and the person accused, if apprehended, shall straightway be carried before some Justice of the County or Corporation where the offence was committed, to be dealt with as the Laws direct.

Coroner to issue his warrant to apprehend person found guilty of murder by inquisition.

XX. IF any Coroner be remiss, and make not inquisition upon the view of the body slain or murdered, or shall not endeavor to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this

Penalty on a coroner for neglecting his duty.

1792.

Act, he shall for every such offence, forfeit the sum of one hundred dollars; to be recovered by action of debt, in any Court of Record of this Commonwealth, one half thereof to the use of the Informer, the other half to the use of the Commonwealth.

Process when
to be served
by the coro-
ner.

XXI. IN every case when by reason of a just exception to the Sheriff of any County, or Serjeant of a Corporation, any writ, of what nature soever the same may be, shall be delivered to the Coroner of such County or Corporation to execute, such Coroner shall do and perform all things by virtue of such writ, which the Sheriff or Serjeant himself, might or ought to have done, had there been no just exception against him according to the nature of the case; and in case of any neglect or breach of his duty, such Coroner shall be subject to the same pains, penalties, fines, forfeitures, and damages, and to the same proceedings, judgment and execution, as Sheriffs or Serjeants are subject to in like cases.

Coroners sub-
ject to the like
penalties and
fines as the-
riffs.

No security to
be taken on
executions
against them
for neglect of
duty.

XXII. AND upon every execution issued against a Coroner, upon any judgment against him obtained for breach or neglect of his duty, the Clerk shall endorse, that "no security is to be taken."

Repealing
clause.

XXIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Commence-
ment of this
act.

XXIV. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXXII.

An Act concerning Escheators.

[Passed the 30th of November, 1792.]

Escheators •
how to be ap-
pointed.
Not to act by
deputy.
To give bond
and security.

I. **B**E it enacted by the General Assembly, That there shall be one Escheator commissioned in every County by the Governor, on recommendation from the Court of the same County, who shall execute his office in proper person and not by deputy, and shall before the Court of the County be bound in the penalty of three thousand dollars, with security to be approved by the same Court, duly to perform the duties of his said office.

When and
how they are
to take their
inquests.

II. THE said Escheator shall sit in convenient and open places, and shall take his Inquests of fit persons who shall be returned and impannelled by the Sheriff of the County, and shall suffer every person to give evidence openly, in their presence, to such Inquests; and the said inquisition so taken, shall be by indentures to be made between the said Escheator and them of the Inquest, whereof the counter-part, sealed by the Escheator, shall remain in the possession of the first person that shall be sworn in the said Jury, and by him shall be returned to the Court of the same County, there to be recorded; and the other part, sealed by the Jurors, shall by the Escheator be sent into the Court of the District in which the land lieth, within one month after the Inquest taken.

Mode of pro-
ceeding where
any man claims
the land.

III. AND if it be found for the Commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the Commonwealth, or for the party, finding sufficient security to prosecute his suit with effect, and to render and pay to the Commonwealth the yearly value of the lands, if the right be discussed for the Commonwealth.

Lands seized
by the Com-
monwealth
not to be let
to farm to any
but the person
claiming them.

IV. NO lands nor tenements seized into the hands of this Commonwealth, upon such Inquest taken before Escheators, shall be in any wise granted, nor to farm let to any if it be not to him or them which claim as is aforesaid, till the same Inquests and verdicts be fully returned into the District Court, nor within six months after the same return, but shall entirely and continually remain in the hands of the Escheators, who shall answer to the Commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction.

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V. IF no person within the six months before mentioned, make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the Commonwealth, the Clerk of the District Court shall within one month thereafter, certify to the Escheator of the County where the lands lie, that no claim hath been made, or that being made it hath been discussed for the Commonwealth; which Escheator shall thereupon proceed to make sale of the lands for the benefit of the Commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the Register of the Land-Office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by Law directed, in the case of unappropriated lands.

When and how they shall be sold, if they are not claimed, or being claimed, the right be found in the Commonwealth.

VI. WHERE any person holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit appender of any estate of freehold, or for years, or otherwise, out of such lands or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit appender, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit appender had been found in such inquisition.

Saving to persons their terms for years, rents, commons, &c. out of such lands, whether they be, or be not found in the inquisitions.

VII. ALSO, if one person or more be found heir by office or inquisition in one County, and another person be found heir to the same person in another County; or if any person be untruly found lunatic, idiot, or dead, the person grieved by such office or inquisition may have his traverse or *monstrans de droit* to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title, found or adjudged for him therein as in other cases of traverse upon untrue inquisition found.

Where a traverse or *monstrans de droit* may be had to an inquisition.

VIII. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. LXXXIII.

An Act prescribing the Mode of ascertaining the Taxable Property within the Commonwealth, and of collecting the Public Revenue.

[Passed the 13th of December 1792.]

I. EVERY County and Corporation Court within this Commonwealth shall annually, in the months of *October* or *September*, appoint discreet and reputable persons, to be Commissioners for the purposes herein after mentioned.

Commissioners of the revenue to be appointed.

II. IN those Counties where more Commissioners than one are directed to be appointed, the said Courts shall also distinctly lay off and ascertain the bounds of the District allotted to each Commissioner.

Where there are several in a county, separate districts to be assigned to each.

III. IN each of the Counties of *Fauquier* and *Loudoun*, there shall be three Commissioners; in each of the Counties of *Culpeper*, *Accomack*, *Albemarle*, *Amherst*, *Augusta*, *Bedford*, *Berkeley*, *Botetourt*, *Brunswick*, *Buckingham*, *Campbell*, *Caroline*, *Charlotte*, *Chesterfield*, *Dinwiddie*, *Essex*, *Fairfax*, *Franklin*, *Frederick*, *Goochland*, *Greenbrier*, *Halifax*, *Hampshire*, *Hanover*, *Hardy*, *Harrison*, *Henrico*, *Isle of Wight*, *King* and *Queen*, *Louisa*, *Lunenburg*, *Mecklenburg*, *Monongalia*, *Montgomery*, *Nansemond*, *Norfolk*, *Northumberland*, *Ohio*, *Orange*, *Pendleton*, *Pittsylvania*, *Prince Edward*, *Prince William*, *Princess Ann*, *Rockbridge*, *Rockingham*, *Russell*, *Shenandoah*, *Southampton*, *Spotsylvania*, *Stafford*, *Sussex*, *Washington* and *Wythe*, there shall be appointed two Commissioners; and in each of the Counties not herein before mentioned, and in each of the Cities of *Williamsburg* and *Richmond*, and the Towns of *Petersburg*, *Alexandria*, *Fredericksburg* and *Winchester*, and Borough of *Norfolk*, there shall be appointed one Commissioner.

Three to be appointed in certain counties.

Two in certain other counties.

And one in every other county, and in certain cities and towns.

1792.

Who shall be
incapable of
holding the
office.

IV. *PROVIDED*, That no Member of either House of Assembly, persons holding any office in civil government receiving stated salaries, practising Attornies, or Physicians, Clerks of Courts, Inspectors, Ordinary keepers, Sheriffs, Surveyors or their Deputies, or persons that have been in the office of Sheriff, Deputy Sheriff, or Collector of public taxes in their County, shall be capable of acting or serving as Commissioner, unless it shall appear by sufficient testimony, other than the party's own oath, that such Sheriff or Collector hath completed his collection, fully paid the amount thereof into the Treasury, and finally closed every account relative thereto.

Clerks of the
courts to certi-
fy to the com-
missioners
their appoint-
ment.

V. THE Clerk of the Court shall certify to every Commissioner his appointment without delay, and thereupon each Commissioner shall repair to some acting Magistrate of the County, and take the following oath, or affirmation, to wit:

Their oath.

I, A. B. do swear, (or solemnly, sincerely, and truly declare and affirm) that, as Commissioner of the Revenue for County, (City, Town, or Borough of Norfolk, as the case may be) I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, without favor, affection, or partiality. And that I will do equal right and justice according to the best of my knowledge, in every case in which I shall act as Commissioner. So help me GOD.

A certificate of which oath, or affirmation, shall be given the Commissioner by the Magistrate administering it, and the Magistrate shall also certify the same to the next Court held for his County, to be recorded.

To receive
and keep the
books contain-
ing the ac-
counts of the
taxes on lands.

VI. EVERY Commissioner thus qualified, shall perform the following duties within his District: He shall in the first place apply to the preceding Commissioner, or other person, who shall have possession of it, for the book containing the owners names, the number of acres or lots, the rate at which land is valued by the acre, the amount or total value of each tract or lot of land within his District, and the tax payable thereon; which book the said Commissioner shall keep so long as he shall continue in office, and on his death, resignation, or inability to act, shall be delivered to the succeeding Commissioner for the District. And every Commissioner shall in the said book note from time to time, all such alterations, alienations, divisions and additions, as may happen within his District, and shall also perform all the duties of the Commissioners of the land tax as herein prescribed.

To be furnish-
ed with lists of
conveyances
and partitions;

and of patents.

To value the
lands therein
mentioned.

Their duty in
case of aliena-
tions or parti-
tions, and
where lands
have not been
heretofore va-
lued.

VII. THE Clerk of the General Court, and the Clerks of the several District Courts, on or before the first day of *May*, annually, are hereby directed to make return, and the Clerks of the County and Corporation Courts to deliver to the said Commissioners, a list of conveyances or partitions recorded in their respective Courts within the preceding year, certifying the quantity and situation of the lands so conveyed; and the Register of the Land-Office, on or before the first day of *April*, annually, shall in like manner transmit a list of all grants issued within the year preceding, to be by them valued at a price equal to other lands within their respective Districts, similar in soil and situation, and such Commissioner shall give a credit to the person disposing of the same, and charge the purchaser or receiver with the tax payable thereon; and in like manner in cases where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the said Commissioners shall, and they are hereby required to value the same and charge the owner thereof with the tax in manner aforesaid.

To take the
lists of taxable
property.

VIII. THE said Commissioners shall severally on the tenth day of *March*, annually, begin, and continue proceeding without delay through their respective Districts, and call upon every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected, if necessary, and distinctly read over by the Commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contains a just and true account of all persons, and of every species of property in his or her possession or care, within the District (land only excepted) subject to taxation on the ninth day of *March*, then next preceding, and that no contract, change or removal whatever of property had been made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the Commissioner is hereby empowered and directed to administer.

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Rule respect-
ing billiard ta-
bles.

IX. AND whereas frequent abuses have been practised by the owners of billiard tables by taking them down, so as to defeat the intention of this act: *Be it enacted*, That the Commissioner shall return all such which to his knowledge have been set up or used within his County at any time within the year, although the same may not be returned by the owner thereof, and such tables shall at all times be liable for the tax.

Commis-
sioners to make
four general
alphabetical
lists of taxa-
ble property.

To whom
such copies
shall be deli-
vered.

And when.

X. EACH of the said Commissioners shall after collecting the lists of property from the inhabitants of his District, in manner before mentioned, make four alphabetical general lists therefrom, shewing in columns, according to the form hereto annexed, the date when each list was received, the persons chargeable with the tax or taxes, distinguishing those also subject only to County levies and poor rates, and the number or quantity of every species of property subject to tax, which lists shall be kept and delivered in the following manner: Each Commissioner shall retain one of those lists in his own possession, so long as he continues in office, afterwards to be delivered to his successor, as in the case of the land-tax books, and one other of the lists, together with the lists taken from the individuals in his District, shall be returned to the Clerk, who shall examine the same, and if found to be erroneous, either in addition or otherwise, correct the same together with the others, and then certify them to be true copies. The lists in the Clerk's office shall serve for laying the County levy, and fixing the poor rates, and be subject to the inspection or examination of every person who may choose to examine the same, provided they be not taken out of the Clerk's possession; and copies may be had at the charge of the person or persons desiring the same. One other of the said lists after being certified by the Clerk, shall be delivered by the Commissioner to the High Sheriff of the County, as his guide to collect the taxes, and the remaining fourth list being also certified by the Clerk, shall be transmitted by the Commissioner to the Auditor's office, there to be minutely examined, and to be produced by the Auditor, and admitted as evidence by the General Court, for the amount of taxes charged the Sheriff. All which lists it is hereby declared, to be the duty of the several Commis- sioners to have delivered to the several persons or Officers, on or before the last day of *May*, annually. And the said Commissioners shall take a receipt or acknowledgment in writing of the delivery of such lists.

To deliver
fair copies of
the state of
the land tax
to the clerk of
the court, the
sheriff, and
the Auditor.

Penalty on
person refus-
ing to serve as
a commissi-
oner.

None comp-
lable to serve
more than one
year.
Vacancies how
to be supplied.

Allowances to
the clerks of
courts.

To the com-
missioners.

XI. THE said Commissioners shall also at the time of delivering lists of taxable pro- perty herein before directed, deliver to the Clerk of his County, and at the Auditor's office, a fair and correct copy of the state of the land tax, noting the alterations, alienations, divisions, and additions that may have taken place in the preceding year, within his Dis- trict, to enable the Clerk to adjust his book of the land tax, and the Auditor to adjust the Equalizer's books; and the book containing the land tax, together with the annual returns of the several Commissioners lodged in the Clerk's office, shall be subject at all times to the inspection of every person, in like manner as the lists of taxable property; and the said Commissioners shall also deliver to the Sheriff an exact list of taxes due from all and every person or persons for land within his District, to enable the Sheriff to proceed in his collection.

XII. IN case any person appointed to the office of Commissioner under this Act, shall refuse to serve, not having a reasonable excuse in the opinion of the Court of the County, he shall for such refusal, forfeit and pay the sum of one hundred dollars.

XIII. NO Commissioner after having served one year, shall be again compelled to serve.

XIV. UPON the refusal to act, notice of resignation, death or inability of any Com- missioner, it shall be the duty of the Court of such County, immediately to appoint a successor, and the Clerk is directed to call for all papers in the preceding Commissioner's hands, or his legal representatives; and in case they be lost, shall be furnished on applica- tion as herein before directed.

XV. THE Court of each County, City, and Corporation, shall make such allowance to the Clerk for his services under this Act, as they shall think reasonable, which shall be levied on the tithables within the same.

XVI. THE Commissioners of the revenue shall before the first day of *August* in every year, return to the Courts of their respective Counties or Corporations, a correct account

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of their services, and the said Courts are hereby respectively authorised and required to ascertain the time, in which the said services might have been reasonably performed, and shall certify the same to the Auditor of public accounts in manner following;

THIS day produced an account of his services as a Commissioner of the revenue, and the Court have considered that days were requisite for the said Commissioner to perform the services aforesaid:"

And in lieu of the allowance heretofore made, the said Commissioners shall be paid by the Treasurer of this Commonwealth, on warrant from the Auditor of public accounts, one dollar per day, agreeably to the time so ascertained by the Court. And for every entry of alienation or alteration, they may demand and receive forty-two cents, and no more. *Provided always*, that no Commissioner or Commissioners, shall be allowed a sum or sums exceeding the revenue tax, of his or their respective Counties or Corporations.

For entries of alienations or alterations. Allowances to commissioners not to exceed the taxes of the county. May be removed from office by the court of the county.

XVII. ON complaint made to any County or Corporation Court, that a Commissioner neglects or abuses the trust hereby vested in him, it shall be lawful for such Court to order a summons to issue, requiring the said Commissioner to appear before them at their next succeeding Court, which being served on him, or a copy thereof left at his usual place of abode, ten days at least before the return day thereof, the Court may proceed to hear and determine the complaint, and may remove him from office if it appear to them that the said complaint is well founded.

Penalty for delivering false lists of property, or refusing to give lists on oath.

How the lists are to be taken and the property taxed in such cases.

XVIII. IF any person shall give or deliver to a Commissioner, a false or fraudulent list of persons or property, subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the Commissioner, the person or persons so refusing shall be liable to a fine of fifteen dollars, and the Commissioner shall proceed to list such person's property, agreeable to the best information he can procure; and all such property so ascertained, shall be moreover subject to a triple tax, to be collected and distrained for by the Sheriff, as in other cases; and in the case of an imperfect, false, or fraudulent list, the person giving the same, shall be subject to pay a fine of fifteen dollars, and the property subject to a triple tax; which fines and triple taxes shall be recovered in the County Court by the following mode of proceeding, and applied as herein after directed.

Mode of proceeding against the delinquents.

XIX. THE Commissioner shall give information thereof personally, or if unable to attend, in writing, under his hand, to the next Court held for his County, which Court shall forthwith direct the Clerk to issue a summons, requiring the party to appear at the next Court to be held for the County, to shew cause, if any he can, why he should not be fined, and triply taxed for giving an imperfect or fraudulent list of taxables; and the person or persons, upon being served therewith by the Sheriff, and appearing, shall immediately plead to issue, and the matter thereof shall be enquired into by a Jury, or the Court, at the Defendant's option, and on conviction, or the person failing to appear upon being summoned, the fine and triple tax shall be established by judgment of the Court, who, unless good cause shewn at the next succeeding Court, for such failure, shall award execution for the fine and costs, and certify the amount of the tax to the Sheriff, for collection, and to the Auditor's office; the amount of which fine, after deducting thereout such allowance as the Court may think reasonable to make the Commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the County levy; and the triple tax shall be charged to the Sheriff, and accounted for in like manner as the other taxes.

Copy of the proceedings to be set up at the courthouse door.

Every person knowing any false list to be delivered, to give information to the commissioner or the court.

XX. THE Clerk of the Court shall set up at the door of his Court-house, a copy of the proceedings in such cases, on the succeeding Court day.

XXI. AND for preventing frauds or impositions upon Commissioners: *Be it further enacted*, That every person or persons having knowledge of any incorrect, false, or fraudulent list being given a Commissioner, shall give information thereof, either to a Commissioner, or to the County Court, in like manner as the Commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the Commissioner gave information; and the person informing shall be entitled to, and receive one half of the fine imposed on the offender or offenders, to his own use, and the other half to be applied towards lessening the County levy.

XXII. THE Clerk of every County Court shall transmit to the Governor, a fair and attested copy of all proceedings had at his Court, in pursuance of this Act, immediately after every Court, noting therein the names of the fitting Magistrates; which attested copy shall be admitted as proof on any motion in the General Court, by the Auditor, for the recovery of any fine imposed by this Act.

XXIII. THE Clerk, Justices, or Commissioners, or their legal representatives, failing to perform any one of the duties imposed on them respectively, by this Act, shall be subject to a fine of one hundred and fifty dollars, to be recovered by motion on any day, at either of the Sessions in the General Court, at the instance of the Auditor; notice of such motion being previously given in the same manner as to delinquent Sheriffs.

XXIV. IN case any person should be absent from his or her place of residence at the time the Commissioner calls to receive the list, and it should appear to the Commissioner, that such absence was not intentional, or done with a view of avoiding the delivery of such list, it shall be lawful for the Commissioner to require the attendance of such absent person, with his or her list, at any time and place within the said District, provided such person tenders his or her list to the Commissioner, and makes oath to the justness of it, on or before the twenty-fifth day of May, annually; and in case of failure, the Commissioner shall proceed in like manner as is before directed, in cases of refusal to give in lists; and the Court shall determine upon the circumstances of the case, whether to inflict or remit the fine and triple taxes.

XXV. A LIST of all the insolvents returned by the Sheriff to the Court, shall be transmitted by the Clerk to the Commissioners of the Revenue, to be entered in their book of taxes for that year, and no Sheriff shall have credit for such insolvents in his account with the public, unless certified by the said Commissioners to have been allowed by the Court; and the said Commissioner shall moreover transmit with the said lists of insolvents, an account of the tax of any person who may have removed out of the County, together with the name of the County, to which they have removed; which account the Auditor is hereby directed to transmit to the Commissioners of the Revenue of the County to which they have removed, to be charged on their books, and collected by the Sheriff. An account of all fines or additional taxes imposed by virtue of this act, shall be by the said Commissioners, transmitted to the Auditor's office, before the first of August, annually. And the said Commissioners shall state in their book of taxes, a general account with the Sheriff, for all taxes, fines and additional taxes in their County, crediting him for all insolvents, and also for all payments made by the said Sheriff to the public, receipts for which shall be by the said Sheriff transmitted to the said Commissioners within twenty days, after obtaining the same, a copy of which account shall be by the said Commissioners transmitted to the Auditor's office, before the first day of May, annually.

XXVI. THE Commissioners shall severally return on oath to their respective Courts, a list of all their own taxable property, and shall enter the same in the several lists to be by them returned to the different persons and public officers, and on failing to comply herein, shall be liable to be proceeded against, in the same manner, and subject to the same penalties as in case of any other neglect.

Form of keeping the book containing the land tax by the Commissioner.

List of the land tax within the District of A. B. Commissioner, in the County of C.

Persons names owning land.	Number of lots.	Yearly rent of lots.	Amount of tax on lots at— in	Quantity of land.	Rate of land per a- cre.	Total amount of value of land exclusive of lots.	Amount of tax on lands at—per	Total a- amount of tax on lots and lands.
Sum total								

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Copy of the proceedings of the court under this act to be transmitted to the Governor.
And to be admitted as evidence on the Auditor's motions for fines.
Penalty on the clerks, justices, or commissioners for neglect of duty.
How the lists are to be taken when the persons chargeable are absent when the commissioners call to receive them.
Lists of insolvents to be entered in the commissioners' books.
And the sheriff credited therefor.
Taxes due from persons removing from one county to another, how to be collected.
Account of additional taxes and fines to be sent to the Auditor.
Commissioners to state a general account of taxes with the sheriff.
To return to the courts lists of their own property.

Form of the book containing the taxes on lands.

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Form of the
commissioners
returns of tax-
able property.

Form of return of taxable property to be made by the Commissioners.

List of taxable property within the District of A. B. Commissioner, in the County of C.
for the year 17---

Date of receiving lifts from individuals.	Persons names charge- able with the tax.	Number of white males above sixteen years.	Blacks above twelve years old.	Blacks above sixteen years old.	Horses, Mares, Colts, and Mules.	Ordinary licence.	Billiard Tables.	Stud Horses.	Rates of covering per season.	Carriage wheels.		
										Coaches, Chari- ots, & Post-Chair- es.	Other riding four wheel Carriages.	Riding Carriages with two wheels.
Tol. amt.												

Taxes, when
they shall be-
come due.
When dis-
trainable.
When to be
paid into the
Treasury.

XXVII. THE taxes on lands, slaves, and other property shall hereafter become due, on the thirty-first day of *December* in every year, may be distrained for on the first day of *May* next succeeding, and shall be collected, accounted for, and paid in specie only, into the Public Treasury, by the Sheriff of the County, or other Collector to be appointed by virtue of this Act, on or before the first day of *October* next thereafter, under the penalties herein after mentioned.

In what cases
they may be
distrained for
before the
time prescri-
bed.

XXVIII. WHEN any Sheriff or Collector of taxes shall have good cause to suspect, that any person means to remove his property without the limits of his jurisdiction, so that in his opinion there may be a probability of the taxes with which such person is chargeable, being lost by the public, it shall and may be lawful for such Sheriff or Collector, on making oath thereto before a Magistrate, and receiving a certificate of such oath, to levy distress on the goods and chattels of such person, for the amount of taxes with which he or she is then chargeable, any time before the first day of *May*; any thing in this Act to the contrary notwithstanding.

How to be
collected
when the she-
riff dies.
Not to be dis-
trained for af-
ter two years
from the time
they became
due.
Exception
with a proviso.

XXIX. IT shall and may be lawful for all Deputy-Sheriffs to collect and make distress for any taxes which may be due at the time of the death of their High Sheriffs, and shall be accountable for the same, in like manner as if the Sheriff had lived. And no Sheriff or Collector shall be allowed to distrain for any taxes, after two years from the time the taxes became due, except Sheriffs appointed prior to the year one thousand seven hundred and ninety-two; who shall have the power of distraining for the taxes now due, for the term of eighteen months from the passing of this Act: *Provided nevertheless*, that no Sheriff or Collector shall be allowed to distrain for such arrearages, until he shall have entered into bond, with sufficient security, to be approved of by such Court, to pay and satisfy all such damages and costs as may be recovered against him, for any abuse of the power hereby vested in him.

How to be
collected
where the
Sheriff & his
deputies die.

XXX. IT shall be lawful for the County Courts within this Commonwealth, to qualify any person or persons, for the purpose of completing the collection of taxes in any County, where the Sheriff and his Deputy shall die, before such collection shall be completed: and the person or persons so appointed, after having given bond and security to the Executors or Administrators of the said Sheriff, to be approved of by the Court for the faithful performance of the duties of the office, shall have the same power in all respects, for collecting such arrears, as the High Sheriff would have had. But the acting Executors or Administrators of such High Sheriff, if any such there be, at the time of such appointment, shall be summoned by order of the said Court, to shew cause, if any they can, against the person whom the said Court shall nominate.

XXXI. THE person or persons so appointed, shall in all respects be subject to the same penalties, for any neglect of duty, or failing to account for and pay to the person or persons authorised to receive the money by him or them so collected, and may be proceeded against by such Executors or Administrators, in the same manner as Deputy-Sheriffs are liable to, and may be proceeded against by their principals.

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XXXII. IN case payment be not made by any person chargeable with any tax, levy, fine, or forfeiture, or amercement, the Sheriff or Collector shall have power to distrain the slaves, goods or chattels which shall be found upon the lands, or in possession of the person so indebted or failing, notwithstanding such slaves, goods or chattels, shall be comprised in any deed or mortgage.

What may be distrained for taxes, levies, &c.

XXXIII. IF the owner thereof shall not pay such tax, levy, fine, forfeiture, or amercement, within five days after such distress, such Sheriff or Collector shall and may lawfully sell the same, or so much thereof as shall be sufficient to discharge the said taxes, and the charges of distress and sale, for ready money; which sale shall be good and effectual in Law, against all persons whatsoever.

When goods distrained may be sold.

XXXIV. THE Sheriff or Collector of the taxes within this Commonwealth, shall at the time he returns a list of other Insolvents, return a list of the lands within his County, or Corporation, where he cannot find effects within the same, belonging to the Owner or Tenant thereof, sufficient to pay and satisfy the tax; and if the Court shall be satisfied of the truth thereof, they shall admit the Sheriff or Collector to make oath thereto, and direct the same to be certified to the Auditor of public accounts, together with the names of the Owners of each tract of land, and the place of his or her abode, where the Court can obtain such information. The Auditor shall credit the same in account for the land tax, with such Sheriff or Collector. And where it shall appear to the Auditor from the certificates of the County Courts, or where he shall be satisfied from any other information, that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property in some other County of this Commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable, to the Sheriff or Collector of the County in which such person may reside, or have slaves or personal property, (as the case may be) and shall debit such Sheriff or Collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor, in like manner as for other taxes of his County. A list of these Insolvents, with the amount of the tax due from them respectively, shall be furnished by the Clerk of the Court to the Collector of the tax for the succeeding year, and he shall transmit a copy thereof to the Auditor of public accounts, who shall debit the Sheriff or Collector therewith; and such Sheriff or Collector shall distrain and account for the same, in like manner as for other taxes, and in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the Treasurer shall cause to be inserted in the *Virginia Gazette*, for three weeks successively, the names of such delinquents, with the quantity of land, the situation thereof, and the taxes due thereon.

How the taxes on lands are to be collected when the Sheriff cannot find effects on the same to pay the tax thereon.

XXXV. IN case the tax on any tract of land within this Commonwealth, shall not be paid for the space of three years, the right to such lands shall be lost, forfeited and vested in the Commonwealth; and it shall be lawful for any person to acquire a title to any land so forfeited, in the manner prescribed by an Act, intituled, "*An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the terms and manner of granting waste and unappropriated lands, for settling the titles and bounds of lands; directing the mode of processioning, and prescribing the duty of Surveyors.*"

When lands shall be forfeited for the non-payment of taxes. How a title thereto may be acquired.

XXXVI. PROVIDED always, That nothing herein contained shall affect the right of infants, *femes covert*, or persons of unsound mind, who shall be allowed three years to save the same from forfeiture, after such disability be removed.

Saving the rights of infants, *femes covert*, or lunatics.

XXXVII. AND where any Tenant shall be distrained for the taxes due from the proprietor of the land, he shall have credit for the same against such proprietor out of the rents he may owe him; but this Act shall not be construed to destroy or impair any contract, by which the Tenant may be bound to pay the said land tax, or any part thereof.

Tenant paying the taxes may deduct it out of the rent, unless he is bound to pay it.

XXXVIII. THE Clerks of the several Courts within this Commonwealth, shall, respectively, on or before the first day of *April*, and first day of *October* in every year, account for on oath, and pay into the public treasury, all the monies which by Law they shall be authorized to receive on public account, after a deduction of five *per centum* therefrom, as a commission. And in case of fraud herein by any Clerk, he shall on conviction thereof be deprived of his office.

When the clerks of courts are to account for and pay taxes collected by them.

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Repealing
clause.
Proviso.

XXXIX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing herein contained, shall prevent the collection and recovery of any arrearages of taxes due before the commencement of this Act, but such arrearages shall be collected, paid, and distrained for, and recovery had against all delinquents, and the damages on failure of payment thereof, shall be the same as if this Act had not been made.

Commence-
ment of this
act.

XL. THIS Act shall commence in force, from and after the passing thereof.

C H A P. LXXXIV.

To reduce into one, the several Acts concerning the Recovery of Debts due to the Public, and the Sale of Lands for Judgments on behalf of the Commonwealth, against Public Officers.

[Passed the 30th of November, 1792.]

Mode of pro-
ceeding against
persons mis-
applying mo-
ney received
from the
Treasury for
public use.

I. **B**E it enacted by the General Assembly, That when any person who hath received, or shall receive public money from the Treasurer for public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect to account for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the Commonwealth, made to any Court of Record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said Court may give judgment and award execution against him and his sureties, for so much as a Jury, to be impannelled instantly, unless good cause be shewn for deferring it, for trial of an issue, if he appear and make it up, or for enquiry of damages, if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages to be assessed by the Jury, and costs:

Against per-
sons contract-
ing to supply
the army, &c.
for breach of
contract.

II. WHEN the Attorney prosecuting on behalf of the Commonwealth, shall commence an action for breach of a contract, which hath been, or shall be entered into with government, or with an agent thereof, to supply the army or navy with provision or other articles, at the emanation of the writ, he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer, to whom that is directed, and served upon the Defendant fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally served, if the Defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a Jury shall be impannelled instantly, unless good cause be shewn for deferring it, to try the issue, or enquire of damages. And in like cases, the agents or contractors of the United States of *America*, may, by the like remedy, on behalf and in the name of the said States, recover money due to them.

The same re-
medy extend-
ed to the
United States.And to public
contractors
against persons
contracting
with them.

III. AND whereas divers persons have, and hereafter may enter into contracts with the agents or contractors, for victualling and cloathing the army and navy, and have or may fail, or refuse to comply therewith: *Be it further enacted*, That upon any suit being brought by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the Plaintiff shall have the same remedy and redress, as is herein before directed, in suits which may be brought on behalf of the Commonwealth.

Mode of pro-
ceeding against
persons in-
debted to the
public, by
bond, bill,
note, &c.

IV. IT shall and may be lawful for the General Court to give judgment with costs, at the motion of the Auditor, on ten days previous notice, against any person or persons indebted to the Commonwealth, by bond or other specialty, whether the same be taken in the name of the Governor or Treasurer, or any other person acting in a public character, for or on behalf of the Commonwealth, and also to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any person or persons, conditioned for the rendering accounts, or other duties.

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Against a public debtor where an error in his favour is discovered in any adjusted account.

V. WHERE any person or persons have been, are, or may hereafter be indebted to the Commonwealth, either in specie or other articles, collected or otherwise received, for or on behalf of the Commonwealth, and such person or persons, on a settlement with the Auditor, have obtained a *quietus*, and where judgment hath been, or may be obtained in favour of the Commonwealth, and the amount thereof adjusted and discharged, either before or after the issuing of the execution, whereby a *quietus* may have been or shall hereafter be obtained, by the party or parties, and it shall afterwards appear that an error or mistake had been committed to the prejudice of the Commonwealth, in the settlement of such account, judgment, or execution, in all or any of these cases, it shall and may be lawful for the General Court, to give judgment on motion, with ten days previous notice, for the amount of such error or mistake, without interest or damages thereupon, the same being proved to the satisfaction of the Court.

VI. AND when it shall appear after settlement, that by error or mistake any person shall or may have have paid more to the Commonwealth than was really due, such person shall have the same remedy by motion with notice, against the Auditor, as is by this Act given to the Commonwealth.

The like remedy to him if he has overpaid,

VII IF any Sheriff or Collector of the public taxes, shall fail to account for and pay into the Public Treasury, the taxes by him received, in manner and at the time prescribed by Law, every such delinquent Sheriff or Collector, shall be liable to a judgment against him on motion, to be made by the Auditor, or other person appointed for that purpose, at the *November* General Court, or any subsequent Court after such failure, for the amount of the taxes due, and five *per centum* damages, together with an interest of five *per centum per annum*, upon the whole amount, until paid, for the use of the Commonwealth, and thereupon execution shall issue; provided the party has ten days previous notice of the day on which such motion is to be made.

Against the sheriffs who fail to account for public taxes.

VIII. NO petition or petitions shall in future be received from any Sheriff or Collector of the Public Revenue, or their security or securities, or from any person or persons directly or indirectly in their behalf, unless such Sheriff or Collector shall previous to such application, advertise at the door of his Courthouse, on one Court day at least, a list of the persons in arrears for taxes, in his County, together with the balances due from such persons respectively, making oath to the same before the Court of the County in which he or they respectively reside, which oath shall be committed to record and list filed in the Clerk's office; and the said Sheriff or Collector shall produce an attested copy of such advertisement, together with copies of the list and certificate aforesaid, signed by the Clerk of his or their respective County Courts.

Regulation respecting petitions from delinquent sheriffs.

IX. LANDS and tenements shall and may, by virtue of writs of *ieri facias*, be taken and sold in satisfaction of all judgments which have been obtained after the seventh day of *January*, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the Commonwealth, against any Sheriff, Coroner, or other public Collector, or against his or their security or securities: *Provided*, that the same shall not extend to any such security or securities, who shall have become so before the said seventh day of *January*, one thousand seven hundred and eighty-eight.

Lands of public collectors and their securities may be sold to discharge the commonwealth's judgments against them in certain cases. *Provided* in favour of securities in certain cases. Land bound from the date of the judgment. Notice of the time and place of sale, how to be given.

X. EVERY judgment obtained against any Sheriff, Coroner, or other public Collector, shall bind the property of the lands and tenements of such public debtor, from the date thereof.

XI. WHEN the goods and chattels taken in execution to satisfy a judgment of the Commonwealth by virtue of a *ieri facias*, shall not, in the opinion of the Officer levying the same, be sufficient to satisfy the debt with damages and costs, the Sheriff or other Officer shall, at the same time, give public notice at the Churches and Meeting-houses, if any there be, and Court-house of his County at the next Court day, and shall moreover give notice to the owner, if he be in the County, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the County as the owner shall by writing under his hand delivered to the Officer, direct.

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Debtor having several parcels of land may direct which shall be sold.

XII. IF the public debtor against whom a judgment hath been entered subsequent to the said seventh day of *January*, one thousand seven hundred and eighty-eight, or shall be hereafter entered, have several parcels of land which lie in one and the same County, he or his agent may by writing under his hand at any time before the day of sale, require the Sheriff or Officer to whom a writ of *feri facias* upon the judgment shall be directed, to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels lie in different Counties, the Clerk shall and may at the like request in writing, direct the *feri facias* to the Sheriff or Officer of any County which the party or his agent, making oath or solemn affirmation that he hath lands there, shall particularly mention, at any time before the writ shall be delivered to the Officer. And if the debt, damages, and costs be made of any other parcel of land, or of lands lying in any other County than that mentioned in such written requisition, the sale of such other parcel of the land in such other County shall be void.

Sale how to be made.

XIII. IF the owner of the land before or at the day of the sale, shall not make payment of the debt due to the Public, the Sheriff or Officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel, if it may be done, in such place and manner as he or his agent, if he think proper, shall direct, for ready money, or other property, as the demand may be, and the costs: But if the estate cannot be sold for three-fourths of its value, in the opinion of the valuers of the County, or in the opinion of such other person as may be by Law directed, he shall sell the same upon three months credit, taking bond of the purchasers, with sufficient surety or sureties for the payment, to the Chief Magistrate of this Commonwealth for the time being.

Where the estate cannot be sold for three-fourths of its value, the officer may sell upon three months credit.

Proceedings on the bonds taken in pursuance of this act.

XIV. EVERY bond thus taken, shall mention on what occasion the same was taken, and shall by the Sheriff or Officer be immediately returned to the Clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions that executions are now awarded on replevy bonds, and shall in like manner be indorsed by the Clerk, "that no security is to be taken."

Conveyances to be made by the officer to the purchaser at his costs.

XV. IN all sales of lands by virtue of an execution, the Sheriff or other Officer shall convey the same to the purchaser at his costs, by deed in writing, sealed, and recorded as the Laws direct for other conveyances of land: which deed shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser all the estate and interest which the debtor had, and might lawfully part with in the lands. *Provided nevertheless*, that if any Sheriff or other Officer who may have made sale of lands by virtue of any execution to him directed, on the part of the Commonwealth should die, or remove out of the State, before deeds made in conformity to such sale or sales, then it shall and may be lawful for the next succeeding Sheriff or other Officer, to convey the same to the purchaser or purchasers thereof, in as full and ample manner as his predecessor in office might or should have done.

Proceedings against the securities of public collectors.

XVI. IF the lands and tenements, goods and chattels, of any Sheriff, Coroner, or other public Collector, are insufficient to satisfy the debt, damages, and costs, due to the Public, judgment shall be obtained against his security or securities in the same summary way that judgment may by Law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages, and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal, may be taken and sold agreeable to this Act.

Clerks to insert "lands and tenements" in executions against public collectors.

XVII. IN every writ of *feri facias* upon judgments which have been obtained subsequent to the said seventh day of *January*, one thousand seven hundred and eighty-eight, or hereafter to be obtained by the Commonwealth, against any Sheriff, Coroner, or other public Collector, or the securities of them, or either of them, after the words, "We command you that of the" the Clerk from whose office such writ shall issue, shall insert the words "lands and tenements," and conform the subsequent part of such writ thereto.

Executive may direct

XVIII. WHERE the property of any Sheriff, Coroner, or other public Collector, or their securities, has been taken in execution to satisfy a judgment obtained by the Com-

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monwealth, and the same was not sold for want of buyers, and return thereon hath been made to that effect, or where the property of any Sheriff, Coroner, or other Public Collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas*, to satisfy a judgment obtained by the Commonwealth, and could not be sold for want of buyers, and return hath been made to that effect, in either of the above cases, it shall and may be lawful for the Executive, and they are hereby authorized and required to direct the officer, to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent County, as the Executive may direct, and there to be sold for money or government securities, on such terms, and in such proportions as they shall judge expedient: *Provided*, that if such property will not sell for three-fourths of its value, in the judgment of the valuers of the County, or in the judgment of such other person as may be by Law directed, where the sale shall be made, the Sheriff or other Officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before directed, in cases of bonds taken on the sale of lands and tenements sold by virtue of this Act.

property of public collectors under execution heretofore served, to be removed to an adjacent county.

Provido:

XIX. IN every case where any writ of *feri facias*, or *venditioni exponas* issues against the estate of a Sheriff on behalf of the Commonwealth, if by Law the same ought to be directed to a Sheriff, such writ or writs shall be executed by the High Sheriff.

Executions against sheriffs to be served by the high sheriffs.

XX. IN like manner where any writ of *feri facias*, or *venditioni exponas* shall hereafter issue at the instance of the Commonwealth, against the estate of any Sheriff, Coroner, or other Public Collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the Executive shall direct the property to be removed and sold as above directed, in cases of such Sheriffs, Coroners, Public Collectors, and securities, whose property has not been sold for want of buyers.

Executive may direct the property of public collector under execution, to be removed to an adjacent county.

XXI. IT shall be the duty of the Auditor forthwith to acquaint the Executive when their interposition is, or hereafter may become necessary, to the carrying this Act into effect.

To be informed when their interposition is necessary.

XXII. THE Auditor, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the Executive, whose duty it shall be to direct the Attorney of the Commonwealth for such District, County, or Corporation, to file an information thereupon, in which like proceedings shall be had as in other cases of information; and if it shall appear that such sale was fraudulently made, the property of any thing thus fraudulently sold, shall not be changed, but remain subject to the demand of the Commonwealth, and the Officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit.

And of process fraudulently served.

Fraudulent sales under such process to be void; and the officer disqualified for any office.

XXIII. AND whereas Sheriffs and other Public Collectors in some instances have proceeded to collect the Public Revenue, without having entered into bond with security, for the faithful performance of that duty, which cannot be recovered from such Collectors, except by the tedious process of Law; For remedy thereof, *Be it enacted*, That every Sheriff, or other Public Collector, who may have attempted the collection of any of the different species of taxes in any County or Corporation in this State, shall be liable to a judgment and execution for the same sum, and in the same summary way, as if such Sheriff or other Public Collector had actually given security agreeable to Law.

Summary remedy against collectors who have failed to give bond and security.

XXIV. IN all executions founded upon judgments, which were obtained prior to the seventh day of *January*, one thousand seven hundred and eighty-eight, where it may be necessary to remove any property by virtue of this Act, the extra expenses attending such process, shall be discharged by the Commonwealth; but in all executions upon judgments obtained after the day last mentioned, or hereafter to be obtained, such additional expenses shall be paid by the owner of the property, and taxed in the costs of the prosecution.

Expense attending removal of collectors property under execution, how to be defrayed.

XXV. ALL Sheriffs, Coroners, or other persons authorized to levy executions of any kind on behalf of the Commonwealth, and failing so to do according to Law, or withhold-

Penalty on officers failing

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to serve or re-
turn executi-
ons.

ing any such execution for any longer time than one month after the return day, shall forfeit and pay to the Commonwealth, at the rate of fifteen *per centum per annum*, on the amount of such execution, to be computed from the return day thereof, until such execution be actually returned.

For a false re-
turn.

XXVI. AND any Officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five *per centum* on the amount of such execution.

For failing to
pay money re-
ceived under
execution.

XXVII. AND in case any Sheriff, Coroner, or other Officer, shall levy on behalf of the Commonwealth, any execution, and shall return the same as satisfied, paid or discharged, or in any other words, form or manner, which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return day of such execution, or other process, then such Sheriff or other Officer so failing, shall forfeit and pay to the Commonwealth, double the damages, and double the interest, to which the debtor, against whom the said execution may have issued, was subject, to commence and accrue on the return day of such execution, and to continue until payment be made into the Treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, the Sheriff or other Officer failing to pay to the Treasurer within one month after the return day of such execution, shall forfeit and pay at and after the rate of twenty *per centum per annum* on the amount.

When execu-
tions may be
directed to
persons, other
than the Sher-
iffs.

XXVIII. UPON all executions of *feri facias* already issued, or hereafter to be issued, and which shall have been, or shall be levied, but not discharged, whereby subsequent process is necessary to be issued, every such subsequent process, may at the discretion of the Auditor be directed to such person, specially by name as was High Sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process, until the debt be fully paid, notwithstanding such person's time as Sheriff of the County be expired.

Penalty on a
deputy sheriff
failing to add
the name of his
principal to a
return.

XXIX. AND all and every Deputy Sheriff levying any execution for, or on behalf of the Commonwealth, shall, on failing to sign in addition to his own name, the name of the High Sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the High Sheriff's name, or the amount of such execution be actually paid; and in case of inability in any Deputy Sheriff to pay such fine, the same may be recovered of the High Sheriff, which he may hereafter recover of such Deputy, by motion in the Court of his County, on giving ten days previous notice to the Deputy so failing.

When the
performance
of a duty shall
not bar the re-
covery of a
fine already
incurred.
Method of
proceeding
where the
property of a
public debtor
is under any
lien or incum-
brance.

XXX. NO compliance with such duties as are by this Act prescribed, after the respective periods assigned for performance, and notice given of an intended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures.

XXXI. IN all cases of *feri facias* not levied, by reason that the effects in a public debtor's possession cannot be taken in consequence of any previous *bona fide* execution, mortgage, deed of trust, or any other conveyance or incumbrance whatsoever, the Sheriff holding such execution, shall set forth in his return fully and explicitly the nature of the conveyance or incumbrance, under which a claim is set up, and in what Court the same be recorded, and if by virtue of executions, the names of the persons at whose instance such executions issued, the amount of each, and from what Court they were issued, in order that the Auditor may institute such proceedings, as the Attorney General may direct against all persons concerned, in order to have their claims or demands fully ascertained; and all Courts wherein such proceedings shall or may be instituted, are hereby authorized to give the preference in hearing all such cases before others of any kind or nature forever, and to quicken the same by such rules as to them shall seem expedient.

Penalty for
interrupting
the sale of any
public debtor's
estate.

XXXII. IF any person shall attempt to stop, interrupt, or injure the sale of the estate of any public debtor, taken by virtue of an execution, by any fraudulent execution, conveyance or incumbrance whatsoever, he shall forfeit to the Commonwealth the sum of three hundred dollars.

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Fines and forfeitures how to be recovered.

XXXIII. ALL fines and forfeitures inflicted by this Act, shall be recovered by the Auditor on behalf of the Commonwealth, by motion in the General Court with costs, on giving ten days previous notice. *Provided always*, that upon a prosecution instituted for any fine or forfeiture inflicted by this Act, a jury shall be impanelled to try the facts, if it shall be desired by the party prosecuted.

Remission of them how to be obtained.

XXXIV. THE Defendant or parties against whom judgment may have been obtained for any such fine or forfeiture, may, on application to the Governor and Council, obtain a remission either of the whole or part, as to the Governor, with advice of Council, may seem reasonable and proper.

Former acts repealed.

XXXV. ALL and every Act and Acts, clauses and parts of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act, shall in any wise extend to or affect, any duty, fine, forfeiture, penalty, or remedy of, for, or concerning any matter or thing before the commencement of this Act.

Commencement of this act.

XXXVI. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. LXXXV.

An Act to reduce into one, the several Acts concerning the Auditor and Treasurer.

[Passed the 15th of December, 1792.]

Auditor, how appointed, qualified and removeable.

I. **B**E it enacted by the General Assembly, That there shall be one Auditor for public accounts, to be chosen from time to time, as a vacancy may happen, by joint ballot of both Houses of Assembly, and to continue in office until removed by the joint vote of both the said Houses, or by the Executive during the recess of the Assembly. And where any person so appointed, shall refuse to act, shall resign, or die during the recess of Assembly, it shall be lawful for the Governor, with the advice of the Council of State, to appoint some other fit and able person to act in his stead, until the next meeting of the General Assembly. The Auditor so appointed, shall not be capable of acting until he shall have taken the oath of fidelity to the Commonwealth, and also an oath impartially, and honestly to execute the duties of his office; which oath shall be taken before the Judge of the High Court of Chancery, or either of the Judges of the General Court, and by him shall be certified to his next succeeding Court, and entered of Record. The Auditor now in office by former appointment, is hereby continued therein.

His duty. To be assisted by as many clerks as the Executive may think necessary.

II. IT shall be the duty of the Auditor, assisted by so many Clerks as the Executive may think necessary, to examine, state, settle, and audit all accounts, claims or demands whatsoever, against the public, arising under any Law or Resolution of the General Assembly; and to grant to every public claimant, authorized by Law to demand the same, a warrant on the Treasurer, for the sum due, signed with his own hand and name, and attested in the hand and name of one of his Clerks, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers, and papers, touching the same. The Auditor on the last day of *September* in every year, shall transfer the balances to a new account, to be annually opened by him on the first day of *October*. There shall also be an account stated against the Treasurer of the Commonwealth.

To proceed against public debtors.

III. IT shall be the duty of the Auditor, to call upon and proceed against all public debtors, for the balances due to the Public.

In what manner.

IV. IT shall and may be lawful for the Auditor on behalf of the Commonwealth, to move for judgments on any day during the sitting of the General Court, against any person or persons indebted to the Public, and against any person or persons indebted to the Public by duty bonds, in the General Court, or County Court of Henrico, on giving ten days previous notice thereof, and thereupon to issue executions, and send the same to the proper

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Officer; the charges of giving which notice, being first paid by the Public, shall be recovered of the person against whom such execution issued, in the same Court, and in the same manner, as debts due to the Public are allowed to be recovered; and on such executions, the Clerk shall endorse "No security to be taken."

To give bond
and security
for the faith-
ful discharge
of his office.

V. ANY person hereafter appointed Auditor, shall give bond with such security as shall be approved by the Governor, with the advice of Council, in the sum of thirty thousand dollars, payable to the said Governor, or his successors, in trust, for the use of the Commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the General Court.

Persons ag-
grieved by
his disallow-
ing or abating
any claim,
how redressed.

VI. WHERE the Auditor acting according to his direction and judgment, shall disallow, or abate any article of demand against the Commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the High Court of Chancery, or the District Court, holden at the City of *Richmond*, according to the nature of his case, for redress, and such Court shall proceed to do right thereon; and a like petition shall be allowed in all other cases, to any other person who is entitled to demand against the Commonwealth, any right in Law or Equity.

The chief
clerk to act in
case of sick-
ness of the au-
ditor.
Treasurer, his
continuance in
office.
How quali-
fied.

VII. THE chief Clerk of the Auditor, shall, in case of the sickness of the Auditor, perform the duties of his office.

VIII. THE public Treasurer may continue in office without re-election, until the end of the Session of General Assembly, next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to Act, he shall give bond to the Governor, with securities, to be approved by the Council of State, in the penalty of one million of dollars, payable to the Commonwealth, with condition, that he will faithfully account for all monies and other things which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the Commonwealth, before some Court of Record, or before a Judge or Justice thereof; the administration of which oaths, or the certificate thereof, shall be recorded in such Court.

Vacancy dur-
ing the recess
of the assem-
bly to be sup-
plied by the
Executive.
How the trea-
surer in office
shall proceed
against his
predecessor
for the balance
which may be
due from him
to the public.

IX. WHEN the office shall become vacant, during the recess of the General Assembly, the Governor, with the advice of the Council of State, shall appoint a successor to act, until such time as he, or another shall be legally elected.

X. UPON a motion made to the General Court, by a succeeding Treasurer, on behalf of the Commonwealth, whereof more than ten days notice in writing shall have been given to the Obligors, judgment may be awarded for the penalty of the said bonds, to be discharged by payment of so much, as a Jury, to be impannelled instantly, for trial of the issue, if an issue be joined, or to enquire of damages, if the Defendants make default, shall find to be due by breach of the condition aforesaid, with costs.

How he shall
keep his ac-
counts.

XI. THE Treasurer, in books provided at the public expence, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of Acts and votes of the General Assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the General Assembly: And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied, to the use of the Commonwealth, but shall thereby be rendered incapable of any office of public trust.

Penalty for
misapplying
public money.

His clerks,

XII. THE Treasurer shall be allowed as many Clerks as the Executive shall judge necessary.

Not to pay or
receive money
but on war-
rant or certi-

XIII. IT shall not be lawful for the Treasurer to pay or receive any money on account of the Public, but on warrant or certificate from the Auditor, unless in cases where any future Act of Assembly shall in express words, and not by inference or implication only,

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Exempt from the
auditor.
Exception.

declare that in that particular case it is to be understood as the intention, that the claim specified by such Act, shall not be audited in the regular course; save only, that the salary of the said Auditor, together with the accounts for the expences of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the Treasurer by the Governor and Council.

XIV. THE Executive shall have the controul and superintendence of the Auditor's and Treasurer's offices respectively, as the same are now established by this Act, with power to remove the Auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office, during the recess of Assembly, subject to their approbation. A Committee of the Executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the Governor in writing, under their hands, the situation of the same, the state of the books and papers to the said offices belonging, and what charges or additions shall in their judgment be proper for conducting the business; which report shall be by him laid before the Board, and entered in their proceedings; and thereupon it shall be lawful for the Executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same.

The Auditor's
and Treasur-
er's offices to
be under the
controul of
the Executive.

XV. ALL instructions by the Executive in pursuance of the powers hereby vested in them, shall be executed, any law to the contrary notwithstanding.

XVI. THE Treasurer for the time being shall have a right to vote according to the number of shares which this Commonwealth holds in *Potowmack*, *James River*, and *Dismal Swamp Canal* Companies, in person, or by proxy, appointed by him, at the meetings of the said companies, and shall receive the proportion of the tolls which shall from time to time become due to this state, from the shares aforesaid.

The Treasur-
er to repre-
sent the Com-
monwealth in
the *Poto-
mack*, *James*
river, and
Dismal
Swamp Canal
companies.
Repealing
clause.

XVII. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

XVIII. THIS Act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

C H A P. LXXXVI.

An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the Terms and Manner of granting waste and unappropriated Lands; for settling the Titles and Bounds of Lands; directing the Mode of Proceffioning, and prescribing the Duty of Surveyors.

[Passed the 17th of December, 1792.]

I. **B**E it enacted, That all grants of lands shall issue from the Land-Office, in manner and form herein after mentioned:

Grants of lands
to issue from
the land-office.

II. A REGISTER of the said Land-Office shall be appointed from time to time by joint ballot of both Houses of Assembly, who shall give bond with sufficient security to the Governor or first Magistrate of this Commonwealth, in the penalty of ten thousand dollars; shall hold his office during good behaviour, and shall have power to appoint a Deputy and Clerks to assist in executing the business of the said Office, but shall nevertheless reside there himself.

Register how
appointed and
qualified.

III. IF any vacancy shall happen by the death, resignation, removal, or other legal disability of a Register, during the recess of the General Assembly, the Governor, or first Magistrate of the Commonwealth, by and with the advice of the Council, may appoint some other person, giving bond and security in like manner, to act as Register of the said Office, until the end of the next Session of Assembly.

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Copies attested
by him as good
evidence as
the originals.

IV. ALL copies of the Records, and other papers now being, or which shall hereafter be in the said Office, including those which have been removed from the Office of the late Proprietor of the *Northern Neck*, duly attested by such Register, shall be as good evidence as the originals would be.

Title to waste
lands, how to
be acquired

Consideration
money for
waste lands.

Warrants for
surveys.

Consideration
money for
lands forfeited
for non-pay-
ment of taxes.

V. *AND be it enacted*, That any person may acquire title to so much waste and unappropriated land lying within this Commonwealth, as he shall desire to purchase, on paying the consideration of two dollars for every hundred acres ; which consideration may be paid in specie, or in Auditor's warrants, or audited certificates, and so in proportion for a greater or smaller quantity, and obtaining certificate from the Auditor of public accounts in the following manner : The consideration money shall be paid into the hands of the Treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for ; which being delivered to the Auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and, upon lodging the same in the Land-Office, the Register thereof shall grant to such person or persons, his or their heirs or assigns, a printed warrant under his hand, and the seal of his Office, specifying the quantity of land, and the rights upon which it is due, authorising any Surveyor, duly qualified according to Law, to lay off and survey the same, and shall regularly enter and record in the books of his Office, all such certificates, and the warrants issued thereupon, which warrants shall be always good and valid until executed by actual survey, or exchanged in the manner herein after directed : *Provided always*, That no warrant shall issue to be located on any lands which may vest in the Commonwealth on account of the non-payment of the taxes thereon, unless the person applying for the same shall pay in consideration thereof at the rate of one hundred dollars for every hundred acres ; and, for the better direction of the Surveyors, the Register shall express in the warrant what sum was paid therefor.

Certain lands
reserved as a
common, and
grants thereof
declared void.

VI. *PROVIDED also*, That all unappropriated lands on the bay of *Chesapeake*, on the sea shore, or on the shores of any river or creek, and the bed of any river or creek in the Eastern parts of this Commonwealth, which have remained ungranted by the former government, and which have been used as a common to all the good people thereof, shall be, and the same are hereby excepted out of this Act ; and no grant issued by the Register of the Land-Office for the same, either in consequence of any survey already made, or which may hereafter be made, shall be valid or effectual in Law to pass any estate or interest therein.

Surveyors
how examined
and commisi-
oned.

One sixth of
their fees ap-
propriated to
the college of
*William and
Mary*.
Tenure of of-
fice.
How quali-
fied.

VII. EVERY person who shall hereafter desire to become a Surveyor, shall be nominated by the Court of his County, examined, and certified able by the President and Professors of *William and Mary* College, and if of good character, commissioned by the Governor, with a reservation in such commission to the said Professors, for the use of the College, of one sixth part of the legal fees that shall be received by such Surveyor ; for the yearly payment of which, he shall give bond with sufficient security to the President and Masters of the said College ; he shall hold his Office during good behaviour, and before he shall be capable of entering upon the execution of his Office, shall before the Court of the same County, take an oath, and give bond, with two sufficient securities, to the Governor and his successors, in such sum as he, with advice of Council, shall have directed, for the faithful execution of his Office.

Their depu-
ties how ap-
pointed.

Their power
and reward.

VIII. ALL Deputy-Surveyors shall be recommended by their principals to the Court of the County, of which such such principal may be Surveyor ; the Court shall thereupon appoint and direct one or more fit persons, to examine into the capacity, ability, and fitness of the person or persons so recommended ; and upon a certificate of such examination, and report of the capacity, ability, and fitness of the person or persons so recommended, the said Court is hereby empowered and directed to appoint him or them to act as deputy or deputies, for whose conduct, in every respect touching his Office, the principal Surveyor shall be answerable ; and all deputies so appointed, shall have power and authority to act and do in all things, and to every intent and purpose, as the principal Surveyor, except in cases otherwise provided by this Act ; and shall thereupon be entitled to one half the fees received for services performed by them respectively, after deducting the proportion thereof due to the College. If any principal Surveyor shall fail to nominate a sufficient number of deputies to perform the services of his Office in due time, the Court of the County shall

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direct what number he shall nominate; and in case of failure, shall nominate for him. And if any Deputy-Surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his Office, sum of money in gross, or other valuable consideration to his principal, for his recommendation or interest in procuring the deputation, such deputy and principal shall be thereby rendered forever incapable of serving in such Office: *Provided always*, That any Deputy-Surveyor shall be removeable from Office, at the discretion of his principal.

Penalty for giving the principal money.

How removeable.

IX. EVERY Surveyor of lands, shall hereafter be resident in the County whereof he is Surveyor, during the time he shall continue in office, under the penalty of forfeiting six hundred dollars for every month he shall reside out of the same, unless detained by such business as the Court of the County shall judge reasonable; one moiety shall be to the Commonwealth, for the better support of this government and the contingent charges thereof, and the other moiety to the informer.

Surveyors to reside in the counties wherein they are appointed.

X. WHERE any person shall hold a warrant from the Land-Office, or be desirous to make an entry in any County on the Eastern waters, for vacant and unappropriated land, and there shall be no Surveyor qualified to act in such County, then it shall and may be lawful for such person to make such entry with the Clerk of the County Court, and the same surveyed by any legal Surveyor of the next or neighbouring County, shall be good and sufficient to enable such person to obtain a patent or grant for the same.

How entries and surveys may be made on the Eastern waters where there is no surveyor.

XI. *PROVIDED always*, That the Surveyors of the Counties of *Monongalia, Harrison, Randolph, and Ohio*, shall not be accountable to the President and Masters of *William and Mary College*, for any part of the fees which have accrued to them for services subsequent to the first day of *January*, one thousand seven hundred and eighty-eight, or shall hereafter accrue; and the bonds given by them for the yearly payment of one sixth part of their fees to the President and Masters of the said College, shall be, and are hereby declared to be null and void, so far as relates to the fees which became due to them after the said first day of *January*, in the year last mentioned, or shall hereafter become due.

Surveyors of certain counties not accountable to *William and Mary College* for the one sixth of their fees;

XII. *PROVIDED nevertheless*, That each of the Surveyors of the said Counties of *Monongalia, Harrison, Randolph, and Ohio*, hereafter to be appointed, shall, within one month after he shall be required by the Board of Trustees of the *Randolph Academy*, give bond with sufficient security, in a reasonable sum, for the yearly payment of one sixth part of the fees which he shall receive, to the said Trustees, for the use of the said Academy; and in case any one of the said Surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said Trustees, the sum of three hundred dollars annually, to be recovered by motion in the Court of the County of such Surveyor, upon giving him ten days previous notice of such motion.

But to pay the same to the *Randolph Academy*.

XIII. EVERY person having a land warrant, and being desirous of locating the same on any particular waste and unappropriated lands, shall lodge such warrant with the chief Surveyor of the county wherein the said lands or the greater part of them lie, who shall give a receipt for it if required. The party shall direct the location thereof so specially and precisely, as that others may be enabled with certainty to locate other warrants on the adjacent residuum; which location shall bear date the day on which it shall be made, and shall be entered by the Surveyor in a book to be kept for that purpose, in which there shall be left no blank leaves or spaces between the different entries.

Land warrants to be lodged with the principal surveyor.

Locations to be precisely made and entered in a book.

XIV. AND if several persons shall apply with their warrants at the office of any Surveyor at the same time, to make entries, they shall be preferred according to the priority of the dates of their warrants; but if such warrants be dated on the same day, the Surveyor shall settle the right of priority between such persons by lot.

Preference where several applications to locate the same land.

XV. AND every Surveyor shall, at the time of making entries for persons not being inhabitants of his County, appoint a time for surveying their land, and give notice thereof in writing to the persons making the same; and if on such application at his office, the Surveyor shall refuse to enter such location, under pretence of a prior entry for the same lands made by some other persons, he shall have a right to demand of the said Surveyor, a view of the original of such prior entry in his book, and also an attested copy of it.

Notice of time of surveying to persons out of the county.

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How a survey-
or may locate
his own war-
rants.

XVI. ANY chief Surveyor having a warrant for lands, and desirous to locate the same within his own County, shall enter such location with the Clerk of the County, who shall return the same to his next Court, to be there recorded; and the said Surveyor shall proceed to have the survey made as soon as may be, or within six months at farthest, by some one of his deputies, or if he hath no deputy, then by any Surveyor or Deputy-Surveyor of an adjacent County; and in case of failure, his entry shall be void, and the land liable to the entry of any other person.

When and
how surveys
of located
lands are to be
made.

XVII. EVERY chief Surveyor shall proceed with all practicable dispatch, to survey all lands entered for in his office, and shall, if the party live within his County, either give him personal notice of the time at which he will attend to make such survey, or shall publish such notice, by fixing an advertisement thereof on the door of the Court-house of the County, on two several Court days; which time, so appointed, shall be at least one month after personal notice given, or after the last advertisement so published; and if the Surveyor shall accordingly attend, and the party, or some one for him, shall fail to appear at the time, with proper chain carriers, and a person to mark the lines, if necessary, his entry shall become void, the land thereafter subject to the entry of any other person, and the Surveyor shall return him the warrant, which may, notwithstanding, be located anew, upon any other waste or unappropriated lands, or again upon the same land, where it hath not in the mean time been entered for by another person.

Variation of
the magnetic
needle to be
expressed in
plats of sur-
veys.

XVIII. AND whereas many inconveniences have arisen from the inattention of Surveyors to the variation of the magnetic needle, in re-surveying lands which were formerly surveyed, when the variation was very different from what it is now, and many mistakes and much confusion may arise in comparing future surveys with the present: For remedy whereof, *Be it enacted*, That every Surveyor shall, under the penalty of fifteen dollars, express and declare, in or on the plat and return of each survey, by him or them taken or made, the true quantity or degree of the variation aforesaid, and whether it be east or west.

Proviso.

XIX. *PROVIDED* always, That when any Surveyor shall be called upon, or ordered to re-survey any lands, that may have been surveyed before the first day of June, in the year of our Lord, one thousand seven hundred and seventy-three, such surveyor shall or may re-survey such lands, according to the mode of surveying by the magnetic meridian, but shall, nevertheless, under the penalty aforesaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian, at the time of making such re-survey, and shall also, in the said plat and return, certify (where the same can be done) the quantity or degree of variation between the original lines of such former survey, from the true meridian aforesaid.

Penalty for
failure how
recoverable.

XX. THE penalty of fifteen dollars aforementioned, may be recovered by any person or persons who shall sustain any damage by the Surveyor's failing to comply with the directions aforesaid, who will inform or sue for the same, by action of debt, bill, plaint, or information, in any court of record within this Commonwealth.

Surveyor may
direct a depu-
ty to survey.

XXI. WHERE the chief Surveyor doth not mean to survey himself, he shall immediately after the entry made, direct a deputy surveyor to perform the duty, who shall proceed as is before directed in the case of the chief Surveyor.

Chain carriers
to be sworn.

XXII. THE persons employed to carry the chain on any survey, shall be sworn by the Surveyor, whether principal or deputy, to measure justly and exactly, to the best of their abilities, and to deliver a true account thereof to such Surveyor, and shall be paid for their trouble by the party for whom the survey is made.

Surveys to be
closed, lines
marked, and
length and
breadth pro-
portioned.
Exception.

XXIII. THE Surveyor, at the time of making the survey, shall not leave any open lines, but shall see the same bounded plainly by marked trees, except where a water course, or ancient marked line shall be the boundary, and shall make the breadth of each survey, at least one third of its length in every part, unless where such breadth shall be restrained on both sides by mountains unfit for cultivation, by water courses, or the bounds of lands before appropriated.

Plats & certifi-
cates when to
be delivered.

XXIV. THE Surveyor shall, as soon as it can conveniently be done, and within three months at farthest after making the survey, deliver to his employer, or his order, a fair and

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true plat and certificate of such survey, the quantity contained, the hundred (where hundreds are established in the County) wherein it lies, the courses and descriptions of the several boundaries, natural and artificial, ancient and new, expressing the proper names of such natural boundaries, where they have any, and the name of every person whose former lines made a boundary, and also the nature of the warrant and rights on which such survey was made.

XXV. THE said plats and certificates shall be examined and tried by the said principal Surveyor, whether truly made and legally proportioned as to length and breadth, and shall be entered within three months at farthest, after the survey is made, in a book well bound, to be provided by the Court of his County at the County charge; and he shall in the month of *July* every year, return to the President and Professors of *William and Mary* College, and also to the Clerk's-Office of his County Court, a true list of all surveys made by him or his deputies in the preceding twelve months, with the names of the persons for whom they were respectively made, and the quantities contained in each, there to be recorded by such Clerk; and no person shall hereafter hold the Offices of Clerk of a County Court and Surveyor of a County, nor shall a deputy in either Office, act as deputy or chief in the other.

To be examined and entered in the book of the principal surveyor. Lists of surveys to be annually returned to the clerk of the county and to the college. No person to be clerk and surveyor of the same county.

XXVI. ANY Surveyor, whether principal or deputy, failing in any of the duties aforesaid, shall be liable to be indicted in the Court of the District in which he shall reside, and punished by amercement or deprivation of his Office, and incapacity to take it again, at the discretion of a jury; and shall moreover, be liable to any party injured, for all damages he may sustain by such failure.

How surveyors may be punished for neglect.

XXVII. EVERY County Court shall once in every year, and oftener if they see cause, appoint two or more capable persons to examine the books of entries and surveys in possession of their chief Surveyor, and to report in what order and condition the same are kept; and on his death, or removal, shall have power to take the same into their possession, and deliver them to the succeeding chief Surveyor.

Their offices to be annually inspected.

XXVIII. IF any Surveyor, or other person who may be in possession of any such book of entries or surveys, shall refuse or neglect to produce such book to the persons, who by any Court may be appointed to examine the same, or to deliver up the same agreeable to the order of such Court to any chief Surveyor who has succeeded or may succeed any Surveyor, dead, or removed from Office, such Surveyor, or other person, shall, for every such refusal, or neglect, forfeit and pay the sum of thirty dollars; one half to the use of the County, and the other half to the use of the person suing for the same; to be recovered by action of debt, plaint, or information.

Penalty on surveyors refusing to produce or deliver up their books when required by the court.

XXIX. AND for preventing hasty and surreptitious grants, and avoiding controversies and expensive law suits: *Be it enacted*, That no Surveyor shall, at any time within twelve months after the survey made, issue or deliver any certificate, copy, or plat of land by him surveyed, except only to the person or persons for whom the same was surveyed, or to his, her, or their order, unless a *caveat* shall have been entered against a grant to the person claiming under such survey, to be proved by an authentic certificate of such *caveat*, from the Clerk of the Court, where such *caveat* shall be entered, produced to the Surveyor; and if any Surveyor shall presume to issue any certificate, copy, or plat as aforesaid, to any other than the person or persons entitled thereto, every Surveyor so offending, shall forfeit and pay to the party injured, his, or her legal representatives, or assigns, one hundred dollars for every hundred acres of land contained in the survey, whereof a certificate, copy, or plat shall be so issued, or shall be liable to the action of the party injured at the common Law, for his, or her damages, at the election of the party.

No plat to be delivered but to the owner within a year,

Unless a caveat be entered.

Penalty,

XXX. IT shall not be lawful for any Surveyor to admit an entry for any land, without a warrant from the Register of the Land-Office, or on a certificate from a principal Surveyor, that such warrant is filed in his Office, which certificate shall describe the number thereof, the time when issued, to whom, and the assignments thereon, if any there be.

No entry to be made without a warrant from the register, or a certificate from a surveyor.

XXXI. EVERY person for whom any waste or unappropriated lands shall be so located and laid off, shall within twelve months at farthest after the survey made, return the

Plats of surveys to be returned into the

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land office
within twelve
months.*Caveats.*

plat and certificate of the said survey into the Land-Office, and may demand of the Register a receipt for the same; and on failing to make such return within twelve months, as aforesaid, or if the breadth of his plat be not one third of its length, as before directed, it shall be lawful for any other person to enter a *caveat* in the said Land-Office against the issuing of any grant to him, expressing therein for what cause the grant should not issue; or if any person shall obtain a survey of lands to which another hath by Law a better right, the person having such better right, may in like manner, enter a *caveat* to prevent his obtaining a grant, until the title can be determined; such *caveat* also expressing the nature of the right on which the plaintiff therein claims the said land.

Proceedings
thereon.

XXXII. THE person entering any *caveat*, shall take from the Register of the Land-Office, a certified copy thereof, which within thirty days thereafter, he shall deliver to the Clerk of the Court of that District or County in which the land lies; and shall moreover take from the Surveyor of the County, or from the Register's Office, a certified copy of the survey and plat, which within thirty days from the entering such *caveat*, he shall in like manner deliver to the Clerk of the Court where the suit shall be instituted; and in case of failure in either instance, the *caveat* shall be void.

XXXIII. THE Clerk of such Court, on receiving the same, shall enter such copy of the *caveat* in a book to be kept by him for that purpose, and shall thereupon issue a summons, reciting the cause for which such *caveat* is entered, and requiring the Defendant to appear on the first day of the next succeeding District Court, or quarterly Session, if the suit be instituted in a County Court, and defend his right; and on such process being returned executed, the Court shall proceed to determine the right of the cause in a summary way, without pleadings in writing, impannelling and swearing a jury for the finding of such facts as are material to the cause, and are not agreed by the parties, and shall thereupon give judgment; a copy of such judgment, if in favor of the Defendant, being delivered into the Land-Office, shall vacate the said *caveat*; and if not delivered within three months, a new *caveat* may for that cause be entered against the grant; and if the said judgment be in favor of the Plaintiff, upon delivering the same into the Land-Office, together with a plat and certificate of the survey, and also producing a legal certificate of new rights on his own account, he shall be entitled to a grant thereof; but on failing to make such return, and produce such certificates within six months after judgment so rendered, it shall be lawful for any other person to enter a *caveat* for that cause against issuing the grant; upon which subsequent *caveats*, such proceedings shall be had as are before directed in the case of an original *caveat*; and in any *caveat*, where judgment shall be given for the Defendant, the Court shall award him his costs, and may compel the Plaintiff, in any *caveat*, if they think fit, to give security for costs, or on failure thereof, may dismiss the suit, and in case the Plaintiff in any such *caveat* shall recover, the Court may, if they think it reasonable, award costs against the Defendant: *Provided*, that where any lands surveyed upon a land warrant as aforesaid, shall in consequence of any judgment upon a *caveat*, be granted to any other person than the party claiming under such warrant, such party shall be entitled to a new warrant from the Register for the quantity of land so granted to another, reciting the original warrant and rights, and the particular cause of granting the new warrant.

Affidavit to be
filed by the
person enter-
ing a *caveat*.

XXXIV. *PROVIDED* always, That no *caveat* shall be entered, unless the person at the time of entering such *caveat*, shall file with the Register or his Deputy, an affidavit that such *caveat* is really and *bona fide* made with an intention of procuring the lands for the person in whose name such *caveat* is entered, and not in trust for the benefit of the person against whom such *caveat* is entered; and all *caveats* entered contrary to the directions of this Act, shall be absolutely null and void.

Caveats to be
dismissed if
the summons
be not served
or not return-
ed.

XXXV. AND wherever a summons upon a *caveat* shall either not be returned at all, or be returned not executed, the *caveat* upon which such summons shall have issued, shall be dismissed with costs, unless the Court, before whom such *caveat* shall be depending, shall be satisfied that the said summons not having been executed, did not proceed from the neglect of the party who entered such *caveat*.

XXXVI. AND whereas in some cases plats and certificates of survey have not been recorded in the Surveyor's office, nor returned to the Register's office within the times

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respectively limited by law, and it is doubtful whether the lands held under such surveys are not still liable to be *caveated*; *Be it therefore enacted*, that where no *caveat* shall be entered before the said duties respectively shall be performed, such lands shall not thereafter be liable to forfeiture on account of such failure.

Caveats not to be entered after the duties performed.

XXXVII. THE Clerks of the several District and County Courts, within one month after the end of every Session of the said Courts, shall return to the Register of the Land-Office, an attested list of all *caveats* that were dismissed or determined at the said preceding Court, which the Register shall compare with the *caveat* book; and in all cases where he shall find that the *caveats* have been dismissed, or determined in favor of the Defendant, he shall make out grants for such lands, as if no such *caveats* had been entered in his office.

Lists of caveats dismissed, or determined to be sent to the land-office.

XXXVIII. WHENSOEVER upon a *caveat*, the Court shall determine in favor of a *caveator*, all the fees he shall pay into the Register's Office, in consequence of such determination, in order to obtain his patent, shall be by the Register paid to the person who, in the first instance upon the return of the survey, hath been compelled to pay the fees.

When a caveat is established fees paid by the caveator, to be paid to the person returning the survey. Notes and references to be made by the register in the margins of the record books containing the warrants and grants.

XXXIX. AND to prevent confusion and mistakes in the application, exchange or renewal of warrants, the Register of the Land-Office is hereby directed and required, to leave a sufficient margin in the record books of his Office, and whenever any warrant shall be exchanged, renewed, or finally carried into execution by a grant, to note the same in the margin opposite to such warrant, with folio references to the grant, or other mode of application; and also to note in the margin opposite to each grant, the warrant or warrants, and survey on which such grant is founded, with proper folio references to the books in which the same are recorded.

XL. ALL persons, as well Foreigners as others, shall have right to assign or transfer warrants or certificates of survey for lands; and any Foreigner purchasing warrants for lands, may locate and have the same surveyed, and after returning a certificate of survey to the Land-Office, shall be allowed the term of two years, either to become a Citizen, or to transfer his right in such certificate of survey, to some Citizen of this, or any other of the United States of *America*.

Warrants and certificates of surveys transferable. Foreigners may locate & survey lands.

XLI. WHEN any grant shall have been finally completed, the Register shall cause the plat and certificate of survey on which such grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpose at the public charge.

Plats of surveys on which grants may issue, to be recorded.

XLII. DUE returns of the several articles herein before required, being made into the Land-Office, the Register, within not less than six, nor more than nine months, shall make out a grant by way of deed-poll, to the party having right, in the following form:

A. B. Esquire, Governor of the Commonwealth of Virginia, to all to whom these presents shall come, greeting: Know ye, that in consideration of military service performed by C. D. to this Commonwealth, &c. (or in consideration of military service performed by C. D. to the United American States, or in consideration of the sum of _____ paid by C. D. into the Treasury of this Commonwealth, &c.) there is granted by the said Commonwealth unto the said C. D. a certain tract or parcel of land containing _____ acres, lying in the County of _____, and hundred of _____ &c. (describing the particular bounds of the land, and the date of the survey upon which the grant issues) with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said C. D. and his heirs, for ever. In witness whereof the said A. B. Governor of the Commonwealth of Virginia, hath hereunto set his hand, and caused the seal of the said Commonwealth to be affixed at _____, on the _____ day of _____, in the year of our Lord _____, and of the Commonwealth _____.

Form of the grant.

XLIII. UPON which grant the said Register shall endorse, that the party hath title to the same; whereupon it shall be signed by the Governor, sealed with the seal of the Commonwealth, and then entered of record at full length, in good and well bound books, to be provided for that purpose at the public expence, and kept by the Register; and being so entered, shall be certified to have been registered, and then be delivered to the party or his order.

To be signed, sealed, and recorded.

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If made to heirs or assignees, material circumstances of the title to be recited.

Right of pre-emption of infants, *femes covert*, &c. to swamps, &c. contiguous to their high lands.

Method of obtaining grants for surplus lands within the bounds of patents.

XLIV. WHERE a grant shall be made to the heir or assignee of a person claiming under any of the before mentioned rights, the material circumstances of the title shall be recited in such grant.

XLV. THE Proprietor of any high lands, to which any swamps, marshes or sunken grounds are contiguous, if an infant, *feme covert*, beyond sea, or under any other legal disability, shall have a right of pre-emption to enter for and complete his or her title thereto, at any time within three years after such disability shall be removed.

XLVI. AND whereas, through the ignorance, negligence, or fraud of Surveyors, it may happen that divers persons now do, or may hereafter hold within the bounds expressed in their patents or grants, greater quantities of land than are therein mentioned: For quieting such possessions, preventing controversies, and doing equal justice to the Commonwealth and its Citizens; *Be it enacted*, that it shall not be lawful for any person to enter for, survey, or take up any parcel of land held as surplus in any patent or grant, except during the life-time of the patentee or grantee, and before any transference, conveyance, or other alienation shall have been made of the lands contained in such patent or grant, and until the party intending to enter and take up the same, shall have given one full year's notice to such patentee or grantee, of such his intention; and in case such patentee or grantee, shall not within the year, obtain rights and sue forth a patent for the surplus land by him held, it shall be lawful for the person who gave notice as aforesaid, upon producing a certificate from the Clerk of due proof of such notice before the Court of the County wherein such patentee or grantee resides, and to demand from the Register of the Land-Office, a warrant to the Surveyor of the County wherein such lands lie, to re-survey at the proper charge of the person obtaining such warrant, the whole tract within the bounds of the patent or grant, and upon such person's returning into the Land-Office a plat and certificate of such re-survey, together with the warrant on which it is founded, and obtaining and producing new rights for all the surplus land found within the said bounds, he may sue forth and obtain a new grant for such surplus, which shall be granted to him in the same manner as waste or unappropriated land; but the former patentee or grantee may assign such surplus land in any part of his tract as he shall think fit, in one entire piece, the breadth of which shall be at least one third of the length, and in such new grant there shall be a recital of the original patent or grant, the re-survey of which the surplus was ascertained, and of other material circumstances.

Proviso for the relief of landholders unjustly vexed.

XLVII. *PROVIDED always*, That if upon notice given as aforesaid, the original patentee or grantee shall, within the year, re-survey his tract, and it be thereupon found that he hath no more than the quantity of land expressed in his patent or grant, with the allowance herein after mentioned, the party giving such notice shall be liable to pay all charges of such re-survey, for which he shall give sufficient security to the said patentee or grantee, at the time of the notice, otherwise such notice shall be void and of no effect; and moreover, for his unjust vexation, shall also be liable to an action upon the case, at the suit of the party grieved; and that in all such new surveys, the patentee or grantee shall have an allowance, at the rate of five acres in every hundred, for the variation of instruments.

Method of rectifying mistakes in bounds, and obtaining inclusive patents

XLVIII. WHERE any person shall find any mistake or uncertainty in the courses or description of the bounds of his land, and desires to rectify the same, or shall hold two or more tracts of land adjoining to each other, and is desirous to include them in one grant, he may in either case, having previously advertised his intentions, and the time of application, at the door of the Courthouse on two several Court days, and also having given notice to the owners of the adjoining lands, present a petition to the Court of the County in which the lands lie, reciting the nature and truth of the case, and such Court may, and is hereby empowered to order the Surveyor of their County to re-survey such lands at the charge of the party, according to his directions, and the original or authentic title papers, taking care not to intrude upon the possessions of any other person, and to return a fair plat and certificate of such re-survey into the said Court, to be examined and compared with the title papers; and if such Court shall certify that, in their opinion, such re-survey is just and reasonable, the party may return the same, together with his material title papers into the Land Office, and demand the Register's receipt for them; and in case any *caveat* shall be entered against his obtaining a new grant upon such re-survey, the same proceedings shall be had therein, as is directed in the case of other *caveats*, and the Court

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upon hearing the same, may either prohibit such new grant, or vacate the *caveat*, as to them shall seem just; but if no *caveat* shall be entered within six months after such return, or if a *caveat* shall be entered and vacated as aforesaid, the party upon producing new rights for whatever surplus land appears to be within the bounds, more than the before-mentioned allowance of five acres for every hundred, may sue out and obtain a new grant for such lands thereupon, in which shall be recited the dates and other material circumstances of the former title, and the title papers shall be delivered by the Register to the new owner.

XLIX. THE Judges of the General Court shall once in every year, and oftener if they see cause, appoint two or more capable persons, to examine the Record books and papers in the Land-Office, and report in what condition and order they are kept, who shall compare all warrants of survey returned to the said office executed, with the list of those issued therefrom, and cancel all such as shall appear to have been properly executed or exchanged, an account of which shall be kept by the Register, charging therein those issued, and giving credit for those cancelled as aforesaid; but no original warrant shall be burnt or otherwise destroyed, but shall be regularly filed in the Land-Office with the title papers.

The General court to cause the land-office to be examined once in every year or oftener, and certain warrants to be cancelled. All original warrants to be filed with the title papers. Plats on which surveys have issued to remain in the office.

L. NO original plat and certificate of survey, once received and carried into grant, shall thereafter be delivered out of the Land-Office, but shall remain amongst the other evidences of the title.

LI. THE Register of the Land-Office shall account for with the Auditor, and pay regularly into the Treasury, at the end of every six months, all fees by him received from time to time, making oath that the fees so accounted for, are the whole profits accruing from the said office, so far as he knows or believes, up to the date of such account; and moreover his accounts of fees received, shall be fairly stated, and compared by the Auditor with the books of his office, before the account shall be passed. If the Register of the Land-Office shall at any time fail to account, according to the directions of this Act, for the space of six months, he shall forfeit and pay the sum of ten thousand dollars, to be recovered in the name of the Governor or Chief Magistrate for the time being, in any Court of Record, by the Auditor, on thirty days previous notice; and the *onus probandi* shall lie on the Defendant.

When and how the Register shall account for the fees received.

LII. ON receiving each survey into the Register's office, the fees established by Law, that will accrue on the same, including the issuing of the grant thereupon, shall be paid; and if the Register shall credit any person, he shall account for the fees so credited in the same manner as if they had been received.

Fees to be paid on receipt of the plat into the office.

LIII. WHENSOEVER any County Court shall be so divided in the recommendation of a Surveyor, that neither of the Candidates shall be recommended, it shall be lawful for the High-Sheriff of such County, and he is hereby required, to vote in favor of one of those Candidates between whom the Court shall be divided.

High Sheriff to vote when the court is divided in the recommendation of a surveyor.

LIV. IT shall not be lawful for any County Surveyor, hereafter to withhold from any person entitled to demand the same, a plat by him demanded; and every Surveyor out of office, shall have the same remedy for fees due to him, as is hereby given to the acting Surveyors: *Provided*, that no Surveyor shall be obliged to deliver a plat of land to any person or persons not resident within the State, before the fees for the same shall be paid, or such security given for the payment thereof, as to him shall be deemed sufficient.

Surveyors not to withhold plats from the owners. Surveyors out of office, how they may recover their fees.

LV. THE Surveyor or Surveyors of any County or Counties from which a new County hath been taken, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the Surveyor of the new County, attested copies of all entries made upon lands within such new County, on his books, and not surveyed, together with the warrants upon which they were founded; for which service, he shall receive five cents for every such attested copy, to be paid by the Surveyor of the new County, upon receipt of the said attested copies. And, in case any Surveyor shall refuse or neglect to make out, or deliver such attested copies of entries within the time aforesaid, or at the expiration of the said time, upon the application of the Surveyor of the new County,

When surveyors may withhold plats until the fees are paid or secured. When a new county is formed, copies of entries for lands therein to be delivered to the surveyor thereof, by the surveyor of the former county.

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he shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered by action of debt or information, in any Court of record, by any person who will sue for the same; any law to the contrary, notwithstanding.

Bounds of
lands to be
proceffioned
every fourth
year begin-
ning in 1795.

proceffioners.

Allowance to
them.

LVI. THE Court of every County, at some Court between the first day of *June*, and the first day of *September*, which shall be in the year of our Lord, one thousand seven hundred and ninety-five, and so between the first day of *June* and the first day of *September* in every fourth year thereafter, shall divide their Counties into so many precincts, as to them shall seem most convenient, for proceffioning every person's land in their respective Counties, and shall appoint the particular times between the last day of *September* and the last day of *March*, then next coming, when such proceffioning shall be made in every precinct; and shall also appoint two or more intelligent, honest freeholders, of every precinct, to see such proceffioning performed, and to take and return to the said Court, an account of every person's land they shall proceffion, and of the persons present at the same, and what lands in their precinct they shall fail to proceffion, and the particular reasons of such failure; a copy of which order, shall be delivered by the Clerk of every Court, respectively, to the freeholders so appointed, within fifteen days after the making thereof; and the said freeholders shall cause the same to be obeyed in every particular, and shall cause notice to be given at the most public places in their County, at least three weeks before the same is to be performed, of the time appointed by them for proceffioning, in each precinct; and the said Court shall also cause the accounts returned by the freeholders, to be registered in particular books to be kept for that purpose by their Clerk. Each proceffioner shall be allowed by the Court of his County, fifty cents for every day he shall be employed in the business; and every County Court shall make a reasonable allowance to the Clerk thereof, for the services to be performed by him, by virtue of this Act; which several allowances shall be levied in their next County levy.

Penalty for
failure on the
court; on the
persons ap-
pointed to
proceffion.

On the clerk
of the court.

LVII. AND that no person may pretend ignorance, the Court are also to direct what precinct or precincts in their County, respectively, every particular freeholder thereof shall attend and perform the proceffioning as aforesaid. And if any County Court shall fail to make such order as aforesaid, every Justice of the Peace of such County, shall forfeit and pay twenty-five dollars. And if any freeholder shall fail to obey and execute such order, every freeholder failing, shall forfeit and pay fifteen dollars; and any County Court Clerk, failing to perform his duty as directed by this Act, shall forfeit and pay twenty-five dollars.

On any other
person.

How appro-
priated and re-
coverable.

LVIII. AND if any other person not having lawful excuse (to be judged of by the County Court) shall fail to perform his duty as is herein before required, every person so failing, shall forfeit and pay fifteen dollars; one moiety of which several forfeitures shall be to the use of the poor of the County, and the other half to the informer, and may be recovered in any Court of record within this Commonwealth, having jurisdiction thereof.

What shall be
deemed a suf-
ficient excuse.

LIX. *PROVIDED* always, That in any suit, information, or petition brought against a Magistrate of a County, or any other person, for any breach of this act, where the defendant shall give sufficient evidence to the Court, where the suit or information shall be depending, that he was necessarily absent, or that, being present, he offered to do his duty, pursuant to this Act, in such case the suit or information as to such defendant shall be dismissed.

Bounds pro-
ceffioned three
times shall
never be al-
tered.
Former pro-
ceffions con-
firmed.

LX. ALL and every proceffioning the bounds of any persons lands at three several times heretofore made according to the directions of the Laws then in force, or hereafter to be made pursuant to the directions of this Act, shall be held, and is hereby declared to be sufficient to settle such bounds, so as the same may never afterwards be altered; and every proceffioning made in pursuance of, and conformably to the former Laws, shall be, and is hereby declared to be one of the three times of proceffioning by this Act, held to be sufficient.

How disputed
bounds shall
be laid out
wherethe par-
ties refuse to

LXI. WHEN any controversy shall hereafter happen between persons, whose lands lie contiguous, about their respective bounds, and the owner or owners of such lands shall refuse to suffer the same to be proceffioned, in such case, the freeholders appointed as aforesaid, shall within ten days after such refusal, certify the same under their hands to the

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Court of the County wherein such lands shall lie at their next session, and such Court shall thereupon order their Surveyor with a Jury, to lay out the bounds in dispute at the charge of the party against whom the right to such bounds shall be determined, and to return such survey to the next Court, after the same shall be made, which return shall be recorded by the County Court Clerk.

have their
lands proceffion-
ed.

LXII. IF such lands shall happen to lie in two or more Counties, then certificate as aforesaid shall be returned to the Court of each County, and the Court of that County in which the beginning of such controverted bounds shall lie, shall order their Surveyor, with a Jury of their County, to survey the whole bounds in dispute, and the Sheriff of each County wherein the same shall lie, to attend the Surveyor in their respective Counties; and such survey shall be made, returned, recorded, and registered in the manner, and at the charge of the party against whom the right to such bounds shall be determined. And all and every survey and surveys, so as aforesaid made and registered, shall be held, deemed and taken to be a sufficient processioning of such lands, to all intents and purposes, as if the same had been done by, and with the consent of the owner thereof.

Where the
lands lie in
two or more
counties.

LXIII. *PROVIDED* always, That the processioning and settlement of the bounds of land held by any Tenant for life only, shall not bar or conclude the heir in reversion or remainder, but such heir may at any time within six years after the death of such Tenant, controvert the bounds as if no processioning or settlement had been made.

Heir in rever-
sion or re-
mainder may
within six
years after the
death of te-
nant for life,
controvert the
bounds.
Also persons
under legal
disabilities.

LXIV. THE processioning and settling the bounds of lands belonging to any person, then being within the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not resident within this Commonwealth, shall not be conclusive to such person or persons, until six years after their respective incapacities or disabilities shall be removed or determined.

LXV. THE several penalties and forfeitures by this Act laid, given or inflicted, shall and may be recovered with costs, by action of debt, information, or petition, in any Court of Record within this Commonwealth, wherein such penalty or forfeiture shall be cognizable.

Penalties how
recoverable.

LXVI. ALL and every Act and Acts, clauses and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, that all rights, remedies, fines, penalties and forfeitures, incurred or accruing under any former Act, shall remain in the same condition as if this Act had not been made.

Repealing
clause.
Proviso.

LXVII. THIS Act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

C H A P. LXXXVII.

An Act reducing into one, the several Acts concerning forcible Entries and Detainers.

[Passed the 3d of December, 1792.]

I. **B**E it enacted by the General Assembly, That none shall make any entry into any lands and tenements, or other possessions whatsoever, but in case where entry is given by the Law; and in such case not with strong hand, nor with multitude of people, but only in a peaceable and easy manner, and that none who shall have entered into the same in a peaceable manner, shall hold the same afterwards with force; and if any shall do to the contrary, on complaint thereof to any Justice or Justices of the Peace, such Justice or Justices shall take sufficient power of the County, and go to the place where such force is made; and all the people of the County, as well the Sheriff as others, shall be attendant upon the same Justices, to go and assist them to arrest such offenders, upon pain of imprisonment and amercement, at the discretion of a Jury.

No lands or
tenements to
be entered or
holden with
force.

Offenders to
be arrested.

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No warrant of forcible entry &c. to be granted but on oath. Offenders to have notice of the time and place of taking the inquisition.

II. BUT no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same.

III. THE name or names of the person or persons so charged, shall be inserted in every such warrant; and the Sheriff or other Officer to whom the same shall be directed, shall give reasonable notice, of at least three days, to such person or persons, of the time and place of taking the inquisition. And no Jury shall be sworn to enquire of any forcible entry or detainer, where such previous notice hath not been given.

Justices to enquire by jury of the force and to cause to be re-seized the lands so entered or holden.

IV. AND moreover, though such persons making such entries be present, or else departed before the coming of such Justice or Justices, notwithstanding the said Justice or Justices, in some convenient place, according to their discretion, shall have authority and power to enquire by the people of the same County, as well of them that make such forcible entries in lands and tenements, as of them who hold the same with force; and if it be found before any of them, that any doth contrary to this Act, then the said Justice or Justices shall cause to be re-seized, or to be re-possessed, the lands and tenements so entered or holden as afore, and shall put the party so put out, in full possession thereof.

How the jury shall be summoned.

Penalty on the Sheriff for neglect.

V. AND also when the said Justice or Justices make such enquiries as before, he or they shall make their warrants and precepts, to be directed to the Sheriff of the same County, commanding him on behalf of the Commonwealth, to cause to come before him or them, fit persons to enquire of such entries: and if any Sheriff be slack, and make not execution duly of the said precepts to him directed, to make such enquiries, he shall forfeit eighty dollars, recoverable before any Court of Record, as well by indictment or information, to be taken only for the Commonwealth, as by bill at the suit of the party grieved, as well for himself as for the Commonwealth; in which case one moiety of the said eighty dollars shall be to the Commonwealth, and the other moiety, together with his costs and expences, shall be to the party suing.

Mayors, Aldermen, and Serjeants to have the same power as Justices and Sheriffs.

VI. AND moreover, Mayors, Aldermen, and Serjeants of Cities and Boroughs, shall have in the said Cities and Boroughs, like power to remove such entries, and in other articles afore said arising within the same, as the Justices of Peace, and Sheriffs in Counties respectively have.

Restitution not to be made if the party indicted hath had three years possession; to be stayed until that be tried.

Party indicted to pay costs & damages if it be found against him.

Tenants for years or by *eligit* to have the remedy as tenants of freehold estates.

Repealing clause.

Commencement of this act.

VII. BUT no restitution upon any indictment of forcible entry, or holding with force, shall be made to any, if the party indicted hath had the occupation, or hath been in quiet possession by the space of three whole years together, next before the day of such indictment so found, and his estate therein be not ended or determined; which the party indicted may alledge for stay of restitution, and restitution shall stay until that be tried, if the other will deny or traverse the same; and if the same allegation be tried against the party so indicted, then the same party so indicted, shall pay such costs and damages to the other party, as shall be assessed by the Judges or Justices before whom the same shall be tried.

VIII. TENANTS for terms of years, and Tenants by *eligit* of lands, or tenements by them so holden, which shall be entered upon by force, or holden from them by force, shall have the same remedy as Tenants of any estate of freehold or of inheritance.

IX. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

X. THIS Act shall commence in force, from and after the passing thereof.

C H A P. LXXXVIII.

An Act to prevent unlawful Hunting and Ranging.

[Passed the 4th of December, 1792.]

Penalty for hunting, fishing or fowling within the lands or tenements of another.

I. **B**E it enacted, That if any person or persons, shall at any time shoot, hunt, or range upon the lands or tenements, or fish, or fowl in any creeks or waters included within the bounds of any other person or persons, without license first obtained of the owner of such lands, every such offender shall forfeit and pay three dollars for every

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such offence, to be recovered with costs, before any Justice of the Peace of the County where the offence shall be committed, by the Informer, to his own use; in which information, the confession of the party accused, or the oath of one credible witness, shall be sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender: but in that case the penalty shall be paid to the Overseer of the poor of the District wherein the offender resides, to the use of the poor of such District; and moreover every such offender shall be liable to the action of the party grieved, at the common Law, for his or her damages.

The offender also liable to action at the common law.

II. IF any person shall be the third time convicted of any such offence as aforesaid, the Justice of Peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the Governor, for the time being, and his successors, in the penalty of thirty dollars for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common Jail, there to remain until he give such security, or until the expiration of one month. And if after such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the Overseers of the poor, for the use of the poor of the District wherein such conviction shall be.

Upon a third conviction the offender besides paying the penalty, shall be bound to his good behaviour or committed. Conviction of such offence after security given, shall be a breach of the good behaviour.

III. ALL and every Act or Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IV. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P. LXXXIX.

An Act to reduce into one, the several Acts for the better securing the payment of Rents, and preventing the fraudulent Practices of Tenants; and to Regulate the Practice of suing out and prosecuting Writs of Replevin.

[Passed the 29th of November, 1792.]

I. **B**E it enacted by the General Assembly, That where any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract whatsoever, and the Tenant or Owner of the goods so distrained, shall not within ten days after such distress taken, and notice thereof, and the cause of such taking left at the chief mansion house, or other most notorious place on the premises, charged with the rent distrained for, replevy the same, by sufficient security given to the Sheriff or Officer serving such distress, to pay the money or tobacco, and all costs, with lawful interest for the same, at the end of three months; in such case, such Sheriff or Officer shall and may sell the goods and chattels so distrained for, by public auction, to the highest bidder, either for money or tobacco, according as the rent reserved shall be due and payable, to be paid at the end of three months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest to the landlord for whom the distress was made.

The method of proceeding in distresses for rent.

II. ALL and every bond and bonds, so taken in pursuance of this Act, shall mention that the same was or were entered into for goods or other estate distrained for rent, and restored to the debtor, or sold to the obligor, (as the case shall be) and before the expiration of the said three months, shall be delivered to the landlord for whom distress was made. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful, and full power and authority, is hereby given to the Justices of the Court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs, provided the obligors have ten days notice of such motion; and upon such execution, the Sheriff or Officer shall not take any fu-

Tenor of the bonds to be taken in pursuance of this act.

Mode of proceeding for the recovery of the money due thereon.

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reties for payment of the money or tobacco at a further day, but shall levy the same immediately. And for the better direction of such Sheriff or Officer, the Clerk shall endorse upon the back of every such execution, that "no security is to be taken."

Where the distress is made for tobacco between the 30th of September and the 31st of December.

III. *PROVIDED* always, That when distress shall be made for tobacco, between the last day of *September* and the last day of *December* in any year, and the goods distrained shall not be replevied as aforesaid, such goods shall be sold, and security taken for paying the tobacco by the first day of *January* then next ensuing; and the bonds taken for the same, and costs of seizure and sale, shall be by the Officer delivered to the landlord for whom distress was made; which last mentioned bonds shall have the like force, and may be proceeded upon in the same manner, as any other bond directed to be taken by this Act.

Remedy in case of wrongful distress.

IV. IN case any distress and sale shall be made, under colour of this Act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him, her, or them in whose name or names, or right, such distress shall be taken as aforesaid, then the owner of the goods and chattels so distrained and sold, his executors or administrators, shall have remedy, by action of trespass, or upon the case, against the person and persons so wrongfully distraining, or either of them, his, her, or their executors and administrators, and shall recover double the value of the goods and chattels so distrained and sold, together with full costs of suit.

Treble damages upon pound breach or rescous.

V. UPON any pound breach, or rescous, of goods or chattels, distrained for rent, the person or persons grieved thereby, shall, in a special action upon the case, for the wrong thereby sustained, recover treble damages, with costs of suit, against the offender and offenders, in any such rescous or pound breach, or either of them, or against the owner of the goods distrained, in case the same be afterwards found to have come to his or her use or possession.

Goods upon leasehold lands not to be taken in execution until the rent in arrear be paid.

VI. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution.

Proviso.

VII. *PROVIDED* nevertheless, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment: And the Sheriff or Officer serving the same, is hereby empowered and required, to levy and pay to the Plaintiff, as well the money or tobacco so paid for rent, as the execution money.

Where the landlord suspects his tenant will remove, he may have an attachment.

VIII. WHERE any landlord shall have sufficient grounds to suspect that his Tenant will remove with his effects out of the County or Corporation, before the expiration of his term, so as no distress for the said rent can be made, it shall be lawful for such landlord to go before any Justice of the Peace of the County or Corporation, where the lands leased do lie, and make oath what rent the Tenant is to pay, and at what time the same will be due, and that he has just cause to suspect, and verily believes such Tenant will remove his or her effects out of the County or Corporation before time of payment; and thereupon such Justice may, and he is hereby empowered and required, to issue an attachment against the goods and chattels of such Tenant, returnable to his next County or Corporation Court; and if such Tenant shall not, at the time of serving such attachment, or before, or at such next Court, enter into recognizance, with one or more sufficient securities, for the payment of the said rent at the time it shall become due, it shall be lawful for such Court, and they are hereby required to order the goods attached to be sold by the Sheriff or Serjeant at public auction, for money or tobacco according to the reservation of the rent, to be paid at the time the rent shall become due, the purchasers giving good security for such payment, and to assign the bonds taken for the same, and the costs to such landlord; and the overplus of such sale, if any, besides the charges of attachment and sale, to return to the owner.

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IX. IN case any lessee for life or lives, term of years, at will, or otherwise, of messuages, lands or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall at any time fraudulently or clandestinely convey or carry off or from such demised premises, his goods or chattels, with intent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, it shall be lawful for such lessor or landlord, or any person or persons by him for that purpose lawfully empowered, within ten days next after such conveying away or carrying off such goods and chattels, to take and seize the same wherever they shall be found, as a distress for the arrears of such rent, and the same to sell in like manner as if they actually had been distrained by such lessor or landlord in and upon the demised premises.

Goods carried off the premises may be seized within ten days thereafter.

X. *PROVIDED always*, That no goods or chattels so carried off, and *bona fide* sold for a valuable consideration before such seizure made, shall be afterwards liable to be so taken or seized for any arrears of rent.

But not if sold before seizure.

XI. ANY person or persons having rent in arrear, or due upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent, in the same manner as if such rent were due and reserved upon a lease for years.

Rent arrear upon lease for life recoverable by action of debt.

XII. IT shall be lawful for any person or persons having rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the respective leases, in the same manner as if such lease or leases had not been determined.

How rent arrear may be distrained for after determination of the lease.

XIII. *PROVIDED*, That such distress be made within six months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the Tenant from whom such arrears became due. And no distress for rent shall be made in any case whatsoever, but within five years after such rent shall have become due and in arrear.

Provido.

XIV. *PROVIDED also*, That nothing in this Act contained, shall extend or be construed to let, hinder, or prejudice the Commonwealth, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures due, payable or answerable to the Commonwealth; but that the same may be levied, recovered and seized, in the same manner as if this Act had never been made.

Saving debts due to the commonwealth.

XV. AND whereas very great and unjust delays have arisen from the suing out writs of replevin, in cases of goods distrained for rent: For remedy whereof, *Be it enacted*, that before any writ of replevin shall be granted in case of goods and chattels distrained for rent, the person or persons praying such writ shall enter into bond, with one or more sufficient securities, in the Clerk's office, in the penalty of at least double the value of the rent distrained for, and costs of suit, to perform and satisfy the judgment of the Court in such suit, in case he, she, or they shall be cast therein; and if upon the trial of such suit, it shall be found that the rent distrained for, was justly due, the party injured or delayed by suing forth the said writ, shall recover against the party suing forth and prosecuting the same, double the value of the rent in arrear and distrained for, with full costs of suit. And upon any execution issued upon such judgment, the Clerk shall in like manner endorse, that "no security is to be taken."

No writ of replevin to be issued until bond and security be given.

Rent being found due the party delayed to recover double the value.

XVI. WHERE any person shall suggest that the goods distrained, are his or her property, and not the property of the Tenant, nor held in trust for the use of the Tenant in any manner whatsoever, and that the same in his or her opinion are not liable to such distress, he or she giving bond and security, in manner herein before directed, may sue out a writ of replevin for such goods, but not otherwise; and in case the person or persons suing out the said writ, shall be cast in such suit, judgment shall be given against him for double the value of the rent in arrear and distrained for, with full costs as aforesaid.

Person other than the tenant may sue out writ of replevin, and if cast shall pay double the rent.

XVII. AND for the more speedy determination of all such writs of replevin:

XVIII. *BE it further enacted*, That every such writ shall be returnable to the next Court after the same shall be issued, and such Court shall at their next sitting after the re-

Suits in replevin to be speedily tried.

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turn, cause an issue to be made up therein, which shall be tried at the following Court, without waiting for its turn in the order of priority in regard to other suits.

Grantees of lands, or the reversions, to have the same right of entry for non-payment of rent, &c. as the original lessors.

XIX. ALL persons being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof, from any person or persons, and the heirs, executors, and administrators and assigns of such grantees or assignees, shall and may have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeitures, and also shall and may have and enjoy all and every such like covenants and agreements, contained and expressed in the indentures of their said leases, demises or grants, against all the said lessees, their executors, administrators, and assigns, as the said lessors themselves, or their heirs ought, should, or might have had, or enjoy at any time or times.

Lessees of lands to have the same actions and advantages of covenants, &c. against the grantees of reversions as against the original lessors.

XX. ALL lessees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, administrators or assigns, shall and may have like action, advantage against all and every person and persons, their heirs and assigns, which have or shall have any gift or grant of the reversion of the said lands, tenements, or hereditaments, so letten, or any parcel thereof, for any condition, covenant, or agreement, contained or expressed in the indentures of their lease and leases, as the same lessees or any of them, might and should have had against the said lessors and their heirs: all benefit and advantage of recoveries in value by reason of any warranty in deed or in Law, only excepted.

Executors and Administrators may maintain debt against a tenant or his executors for rent due to their testator, or may distrain during the tenants seizin or possession.

XXI. THE executors and administrators of any person unto whom any rent is or shall be due, and not paid at the time of his death, shall and may have an action of debt for all such arrearages against the Tenant or Tenants, that ought to have paid the said rent so being behind in the life of their Testator, or against the executors or administrators of such Tenants; and also furthermore, it shall and may be lawful for every such executor and administrator of any such person, to whom such rent is or shall be due and not paid at the time of his death, to distrain for the arrearages of all such rents, on the lands, tenements, and other hereditaments, which were charged with the payment of such rents, and chargeable to the distress of the said testator, or intestate, so long as the same continue, remain, and be in the seizin or possession of the said Tenant in demesne, who ought immediately to have paid the said rent, so being behind to the said testator or intestate in his life time, or in the seizin or possession of any person or persons claiming the said lands, tenements, and hereditaments, only by and from the said Tenant by purchase, gift, or descent, in like manner and form as their said testator might or ought to have done in his life time; and the said executors and administrators for the same distress, lawfully may make avowry upon the matter aforesaid.

Husband having a fee simple or estate for life in right of his wife may after her death maintain debt, or distrain for rent accruing during her life.

XXII. IF any man which now hath or hereafter shall have in the right of his wife any estate in fee simple, or for term of life, of, or in any rents or fee farms, and the same rents or fee farms now be or hereafter shall be due, behind and unpaid in the said wife's life, then the said husband after the death of his said wife, his executors and administrators, shall have an action of debt for the said arrearages, against the Tenant of the demesne, that ought to have paid the same, his executors or administrators, and also the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form as he might have done, if his said wife had been then living, and make avowry upon his matter as is aforesaid.

Executors and Administrators may maintain debt or distrain for rent due to their testators altho' the tenants estate be determined.

XXIII. THE executors and administrators of any person or persons having rent in arrear or due upon any demise or lease, for life or lives, or for years, or at will, although the same be determined, shall and may have the like remedy by action of debt, or by distress, against the person who ought to have paid the same, his or her executors or administrators, as the testator if living, might or could have had.

Good distrained not to be removed out of the country.

XXIV. IT shall not be lawful for any person taking any distress to drive or remove the same out of the County where such distress was taken: And whosoever doth so, shall be amerced at the discretion of a Jury; moreover distresses shall be reasonable and not too great, and he that taketh great and unreasonable distresses, shall be amerced for the excess of such distresses.

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Repealing
clause.

XXV. ALL and every Act and Acts, clauses and parts of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Provifo.

XXVI. *PROVIDED*, That all rights and remedies given by every such Act or Acts, and all such parts of Acts, shall be, and remain as if this Act had not been made.

Commence-
ment of this
act.

XXVII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. XC.

An Act for regulating Conveyances.

[Passed the 13th of December, 1792.]

I. **B**E it enacted by the General Assembly, That no estate of inheritance, or freehold, or for a term of more than five years, in lands or tenements, shall be conveyed from one to another, unless the conveyance be declared by writing, sealed, and delivered; nor shall such conveyance be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the General Court, or the Court of that District, County, City, or Corporation in which the land conveyed, or some part thereof lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the Clerk of such Court to be there recorded.

No estate of
freehold in
lands or tene-
ments to pass
but by deed.How when &
where such
deeds must be
acknowledged
or proved, &
recorded.

II. NO covenant or agreement made in consideration of marriage, shall be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses, to be his, her, or their act, if land be charged, before the General Court, or the Court of that District or County in which the land or part thereof lieth, or if personal estate only be settled or covenanted, or agreed to be paid or settled, before the Court of that District, County, City, or Corporation, in which such party shall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the Clerk of such Court, to be there recorded.

How when &
where cove-
nants and
agreements in
consideration
of marriage
must be ac-
knowledged,
or proved and
recorded.

III. WHEN any such deed or conveyance shall be acknowledged or proved in Court, in order to their being recorded, the livery of seizin thereupon made, in such cases where the same is by Law required, shall in like manner be acknowledged or proved, and shall be recorded together with the deed or conveyance whereupon it shall be made.

Livery of sei-
zen to be re-
corded with
the deed.

IV. ALL bargains, sales, and other conveyances, whatsoever of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold, or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing shall be settled or covenanted to be left, or paid at the death of the party or otherwise, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void as to all creditors and subsequent purchasers, unless they shall be acknowledged or proved, and recorded according to the directions of this Act; but the same as between the parties and their heirs, shall nevertheless be valid and binding.

All conveyan-
ces, settle-
ments, trusts,
& mortgages
of lands and
chattels, void
as to creditors
& subsequent
purchasers if
not recorded.
But binding
between the
parties.

V. IF the party who shall sign and seal any such writing, reside not in *Virginia*, or in the District or County where the lands conveyed lie, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any Court of Law, or the Mayor or other Chief Magistrate of any City, Town, or Corporation of the County in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them, and offered to the proper Court to be recorded within eighteen months after the sealing and delivering, where the party resides out of this Commonwealth, and within eight months after the sealing and delivery where the party resides within this Commonwealth, shall be as effectual as if it had been in the last mentioned Court.

How deeds
may be ac-
knowledged
or proved
where the
grantor resides
out of the
state, or the
district or
county where-
in the lands
lie.

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Deed by husband & wife acknowledged in court, or before two justices empowered by commission to receive her acknowledgment, shall pass the estate of the wife, if she resides within the United States.

VI. WHEN husband and wife have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in Court, and being examined privily and apart from her husband, by one of the Judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing to be then shewn and explained to her, and wishes not to retract it, and shall before the said Court acknowledge the said writing, again shewn to her, to be her act, or if before two Justices of the Peace of that County in which she dwelleth, if her dwelling be in the United States of *America*, who may be empowered by commission, to be issued by the Clerk of the Court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgment, the wife being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and explained to her by them, and consenteth that it may be recorded, and the said commissioners shall return with the commission, and thereunto annexed a certificate under their hands and seals of such privy examination by them, and of such declaration made, and consent yielded by her, in either case the said writing, acknowledged also by the husband, or proved by witnesses to be his act, and recorded together with such her privy examination and acknowledgment before the Court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual for every other purpose as if she were an unmarried woman.

To whom the commission must be directed if the resides out of the United States.

VII. IF the dwelling of the wife be not in the United States of *America*, the commission to examine her privily and take her acknowledgment, shall be directed to any two Judges or Justices of any Court of Law, or to the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two Justices in the United States of *America*; and the certificate of the Judges or Justices of such Court, or the certificate of such Mayor or Chief Magistrate authenticated in the form, and with the solemnity by them used in other acts, shall be as effectual as the like certificate of the Justices in the United States of *America*. And whereas it has always been adjudged, that when a deed has been acknowledged by a *feme covert*, and no record made of her privy examination, such deed is not binding on the *feme* or her heirs, it is therefore declared, that the Law herein shall always be held according to the said judgments; and the Clerks of the Courts before whom any deed of a *feme covert* shall be acknowledged, shall always hereafter record her privy examination.

Privy examinations of *femes covert* void if not recorded.

In what manner writings acknowledged or proved in courts shall be recorded.

VIII. THE Clerk of every Court shall record all writings acknowledged or proved before such Court, or certified to have been acknowledged and proved in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings, and plats, schedules and other papers thereto annexed, by entering them word for word in well bound books, to be carefully preserved, and afterwards re-deliver them to the parties entitled to them, and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments and probats, the names, surnames, and additions of the parties thereto in alphabetical order, and the quantities and situations of land, numbers and names of slaves, and descriptions of personal estate conveyed thereby; and the Clerk of every District or County Court, shall transmit such docket made by him to the Clerk of the General Court, on or before the first of *October* annually, to be recorded by him.

Memorials of such writings recorded in the district & county courts, to be recorded in the general court.

Persons having estates tail, to stand seized in fee-simple.

IX. EVERY estate in lands or slaves, which on the seventh day of *October*, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thenceforward to continue an estate in fee-simple: And every estate in lands, which since hath been limited, or hereafter shall be limited, so that as the Law aforesaid was, such estate would have been an estate tail, shall also be deemed to have been, and to continue an estate in fee-simple. And all estates which before the said seventh day of *October*, one thousand seven hundred and seventy-six, by the Law, if it remained unaltered, would have been estates in fee-tail, and which now by virtue of this Act, are, and will be estates in fee-simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common Law, restraining alienations before the donee shall have issue, so that the donees or persons in whom the conditional fees vested, or shall vest, had and shall have the same power over the same estates, as if they were pure and absolute fees.

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X. *PROVIDED always*, That all estates in lands or slaves which have become, or shall hereafter become escheatable to the Commonwealth, by virtue of the Act, intituled, "*An act declaring tenants of lands or slaves in tail, to hold the same in fee-simple*," or of this Act, for defect of blood, shall descend, and be deemed to have descended agreeable to the limitations of the deed or will creating such estates.

Proviso respecting such estates as have or may become escheatable for defect of blood.

XI. *PROVIDED also*, That nothing in this Act contained, shall be construed to restrain any Tenant of such lands or slaves, from selling or conveying the same by deed in his or her lifetime, or disposing thereof by his or her last will and testament, and that all such estates shall remain liable to the debts of the Tenants in the same manner as lands and slaves held in fee-simple: *Provided moreover*, that this Act shall not extend to any lands or slaves which have been escheated and sold for the use of the Commonwealth

Such estates may be disposed of by will or deed, and shall be subject to debts in the same manner as estates in fee-simple.

XII. EVERY estate in lands which shall hereafter be granted, conveyed, or devised to one, although other words heretofore necessary to transfer an estate of inheritance be not added, shall be deemed a fee-simple, if a less estate be not limited by express words, or do not appear to have been granted, conveyed, or devised by construction or operation of Law.

Every estate conveyed or devised to be deemed a fee-simple unless a less estate be limited.

XIII. WHERE an estate hath been, or shall be by any conveyance limited in remainder to the son or daughter, or to the use of the son or daughter of any person, to be begotten, such son or daughter born after the decease of his or her father, shall take the estate in the same manner as if he or she had been born in the lifetime of the father, although no estate shall have been conveyed to support the contingent remainder after his death.

When a contingent remainder shall be good, although there be no intermediate estate.

XIV. BY deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to use, or deed operating by way of covenant to stand seized to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releasee, or person entitled to the use, for the estate or interest which such person hath, or shall have in the use, as perfectly as if such bargainee, releasee, or person entitled to the use had been enfeoffed, with livery of seizin of the land intended to be conveyed by such deed or covenant.

By what conveyances the possession of the grantor shall be transferred to the grantee without livery of seizin.

XV. ESTATES of every kind holden or possessed in trust, shall be subject to like debts and charges of the persons to whose use, or for whose benefit they were, or shall be, respectively holden or possessed, as they would have been subject to, if those persons had owned the like interest in the things holden or possessed, as they own or shall own in the uses or trusts thereof.

Trust estates subject to debts and charges as if the person held the like interest in the thing holden, as in the use thereof.

XVI. WHERE any person to whose use, or in trust for whose benefit another is or shall be seized of lands, tenements, or hereditaments, hath or shall have such inheritance in the use or trust, as that if it had been a legal right, the husband or wife of such person would thereof have been entitled to curtesy or dower, such husband or wife shall have and hold, and may by the remedy proper in similar cases, recover curtesy or dower of such lands, tenements, or hereditaments.

Trust estates subject to dower and curtesy.

XVII. GRANTS of rents, or of reversions, or remainders, shall be good and effectual without attornments of the Tenants, but no Tenant who, before notice of the grant, shall have paid the rent to the grantor, shall suffer any damage thereby.

Grants of rents, reversions, &c. good without attornments.

XVIII. THE attornment of a Tenant to any stranger shall be void, unless it be with consent of the Landlord of such Tenant, or pursuant to, or in consequence of the judgment of a Court of Law, or the order or decree of a Court of Equity.

When attornment to a stranger shall be void.

XIX. ALL conveyances by commissioners and Sheriffs hereafter to be made for lands sold in virtue of any decree or judgment of any Court within this Commonwealth, shall be, and they are hereby declared to be good and effectual, for passing the absolute title of such lands to the purchasers thereof, and all persons claiming under them, any Law to the contrary notwithstanding; saving to the Commonwealth, and to all and every person and persons, bodies politic and corporate, their respective heirs and successors, other than the parties to such conveyances, decrees or judgments, and those claiming under them, all such

Conveyances by commissioners and sheriffs under decrees & judgments of courts effectual for passing the title.

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right, title, interest and demand, as they, every or any of them, would have had in case this Act had not been made.

Repealing
clause.

XX. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, That nothing herein contained shall be construed to affect any right which may have accrued, or been vested before the commencement of this Act,

Commence-
ment of this
act.

XXI. THIS Act shall commence in force, from and after the passing thereof.

C H A P. XCI.

An Act reducing into one, the several Acts concerning the Manner of authenticating Foreign Deeds, Records, and other Instruments in Writing.

[Passed the 8th of December, 1792.]

Preamble.

I. **W**HEREAS the intercourse between this State and the other States in the Union, and between this State and Foreign Nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to deeds and certain other instruments in writing, foreign judgments, specialties on record, registers of births and marriages, made, executed, entered into, given and enregistered by and between persons residing in any of the United States, or in any Foreign Kingdom, State, Nation, or Colony, beyond sea, and out of the jurisdiction of this State:

How foreign
deeds and o-
ther instru-
ments of writ-
ing must be
authenticated
to be admitted
as evidence.

II. *BE it enacted by the General Assembly*, That all such deeds if acknowledged by the party making the same, or proved by the number of witnesses requisite before any Court of Law, or the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them; and all policies of insurance, charter parties, powers of attorney, foreign judgments, specialties on record, registers of birth and marriages, as have been, or shall be made, executed, entered into, given and enregistered in due form, according to the Laws of such State, Kingdom, Nation, Province, Island or Colony, and attested by a Notary Public, with a testimonial from the proper Officer of the City, County, Corporation, or Borough, where such Notary Public shall reside, or the great Seal of such State, Kingdom, Province, Island, Colony, or Place beyond sea, shall be evidence in all the Courts of Record within this Commonwealth, as if the same had been proved in the said Courts.

Repealing
clause.
Proviso.

III. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed in any manner to alter the method of taking and certifying the privy examination of any *feme covert*, or in any other respect to alter or repeal the Act, intituled, "*An Act for regulating Conveyances*."

Commence-
ment of this
act.

IV. THIS Act shall commence in force, from the passing thereof.

C H A P. XCII.

An Act reducing into one, the several Acts concerning Wills, the Distribution of Intestates Estates, and the Duty of Executors and Administrators.

[Passed the 13th of December, 1792.]

Who may dis-
pose of their
lands and te-
nements by
will.

I. **B**E it enacted by the General Assembly, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title, and interest in possession, reversion or remainder, which he hath, or at the time of

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his death shall have, of, in, or to lands, tenements or hereditaments, or annuities or rents charged upon, or issuing out of them, so as such last will and testament be signed by the testator, or by some other person in his presence, and by his direction; and moreover, if not wholly written by himself, be attested by two or more credible witnesses, subscribing their names in his presence.

Devises of lands or tenements must be in writing. How to be attested.

II. SAVING to the widows of testators their dower in such lands, tenements, rents, or annuities, according to the Laws, which shall not be prejudiced by any devise thereof.

Saving to widows their dower.

III. NO devise so made, or any clause thereof, shall be revocable but by the Testator's destroying, cancelling, or obliterating the same, or causing it to be done in his presence, or by a subsequent will, codicil, or declaration in writing made as aforesaid. But every last will and testament, made when the Testator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife enfeint of a child, which shall be born, shall have no effect during the life of such after born child, and shall be void, unless the child die without having been married, or before he or she shall have attained the age of twenty-one years. When a Testator shall leave children born, and his wife enfeint, the posthumous child or children, if it be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate, as such child would have been entitled to, if the father had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably, out of the parts devised and bequeathed to them by the same will and testament.

How such devises may be revoked. A will made when the testator had no children not to affect those born afterwards.

A posthumous child pretermitted in his father's will, to have the same portion of his estate as if he had died intestate.

IV. NO person under the age of eighteen years, shall be capable of disposing of his chattels by will.

No person under the age of 18 to dispose of his chattels by will.

V. NO nuncupative will shall be established, unless it be made in the time of the last sickness of the deceased at his habitation, or where he hath resided for ten days next preceding, except where the deceased is taken sick from home, and dies before he returns to such habitation; nor where the value exceeds thirty dollars, unless it be proved by two witnesses, that the Testator called on some person present to take notice or bear testimony that such is his will, or words of the like import.

Rules concerning nuncupative wills

VI. AFTER six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a nuncupative will, unless the testimony, or the substance thereof, shall have been committed to writing within six days after making the will.

Where they shall not be of force.

VII. NO will in writing, or any devise therein of chattels, shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing.

How devises of chattels may be revoked.

VIII. ANY soldier in actual military service, or any mariner or seaman being at sea, may dispose of his chattels as he might heretofore have done.

Soldiers and seamen may dispose of their chattels as heretofore.

IX. IF any person shall subscribe his name as a witness to a will wherein any bequest is given to him, if the will may be not otherwise proved, the bequest shall be void, and such witness shall be allowed and compellable to appear, and give testimony on the residue of the will, in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the Testator's estate in case the will were not established, so much of his said shares shall be saved to him, as shall not exceed the value of the legacy bequeathed him.

Where bequests to the witnesses shall be void.

X. THE several District, County, or Corporation Courts, shall have power to hear and determine all causes, matters, suits and controversies testamentary, arising within their respective jurisdictions, and to examine and take the proof of wills, and grant certificates thereof, according to the methods and rules following; that is to say: If any Testator shall have a mansion-house, or known place of residence, his will shall be proved in the Court of the District, County, or Corporation, wherein such mansion-house, or place of residence is; if he have no such place of residence, and lands be devised in the will, it shall be proved in the Court of the District, County, or Corporation, wherein the lands lie, or

District and county courts may take proof of wills, and grant administrations.

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in one of them where there shall be lands in several Districts or Counties; and if he hath no such known place of residence, and there be no lands devised, then the will may be proved, either in the Court of the District, County, or Corporation where the Testator shall die, or that wherein his estate, or the greater part thereof, shall be; or such will may in any case, be proved in the General Court.

Probat to be received when the will is exhibited. But the validity thereof may be contested by any interested within seven years thereafter.

XI. WHEN any will shall be exhibited to be proved, the Court having jurisdiction as aforesaid, may proceed immediately to receive the probat thereof, and grant a certificate of such probat: If however, any person interested, shall within seven years afterwards appear, and by his bill in Chancery contest the validity of the will, an issue shall be made up, whether the writing produced be the will of the Testator or not, which shall be tried by a Jury, whose verdict shall be final between the parties, saving to the Court a power of granting a new trial for good cause, as in other trials; but no such party appearing within that time, the probat shall be forever binding: Saving also to infants, *femes covert*, and persons absent from the state, or *non compos mentis*, the like period after the removal of their respective disabilities.

XII. IN all such trials by Jury, the certificate of the oath of the witnesses at the time of the first probat, shall be admitted as evidence, to have such weight as the Jury shall think it deserves.

How wills may be proved by witnesses residing out of the commonwealth.

XIII. IT shall be lawful for any Court when any will shall be produced to them for probat, and any witness attesting the same shall reside out of the Commonwealth, to issue a commission or commissions annexed to such will, and directed to the presiding Judge of any Court of Law, or to any Notary Public, Mayor, or other Chief Magistrate of any City, Town, Corporation, or County, where such witness may be found, authorizing the taking and certifying his attestation. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness personally appeared before him and made oath, or solemn affirmation, (as the case may require) that the Testator signed and published the writing annexed to such commission as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he subscribed his name thereto in the presence of the Testator, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the Court from whence such commission issued.

Copies of wills proved in other states or countries, may be proved and recorded in the courts of this commonwealth.

XIV. AUTHENTICATED copies of wills proved according to the Laws of any of the United States, or of Countries without the limits of the same, and relative to any estate within this Commonwealth, may be offered for probat in the General Court; or where the estate so devised shall lie altogether in any one County or District, the Court of such County or District respectively may admit to record any such authenticated copies, but the bond and oath of the executor or administrator, with the will annexed, shall be changed from the bond and oath required by Law in other cases, in such manner as to the said Court shall seem necessary, and the proof to be made by the witnesses shall be conformed to the nature of the case. But such will shall be liable to be contested and controverted in the same manner as the original might have been.

The validity thereof may be contested as the originals might have been.

The executors named therein intitled to probat. And administration granted where there are none, or they refuse to qualify.

XV. ALL persons named as executors in any such will, shall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the said will, in the same manner as if the original will had been proved in such Court. And where there shall be no executors named in the said will, or the executors therein named, shall all of them refuse the executorship, the Court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration, with the will annexed, as if the original will had been proved in Court.

When nuncupative wills may be proved.

XVI. NO nuncupative will shall be proved within fourteen days after the death of the Testator, nor until his widow (if any) and next of kin, have been summoned to contest the same, if they please.

Any person possessed of another's will may be compelled to produce it.

XVII. IF the General Court, or any District, County, or Corporation Court, having jurisdiction as aforesaid, shall be informed that any person hath the will of a Testator in his custody, such Court may summon such person, and by a proper process, compel him to produce the same.

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XVIII. IF the executors named in any will shall all refuse the executorship, or being required to give security as herein after mentioned, shall refuse or fail to give the same, which shall amount to a refusal of the executorship, in either case, the Court having jurisdiction as aforesaid, may receive the proof of the will, and grant a certificate for obtaining letters of administration with the same annexed, to the person to whom administration would have been granted, if there had been no will of the deceased.

Where executors refuse, administration with the will annexed shall be granted.

XIX. BEFORE granting a certificate of the probat of any will, the executor or administrator, with the will annexed, (as the case may be) shall in open Court take the following oath, to wit:

Executors & administrators shall be sworn.

YOU shall swear that this writing contains the true last will of the within named, as far as you know or believe; and that you will well and truly perform the same by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels and credits will extend, and the Law charge you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account when thereto required.

Oath of an executor or administrator with the will annexed.

And shall also give bond, in such penalty, as will be equal to the full value of the estate at the least, and with such security as shall be approved of by the Court, with the following condition, to wit:

THE condition of this obligation is, that if the said, executor of the last will and testament, (or administrator with the will annexed, of all the goods, chattels and credits) of, deceased, do make a true and perfect inventory of all and singular, the goods, chattels and credits of the said deceased, which have, or shall come to the hands, possession, or knowledge of, the said, or into the hands or possession of any other person or persons for, and the same so made, do exhibit into the Court of, at such time as shall be thereto required by the said Court, and the same goods, chattels, and credits, do well and truly administer according to Law, and make a just and true account of, actings and doings therein, when thereunto required by the said Court; and further, do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods, chattels, and credits will extend, according to the value thereof, and as the Law shall charge, then this obligation to be void, or else to remain in full force.

Bond.

XX. WHICH bond shall be payable to the Judges or Justices sitting in Court, and their successors, and shall not become void upon the first recovery, but may be put in suit and prosecuted from time to time, by and at the costs of any party injured by a breach thereof, until the whole penalty be recovered thereupon.

The whole penalty recoverable thereon.

XXI. BUT where any Testator shall leave visible estate, more than sufficient to pay all his debts, and by will shall direct that his executors shall not be obliged to give security, in that case no security shall be required, unless the Court shall see cause from their own knowledge, or the suggestions of creditors or legatees, to suspect the executors of fraud, or that the Testator's personal estate will not be sufficient to discharge all his debts, and shall require security, when the same shall be given, before a certificate shall be granted, notwithstanding any directions to the contrary in the Testator's will.

When executors shall not be obliged to give security,

XXII. THE power of executors over their Testator's estates before probat of the will, is not hereby restrained, but shall continue as heretofore.

Their power before probat.

XXIII. DURING any contest about a will, or during the infancy, or in the absence of an executor, or until a will which may have once existed, but is destroyed, shall be established, or whenever the Court from any other cause shall judge it convenient, they may appoint any person or persons to collect and preserve the estate of any decedent, until a probat of his will, or *durante minore etate*, or until administration of his estate be granted, taking bond and security for collecting the estate, making an inventory thereof, and safe keeping and delivering up the same when required, to the executors or administrators.

In what cases the court shall appoint a person to collect, and preserve a decedent's estate.

XXIV. THE bond and oath of the administrator or appointee in such cases, shall be changed from the bond and oath of an administrator in ordinary cases, in such manner as to the said Courts, or any of them shall seem necessary.

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Widow not satisfied with the provision made for her by her husband's will, may renounce her legacy and demand her dower of the slaves and her proportion of the personal estate.

XXV. WHEN any widow shall not be satisfied with the provision made for her by the will of her husband, she may within one year from the time of his death, before the General Court, or Court having jurisdiction of the probat of his will as aforesaid, or by deed executed in the presence of two or more credible witnesses, declare that she will not take or accept the provision made for her by such will, or any part thereof, and renounce all benefit which she might claim by the same will; and thereupon such widow shall be entitled to one third part of the slaves whereof her husband died possessed, which she shall hold during her life, and at her death they and their increase, shall go to such person or persons, to whom they would have passed and gone, if such declaration had not been made; and she shall moreover be entitled to such share of his other personalestate, as if he had died intestate, to hold to her as her absolute property; but every widow not making a declaration within the time aforesaid, shall have no more of her husband's slaves and personal estate, than is given her by his will.

Original wills to be recorded and remain in the clerks office.

XXVI. ALL original wills shall be recorded, and shall also remain in the Clerk's office of the Court wherein they are respectively proved, except during such time as they may be in any Superior Court, having been removed thither for inspection by *certiorari*, or otherwise, after which they shall be returned to the said Office.

Intestates estates, how to be distributed amongst their representatives.

XXVII. WHEN any person shall die intestate as to his goods and chattels, or any part thereof, after funeral debts and just expences paid, if there be no child, one moiety, or, if there be a child or children, one third of the surplus shall go to the wife, but she shall have no more than the use for her life of such slaves as shall be in her share, and the residue of the surplus, and after the wife's death, the slaves in her share, or, if there be no wife, then the whole of such surplus shall be distributed in the same proportions, and to the same persons, as lands are directed to descend in and by an Act of the General Assembly, intituled, "*An Act to reduce into one, the several Acts directing the course of descents.*" Nothing in this Act contained, shall be understood so as to compel the husband to make distribution of the personal estate of his wife dying intestate. Where any children of the intestate, or their issue, shall have received from the intestate in his lifetime, any personal estate by way of advancement, and shall choose to come into the distribution with the other persons entitled, such advancement shall be brought into hotchpot with the distributable surplus.

Rules in granting administration of intestates estates.

XXVIII. THE General Court, and the several courts respectively, shall have the like jurisdiction to hear and determine the right of administration of the estates of persons dying intestate, as is herein before mentioned, as to the proof of wills, in respect to the intestate's place of residence, or death, or where the estate shall lie, and shall grant certificates for obtaining such administration, to the representatives who apply for the same; preferring first the husband or wife, and then such others as are next entitled to distribution, or one, or more of them, as the Court shall judge will best manage and improve the estate.

XXIX. IF no such person applies for administration within thirty days from the death of an intestate, or at the next succeeding Court after the expiration thereof, the Court may grant administration to any creditor or creditors who apply for the same, or to any other person the Court shall, in their discretion, think fit.

Wills may be proved after administration granted. Distributee may obtain administration altho' it may have been previously granted to a creditor or other person. Administrators oath.

XXX. BUT if any will shall afterwards be produced, and proved by Executors, or the wife, or other distributee, who shall not have before refused, shall apply for the administration, the same shall be granted, in like manner as if the former had not been obtained.

XXXI. BEFORE granting a certificate for the administration of any estate, the person or persons to whom the same is granted, shall, in open Court, take the following oath, to wit:

YOU shall swear that *deceased, died without any will, as far as you know or believe, and that you will well and truly administer all and singular the goods, chattels, and credits of the said deceased, and pay his debts, as far as his goods, chattels, and credits will extend, and the Law require you; and that you make a true and perfect Inventory of all the said goods, chattels, and credits, as also a just account when thereunto required.* So help you GOD.

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XXXII. AND shall also give bond, in a penalty at least equal to the value of the estate, and with such security as shall be approved by the Court, with the following condition, to wit:

THE condition of this obligation is, That if the said , administrator Bond.
of the goods, chattels, and credits of , deceased, do make a true and
perfect inventory of all and singular the goods, chattels, and credits, of the said deceased, which
have, or shall come to the hands, possession, or knowledge of , the said
, or in the hands or possession of any other person or persons, for
, and the same so made, do exhibit into the
Court, , *when he shall be there-*
to required by the said Court; and such goods, chattels and credits, do well and truly administer,
according to Law; and further do make a just and true account of his doings and doings therein,
when thereto required by the said Court; and all the rest of the said goods, chattels and credits,
which shall be found remaining upon the account of the said administrator, the same being first
examined and allowed by the Justices of the said Court for the time being, shall deliver and pay
unto such persons, respectively, as are entitled to the same by Law; and if it shall hereafter ap-
pear, that any last will and testament was made by the deceased, and the same be proved in
Court, and the executor obtain a certificate of the probat thereof, and the said
do, in such case, being required, render and deliver up his letters of administration, then this
obligation to be void, else to remain in full force."

Which bond shall be payable to the sitting Justices, and their successors, and may be put in suit and prosecuted in like manner as is before directed in the case of bonds to be given by executors or administrators, with the will annexed.

XXXIII. BUT no security for any executor or administrator, shall be chargeable beyond the assets of the Testator or Intestate, by reason of any omission or mistake in pleading, or false pleading of such executors or administrator.

Securities how far chargeable in case of false pleading by executors or administrators. Where good security shall not be taken, the justices liable.

XXXIV. IF any Court shall grant a certificate for obtaining administration of the estate of any person deceased, without taking good security for the same, as aforesaid, to be judged of according to the apparent circumstances of the security, when taken, and not from subsequent accidents or discoveries thereof, the Justices of such Court then sitting, shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or, by the taking insufficient security, recoverable with costs, by action on the case, in any Court of Record.

XXXV. WHEN securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the Court for relief, the Court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter-security, or otherwise, as to them shall seem just and equitable.

How securities may be indemnified.

XXXVI. ALL certificates of probat or administration, attested by the Clerk, shall enable the executor or administrator to act, and may be produced, or given in evidence in any Court within this Commonwealth, and be as effectual as any probat or letters of administration made out in due form: *Nevertheless*, the Clerks of the Courts shall, when required by an executor or administrator, make out such probat or letters in due form, in the name of the first Justice of the Court; which probat or letters shall be signed by such Justice, and sealed with the District, County, or Corporation seal, if the will be proved in a District, County, or Corporation Court, or with the seal of the Commonwealth, if proved in the General Court.

Certificates of probat or administration attested by clerks of courts as effectual as a probat or letters of administration in form. Clerks when required to make them out in due form.

XXXVII. THE Clerk of every District, County, or Corporation Court, shall annually, on or before the first day of October, return to the Clerk of the General Court, a list of all certificates granted in his Court for probats and administrations within the preceding year, in this form [date of certificate] [name of Testator or Intestate] [names of securities] [penalty of bond.] Which lists together with such certificates as are granted in the General Court, shall be entered by the Clerk of the General Court, alphabetically, in books to be kept for that purpose.

Lists of probats and administrations in the general, district, and county courts to be recorded in the general court.

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Appraisers to
be appointed.

XXXVIII. EVERY Court granting a certificate for a probat or administration, shall nominate three or more appraisers in every County or Corporation, where any of the personal estate of the decedent shall be, who, being sworn before a Justice of the Peace for that purpose, shall truly and justly, to the best of their judgment, view and appraise all the personal estate to them produced, and shall return such appraisement under their hands to the Court ordering the same; which appraisement, if signed by the executor or administrator, may be considered as an inventory of such part of the estate, as had heretofore come to his hands.

Inventories &
appraisements
how far evi-
dence for or
against execu-
tors & admini-
strators.

XXXIX. INVENTORIES and appraisements may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive for or against him, if other testimony be given that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement.

Allowance to
appraisers.

XL. EACH appraiser shall be entitled to fifty cents per day, for his attendance, to be paid by the executor or administrator, and charged to the estate.

Duty of ex-
ecutors and
administrators
in selling pe-
rishable goods,
specific lega-
cies excepted.

XLI. EXECUTORS and administrators, whether it be necessary for payment of debts, or not, shall, as soon as convenient after they are qualified, sell at public sale, all such goods of their Testator or Intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bond and good security of the purchasers, and shall account for such goods according to the sales: If more be sold than will pay the debts and expences, the executor or administrator may assign the bonds for the surplus, to those entitled to the estate, and be discharged as to so much; and if after such assignment, the obligor become insolvent so as the money be lost, without the fault or neglect of the assignee, then such loss shall be made good to the assignee, out of the decedent's estate.

In selling the
other personal
estate.

XLII. IF such perishable goods be not sufficient for paying the debts and expences, the executor or administrator shall proceed in the next place, to sell the other personal estate, until the debts and expences be all paid, having regard to the privilege of specific legacies.

Where no ap-
praisement
shall be neces-
sary. Where
the estate shall
not be sold.

XLIII. NEVERTHELESS, if the Testator direct his estate not to be appraised, it shall be sufficient to return an inventory thereof only; and if he direct his estate not to be sold, the same shall be preserved in specie, unless a sale be necessary for the payment of debts.

Dead victuals
and liquors to
remain for the
use of the fa-
mily.

XLIV. THE dead victuals and liquors, which at the death of any Testator or Intestate, shall have been laid in for consumption in his family, shall not be sold by the executor or administrator, but shall remain for the use of such family, without account thereof to be made: If, however, before its final consumption, any child shall leave the family, such child shall have a right to carry with him or her, an equal share of what shall then be on hand. Any live stock which may be necessary for the food of the family, may also be killed for that use, at any time before the sale, division or distribution of the estate.

Sale and con-
veyance of
lands devised
to be sold, by
whom to be
made.

XLV. THE sale and conveyance of lands devised to be sold, shall be made by the executors, or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed it. But if none of the executors named in such will shall qualify, or after they have qualified, shall die before the sale and conveyance of such lands, then in those cases, the sale and conveyance thereof, shall be made by such person or persons to whom administration of the Testator's estate, with the will annexed, shall be granted.

Rules con-
cerning ser-
vants, slaves,
& crops.

XLVI. IF any person shall die after the first day of *March*, the servants and slaves of which he was possessed, whether held for life or for other interest, and which were employed in making a crop, shall be continued on the plantations in the occupation of the decedent, until the last day of *December* following, and then delivered to those who shall have a right to demand the same; and their crops shall be assets in the hands of the executors

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and administrators, subject to debts, legacies and distribution; the levies and taxes, their tools, the expence of feeding them and their families to that time, and delivering them well cloathed, being first deducted. And if such slaves or servants be held by the Testator or Intestate for his or her life only, in that case the executor or administrator shall be obliged to deliver, to those who are entitled in remainder or reversion, three barrels of *Indian* corn for every such servant or slave, old and young, to be allowed in their accounts of administration.

XLVII. IF a Testator or Intestate shall die after the first day of *March*, all the emblements of his lands which shall be severed before the thirty-first day of *December* following, shall in like manner be affets in the hands of the executor or administrator, but all such emblements growing on the lands on that day, or at the time of the death of the Testator or Intestate, if that event happen after the thirty-first day of *December*, and before the first day of *March*, shall pass with the land to the heir, devisee, reversioner, or remainder man.

XLVIII. IF there be Tenant for life of lands or slaves let or hired to another, at the death of such Tenant for life, if that event happen after the first day of *March*, the lessee or person hiring, shall hold the lands and slaves until the last day of *December* following, paying rent or hire to that time, and in the case of slaves, delivering them well cloathed.

Where tenant for life, of lands or slaves let or hired to another, dies after 1st *March*.

XLIX. THE rent of land or hire of slaves shall be apportioned between the executor or administrator of him, who having a freehold, or other uncertain estate in the land, and the use for life, or for other uncertain term in the slaves, shall die before the rent or hire become due, and him who shall succeed to the lands and slaves, as heir, devisee, or person in reversion or remainder, unless in the case of a devisee, the contrary be directed by the Testator.

To whom the rent shall be paid, where tenant for life of lands or slaves dies before it becomes due.

L. THE appointment of a debtor executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will.

Debt not extinguished by appointing a debtor executor. When distribution of intestates estates is to be made.

LI. NO distribution shall be made of an Intestate's estate until nine months after his death, nor shall an administrator be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution, to refund due proportions of any debts or demands, which may afterwards appear against the Intestate, and the costs attending the recovery of such debts.

LII. EXECUTORS and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased, and other their administration, and may be allowed such recompence for their personal trouble, as the Court on passing their accounts, shall judge reasonable.

Executors and administrators to be allowed all just expences. And a reasonable recompence for their trouble.

LIII. THE executors or administrators of a guardian, of a committee, or of any other person, who shall have been chargeable with, or accountable for the estate of a ward, an idiot, or a lunatic, or the estate of a dead person, committed to their Testator or Intestate by a Court of Record, shall pay so much as shall be due from the Testator or Intestate, to the ward, idiot, or lunatic, or to the legatees, or persons entitled to distribution, before any proper debt of their Testator or Intestate.

Executors or administrators of guardians, committees, or of executors or administrators, to pay debts due from their testators towards, idiots, legatees, &c. before any other debts.

LIV. WHERE any person shall die seized of lands held for life of another, such person may, by his or her last will and testament in writing, made and proved, as is herein before directed for the devise of lands, devise all his interest in such lands, which shall, if necessary, be affets in the hands of such devisee. And if no such devise be made, such lands for the residue of the term shall be affets in the hands of the heir, if it shall come to him by reason of a special occupancy, in the same manner as lands descending in fee-simple; and if there be no special occupant, it shall go to the executors or administrators of the person so dying seized, and be affets in their hands, subject to debts, legacies, and distribution.

Tenant of lands held for the life of another, may devise his interest therein. How it shall be disposed of where there is no such devise.

LV. EXECUTORS or administrators may sue, or be sued upon all judgments, bonds, or other specialties, bills, notes, or other writings of their Testators or Intestates, whether

In what cases executors or

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administrators
may be sued.

the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts.

In suits
against execu-
tors or admin-
istrators on
open accounts,
courts to ex-
punge all
items due five
years before
the death of
the testator.
Penalty for
post-dating
such accounts.

LVI. IF any suit shall be brought against any executor or administrator for the recovery of a debt due upon an open account, it shall be the duty of the Court before whom such suit shall be brought, to cause to be expunged from such account, every item thereof which shall appear to have been due five years before the death of the Testator or Intestate. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this Commonwealth, who may be plaintiffs in such suits, three years after their several disabilities removed; and if any person shall wilfully post-date any such account, he shall forfeit and pay ten fold the amount of the articles so post-dated; to be recovered by action of debt in any Court of Record, where the penalty incurred shall exceed twenty dollars, and by petition where the penalty incurred shall be under that sum.

Within what
time actions of
debt must be
brought, and
writs of *scire
facias* issued
against execu-
tors or admin-
istrators on
judgments
against their
testators or in-
testates.

LVII. NO action of debt shall be brought against any executor or administrator upon a judgment obtained against his Testator or Intestate, nor shall any *scire facias* be issued against any executor or administrator to revive such judgment after the expiration of five years from the qualification of his executor or administrator, and all such judgments after the expiration of five years, upon which no proceedings shall have been had, shall be deemed to have been paid and discharged. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this Commonwealth, who may have been entitled to the benefit of any such judgment, three years after their several disabilities removed.

Executors or
administrators
may maintain
trespasses for
goods taken
from their tes-
tators or in-
testates.
Duty of exe-
cutors of exe-
cutors as to the
will of the
first testator.

LVIII. ACTIONS of trespass may be maintained by or against executors or administrators, for any goods taken or carried away in the lifetime of the Testator or Intestate, and the damages recovered shall be, in the one case, for the benefit of the estate, and in the other, out of the assets.

LIX. EXECUTORS of executors shall do and perform all things in the execution of the will of the first Testator, which shall remain undone at the death of the first executor; and shall and may sue, or be sued, in all things respecting the estate, in the same manner as such first executor could or might have sued, or been sued.

Executors or
administrators
of executors or
administrators,
chargeable for
waste done by
their testators
or intestates.

LX. THE executor or administrator of an executor in his own wrong, and the executor or administrator of a rightful executor or administrator, by whom any waste shall have been committed, shall be chargeable in the same manner as his Testator or Intestate might have been.

How the es-
tates of deca-
sed persons are
to be disposed
of when the
executors re-
fuse to quali-
fy, and no per-
son applies for
administra-
tion.

LXI. IF all the executors named in any last will shall refuse to undertake the executorship, or being required to give security, shall refuse to give or be unable to procure the same, and no person will apply for administration with the will annexed: Or, if no person will apply for administration of the goods and chattels of any Intestate, it shall be lawful for the General Court, or other Court having jurisdiction of such probat or administration, as herein before mentioned, after the expiration of three months from the death of the Testator or Intestate, to order the Sheriff or other Officer of the County or Corporation, to take the estate into his possession, and make sale of so much thereof by public auction, as the payment of debts shall make necessary, or as shall be perishable, or be directed by will to be sold: And all sales and conveyances, *bona fide* made by the Sheriff or his deputies, or other Officer, in consequence of such order, shall be as effectual to the purchasers, as if they had been made by the Testator or Intestate in his lifetime. The estate shall be sold upon such credit as the Court shall direct, and upon public notice previously given, the purchasers giving bond and good security for payment according to the limited time of credit. The Sheriff or other Officer may sue, if necessary, for recovery of debts, or of goods and chattels, and shall make a true and perfect inventory of the whole estate, and an account of sales, and shall return the same, together with the bonds, to the Court by whom he was ordered to sell, without delay, who shall first direct the payment of such debts as shall be proved before them, and proportion the assets amongst the creditors, without regard to the dignity of debts, where there shall not be sufficient to pay the whole; but if there be sufficient, they may order the surplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this Act. Whereupon the Sheriff, or Deputy, or other Officer, shall assign the bonds and deliver the estate remaining unsold, to the

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creditors or others according to such order, retaining nevertheless his commissions, which shall be the same upon the estate by him sold, as is allowed for goods taken in execution; and where the whole estate is not sold, he shall moreover be allowed his reasonable expences and disbursements in the care of the part unsold.

LXII. ALL sales and conveyances of lands heretofore *bona fide* made by a Sheriff or other Officer, under any order of Court where the lands had been devised to be sold, and the executor had refused to act, are hereby confirmed and made effectual against all persons claiming under the Testator.

Former sales and conveyances by sheriffs of lands devised to be sold, where the executor refused to act, confirmed. Repealing clause. Proviso.

LXIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, that nothing in this Act contained, shall be construed to affect any right which may have accrued or been vested before the commencement of this Act.

LXIV. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P. XCIII.

An Act to reduce into one, the several Acts directing the Course of Descents.

[Passed the 8th of December, 1792.]

I. **B**E it enacted by the General Assembly, That henceforth when any person having title to any real estate of inheritance, shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course; that is to say:

Real estate of inheritance of persons dying intestate, to descend in parcenary to their kindred. Course of descents.

II. TO his children or their descendants, if any there be:

III. IF there be no children, nor their descendants, then to his father:

IV. IF there be no father, then to his mother, brothers and sisters, and their descendants, or such of them as there be.

V. *PROVIDED, nevertheless*, That where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the father, neither the mother of such infant nor any issue which she may have by any person, other than the father of such infant, shall succeed to, or enjoy the same, or any part thereof, if there be living any brother or sister of such infant on the part of the father, or any brother or sister of the father, or any lineal descendant of either of them. Saving however, to such mother any right of dower which she may claim in the said real estate of inheritance.

VI. *AND provided also*, That where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the mother, neither the father of such infant, nor any issue which he may have by any person other than the mother of such infant, shall succeed to, or enjoy the same or any part thereof, if there be living any brother or sister of such infant on the part of the mother, or any brother or sister of the mother, or any lineal descendant of either of them. Saving however, to such father the right which he may have as tenant by the curtesy in the said estate of inheritance.

VII. IF there be no mother, nor brother, nor sister, nor their descendants, and the estate shall not have been derived either by purchase or descent, from either the father or the mother, then the inheritance shall be divided into two moieties, one of which shall go to the paternal, the other to the maternal kindred, in the following course; that is to say:

VIII. FIRST, to the grand-father.

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IX. IF there be no grand-father, then to the grand-mother, uncles, and aunts on the same side, and their descendants, or such of them as there be :

X. IF there be no grand-mother, uncle nor aunt, nor their descendants, then to the great grand-fathers, or great grand-father, if there be but one :

XI. IF there be no great grand-father, then to the great grand-mothers, or great grand-mother, if there be but one, and the brothers and sisters of the grand-fathers and grand-mothers, and their descendants, or such of them as there be :

XII. AND so on in other cases without end; passing to the nearest lineal male ancestors, and for the want of them to the lineal female ancestors in the same degree, and the descendants of such male and female ancestors, or to such of them as there be.

XIII. BUT no right in the inheritance shall accrue to any persons whatever, other than to children of the intestate, unless they be in being, and capable in law to take as heirs, at the time of the intestate's death.

XIV. AND where, for want of issue of the intestate, and of father, mother, brothers and sisters, and their descendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred; if there should be no such kindred on the one part, the whole shall go to the other part: And if there be no kindred either on the one part or the other, the whole shall go to the wife or husband of the intestate. And if the wife or husband be dead, it shall go to her or his kindred in the like course, as if such wife or husband had survived the intestate, and then died entitled to the estate.

XV. AND in the cases beforementioned, where the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood to the intestate, and other part of the half blood only, those of the half blood, shall inherit only half so much as those of the whole blood: But if all be of the half blood, they shall have whole portions, only giving to the ascendants (if any there be) double portions.

XVI. AND where the children of the intestate, or his mother, brothers and sisters, or his grand-mother, uncles and aunts, or any of his female lineal ancestors living, with the children of his deceased lineal ancestors, male and female in the same degree, come into the partition, they shall take *per capita*, that is to say, by persons; and where a part of them being dead, and a part living, the issue of those dead have right to partition, such issue shall take *per stirpes*, or by stocks, that is to say, the share of their deceased parent.

XVII. AND where any of the children of the intestate, or their issue, shall have received from the intestate in his life-time, any real estate by way of advancement, and shall choose to come into partition with the other parceners, such advancement shall be brought into hotchpot with the estate descended.

XVIII. IN making title by descent, it shall be no bar to a party that any ancestor through whom he derives his descent from the intestate, is, or hath been an alien. Bastards also shall be capable of inheriting or of transmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

XIX. WHERE a man having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, shall be thereby legitimated. The issue also in marriages deemed null in Law, shall nevertheless be legitimate.

XX. WHENSOEVER any lands shall descend from a person dying intestate to two or more heirs, any one of whom shall be an infant, *feme covert*, *non compos mentis*, or beyond sea, and the dividend of each heir shall not exceed the value of one hundred dollars, in the opinion of any Court herein after mentioned, it shall be lawful for the High Court of Chancery, or the Court of the County or Corporation in which such lands, or the greater quantity of them lie, to direct the sale of the said lands, and the distribution of the money

None except the children of the intestate to take, unless in being at the intestate's death. Rule where the inheritance is to go by moieties to the paternal and maternal kindred.

Where some are of the whole and others of the half blood.

Where they shall take *per capita*.

Where *per stirpes*.

Children receiving real estate in advancement, may bring it into hotchpot and come into partition. Alienage of an ancestor no bar in title by descent. Bastards capable of inheriting and transmitting inheritance on the part of the mother. When bastards shall be legitimated. Issue in marriages null in law, legitimated. When lands of persons dying intestate, may be sold.

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arising therefrom, according to the rights of each claimant: *Provided always*, that each heir residing within this Commonwealth, shall be first duly summoned, to shew cause if any he can against such sale: And where any heir shall reside without this Commonwealth, the Court shall make an order for publication, which order being inserted in the *Virginia Gazette* for eight weeks successively, shall be considered as a summons.

XXI. ONE parcener may maintain an action of waste against another, but no parcener shall have or possess any privilege over another in any election, division or matter to be made or done, concerning lands which shall have descended to them.

One parcener may maintain waste against another. Rights of parceners equal in elections, divisions, &c. Repealing clause. *Provido*.

XXII. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing herein contained, shall be construed in any wise to affect any right, title, interest or claim to, or in any estate in lands or tenements whatsoever, accrued before the commencement of this Act, but the same shall be, and remain in the same condition, as if this Act had never been made.

XXIII. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P. XCIV.

An Act to reduce into one, all Acts and Parts of Acts relating to Dower.

[Passed the 6th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the widow of any person dying intestate, or otherwise, shall be endowed of one full and equal third part of all the lands, tenements, and other real estate, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the coverture, to which she shall not have relinquished her right of Dower, by deed executed, acknowledged, and recorded, in the manner prescribed by Law for that purpose.

Widows intitled to dower.

II. AND till such Dower shall be assigned, it shall be lawful for her to remain and continue in the mansion house, and the messuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the same; any Law, usage, or custom to the contrary in any wise, notwithstanding.

And may remain in the mansion house and plantation until dower be assigned.

III. AND if she be thereof in the mean time deforced, she shall have a vicontiel writ, in the nature of a writ *de quarentina habenda*, directed to the Sheriff; whereupon such proceedings and speed shall be used, as hath or might have been used on the said writ of quarentine.

Remedy in case they are in the mean time deforced thereof.

IV. WHOSOEVER shall deforce widows of their Dowers of the lands whereof their husbands died seized, or of such mansion house or plantation, if the same widows shall afterwards recover by plea, they that be convicted of such wrongful deforcement, shall yield damages to the same widows; that is to say, the value of the whole Dower to them belonging, from the time of the death of their husbands, unto the day that the said widows by judgment have recovered seizin of their Dower.

Damages for deforcing widows of their dower.

V. IN a writ of Dower called *unde nihil habet*, the writ shall not abate by the exception of the Tenant, because the demandant hath received her Dower of another man, before her writ purchased, unless he can shew that the Dower so received was in satisfaction of her right of Dower in the lands whereof she demands Dower.

What exception of the tenant shall not abate a writ of dower.

VI. IN case where the husband being impleaded for land by default, the woman after his death demanding her Dower shall be heard, and if it be alledged against her, that her husband lost the land whereof the Dower is demanded by judgment, whereby she ought not to have Dower, and then it be enquired, by what judgment, and it be found it was by default; whereupon the Tenant must answer, then it behoveth the Tenant to answer further,

Judgment by default against the husband, shall not bar his widow of her dower.

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and to shew that he had right, and hath in the aforesaid lands, according to the form of the writ that the Tenant before purchased against the husband. And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the Tenant shall go quit, and the wife shall recover nothing of her Dower; which thing if he cannot shew, the wife shall recover her Dower.

Remedy
where the wi-
dow is endow-
ed to the pre-
judice of the
heir within
age.

VII. AND where sometime it chanceth that a woman not having a right to demand Dower, the heir being within age, doth purchase a writ of Dower against a guardian, and the guardian endoweth the woman by favor, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her Dower in prejudice of the heir, it is provided that the heir when he cometh to full age, shall have an action to demand the seizin of his ancestor against such a woman, like as he should have against any other deforcer; yet so that the woman shall have her exception saved against the demandant, to shew that she had right to her Dower; which if she can shew, she shall go quit, and retain her Dower; and if not, the heir shall recover his demand.

Judgment by
default against
a widow im-
pleaded for
her dower
shall not bar
her right.

VIII. IN like manner the woman shall be aided, if the heir or any other do implead her for her Dower, if she lose her Dower by default, in which case, the default shall not be so prejudicial to her, but that she shall recover her Dower, if she have right thereto; and she shall have this writ:

COMMAND A. that justly, &c. he render to B. who was the wife of F. so much land, with the appurtenances in C. which she claims to be her reasonable Dower, (or of her reasonable Dower) and that the aforesaid A. deforceth her, &c.

And to this writ the Tenant shall have his exception, to shew that she had no right to be endowed, which if he can verify, he shall go quit, if not, the woman shall recover the land whereof she was endowed before.

Widows may
bequeath the
crops of their
dower lands.

IX. ALSO widows may bequeath the crop of their ground, as well of their Dowers, as of other their lands and tenements.

How a wife
may forfeit her
right of dow-
er.

X. BUT if a wife willingly leave her husband, and go away and continue with her adulterer, she shall be barred for ever of action to demand her Dower, that she ought to have of her husband's lands, if she be convicted thereupon, except that her husband willingly and without coercion, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

Where a joint-
ure shall bar
a widow of
her dower.

XI. ALSO, if any estate be conveyed by deed or will, either expressly or by averment, for the jointure of the wife, in lieu of her Dower, to take effect in her own possession, immediately on the death of her husband, and to continue during her life at the least, determinable by such Acts only as would forfeit her Dower at the common Law, such conveyance shall bar her Dower of the residue of the lands, tenements, or hereditaments, which at any time were her said husband's. But if the said conveyance were before the marriage, and during the infancy of the *feme*, or if it were made after marriage, in either case, the widow may, at her election, waive such jointure, and demand her Dower.

Widows not
to have both
their dower
and the lands
intended to be
in lieu thereof.

XII. WHEN any conveyance intended to be in lieu of Dower, shall, through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her Dower, the estate and interest conveyed to such widow, with intention to bar her Dower, shall thereupon cease and determine.

How they
shall be re-
compensed
when evicted
of their joint-
ures, or any
part thereof.

XIII. IF a widow be lawfully expelled or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of as much of the residue of her husband's lands, tenements, or hereditaments, whereof she was before dowable, as the same lands, tenements, or hereditaments, so evicted and expelled, shall amount and extend unto.

Repealing
clause.

Proviso.

Commence-
ment of this
act.

XIV. ALL and every other Act and Acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, nothing in this Act contained, shall be construed to affect any right which may have accrued, or been vested, prior to the commencement of this act.

XV. THIS Act shall commence in force, from the passing thereof.

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C H A P. XCV.

An Act to reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.

[Passed the 11th of December, 1792.]

I. **B**E it enacted by the General Assembly, That any father, even if he be not twenty-one years old, may by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child (which had never been married) although it be not born, during any part of the infancy of such child, to whomsoever he will; and such grant or devise heretofore, or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a Guardian in common socage hath, and authorise him by action of ravishment of ward or trespass, to recover the child, with damages for the wrongful taking or detaining him or her for his or her use; and for the same use to undertake the care and management, and receive the profits of the Ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a Guardian in common socage may do.

Fathers may by deed or will dispose of the custody and tuition of their infant children.

Such guardians to have the same powers as guardians in common socage.

II. THE High Court of Chancery, generally, and the Court of every County and Corporation in Chancery, within the limits of their jurisdiction, shall have power from time to time to controul Guardians, and hear and determine all matters between them and their Wards; to require security of any Guardian in socage, or statutory Guardian, when that caution shall seem necessary for prevention of any damage his Ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such Guardian appear to have been guilty of a flagrant abuse of trust, to displace him and appoint another in his stead, and to give such directions, and make such rules and orders as they shall think fit, for the government, maintenance, and education of Wards, and preservation of their estates, and for the conduct of Guardians.

High court of chancery and county courts empowered to controul guardians and determine disputes between them and their wards.

To require security of them, And to displace them and appoint others when necessary.

Courts shall take security of guardians appointed by them.

III. EVERY Court appointing a Guardian, shall take bond of him, with sufficient security for the faithful execution of his Office; and if any Court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties affidavit, as otherwise, the Ward, by an action on the case against the Judges or Justices so making default, may recover so much of the damages which the Guardian and security shall be answerable for, as these shall be unable to pay.

IV. IF any Guardian refuse, or be unable to give the security required of him, the Court may put the estate into the hands of a Curator, the fittest they can prevail upon to undertake the care of it, to be accountable to them, and in that case shall not be spon- sible for his ability.

If a guardian fails or refuses to give security, the court may appoint a curator.

V. EVERY Guardian or Curator to be appointed by any Court, shall, at the term or session next afterwards, deliver into such Court, an inventory upon oath of all the estate which he shall have received, to be entered of record in a separate book; and such Guardian or Curator, and every Guardian heretofore appointed, shall exhibit to such Court once in every year, which if it be a County or Corporation Court, shall be in September, or at the next session, if there be none in that month, or oftener, if he shall be specially required, accounts of the produce of the estate, of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the Court, or by such persons as the Court shall refer them to; and being found and certified or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the Court, shall with such certificate or confirmation, be entered of record in the book aforesaid; and if any article of such accounts at any time afterwards be excepted to by the Ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered.

Guardians appointed by the court to deliver inventories of their wards estates.

Their accounts to be exhibited to the court once in every year, or oftener if required: To be examined, and if approved to be recorded.

Exceptions thereto, how to be made.

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The court may compel a guardian to give supplemental security.

Proceedings against guardians failing to deliver in inventories and accounts.

Penalty on the justices for neglect.

VI. THE Court at any time when they shall know or have cause to suspect that the surety of a Guardian is failing, may require and compel such Guardian to give supplemental security, or if he refuse or neglect to do so, may displace him.

VII. A GUARDIAN who shall not deliver in such inventory, and render such accounts as aforesaid, shall, by order of the Court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty, or be displaced; for which purpose the summons or other process from a County or Corporation Court may be directed to, and shall be executed by the Sheriff of any other County wherein the Guardian may be found; and every Judge or Justice of the Court sitting therein, at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced.

Balance due to the guardian for disbursements to be debited in the account of the ensuing year. Balance due to the ward, how to be disposed of.

VIII. IF the disbursements of the Guardian being suitable to the estate and circumstances of the Ward, shall exceed the profits of his estate in any year, the balance, with the allowance of the Court, may be debited in the account of the succeeding year, and the balance appearing on the contrary side may be put out to interest, for the benefit of the Ward, upon such security as the Court shall approve, or the Guardian, if it remain in his hands, shall account for the interest; to be computed from the time his accounts were or ought to have been passed.

Securities for guardians in danger of suffering, how to be relieved.

IX. IF any surety for a Guardian by petition to the Court before whom they were bound, setting forth that he apprehends himself to be in danger of suffering thereby, shall pray that he may be relieved, the Court, after a summons to answer the petition, shall have been served upon the Guardian, or a copy of such summons shall have been left at the place of his usual abode, shall order him to give counter security, or to deliver the Ward's estate into the hands of the surety, or some other person, and in that case taking sufficient security; or may make such other order for the relief of the petitioner, as to them shall seem just.

When a guardian dies, the debt due to his ward to be first paid.

X. THE estate of a Guardian not under a specific lien, shall, after the death of the Guardian, be liable for whatsoever may be due from the Guardian on account of his Guardianship, to his Ward, before any other debt due from such Guardian.

Poor orphans to be bound apprentices by the overseers of the poor.

XI. EVERY orphan who hath no estate, or not sufficient for a maintenance out of the profits, shall, by order of the Court of the County or Corporation in which he or she resides, be bound Apprentice by the Overseers of the poor, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to some master or mistress, who shall covenant to teach the Apprentice some art, trade, or business, to be particularized in the indenture, as also reading and writing, and if a boy, common arithmetic, including the rule of three, and to pay him or her twelve dollars at the expiration of the time; and the indentures of such Apprentices shall be filed in the Office of the Clerk of the County, and not transferable to any person whatsoever, without the approbation of the Court.

Guardians may bind out their wards as apprentices, with the approbation of the court.

Apprentices over sixteen years of age, may bind themselves to serve until they are twenty-four.

Where infants are seized of lands, &c. in trust, deeds executed by their guardians by order of the court of chancery, shall be as valid as if executed by the trustees when of full age.

XII. ANY Guardian may with the approbation of that Court in which his appointment shall be recorded, and not otherwise, bind his Ward Apprentice to such person for learning such art or trade, and with such covenants on the part of the master or mistress, as the said Court shall direct; and every such Apprentice with the like approbation, or any Apprentice bound by his father, may, with the approbation of the Court of that County in which the father shall reside, after he shall be sixteen years of age, agree to serve until he shall be twenty-four years of age, or any shorter time, and such agreement entered on record shall bind him.

XIII. WHERE any person under the age of twenty-one years is, or shall be seized, or possessed, of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the Guardian of such infant, upon petition of one or more of the parties interested to the High Court of Chancery, by order of such Court, made after hearing the parties, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of full age, might have executed or performed; and such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed.

1792.

XIV. ALSO the said Court may in like manner empower such Guardian to make or take a surrender of a former lease, and to take or make a new lease, as the case may require, and as it shall seem most to the advantage of the infant, out of whose estate any fine that may be advanced, and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed; and the new lease shall not only be chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

Guardians may make or take surrenders of leases, or make new leases under the direction of the court of chancery.

XV. THE Court of every County, City, or Borough, shall at all times receive the complaints of Apprentices, being Citizens of any one of the United States of America, who reside within the jurisdiction of such Court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging, or want of instruction, and may hear and determine such cases in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, or removing the Apprentices, and binding them to other masters or mistresses, when it shall seem necessary; and may also, in the same manner, hear and determine complaints of masters or mistresses against their Apprentices, for desertion without good cause.

County and corporation courts to hear the complaint of apprentices against their masters,

And of masters against their apprentices.

XVI. IN every case where such as be within age may sue, their next friends shall be admitted to sue for them.

Infants may sue by their next friends.

XVII. AND be it further enacted, That the Courts of Hustings in the Cities of Williamsburg and Richmond, and Borough of Norfolk, and all other incorporated towns, shall have the same power as is hereby given to the County Courts.

Corporation courts to have the same powers under this act as the county courts.

Repealing clause.

XVIII. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

XIX. THIS Act shall commence in force, from and after the passing thereof.

C H A P. XCVI.

An Act reducing into one, the several Acts to prevent unlawful Gaming.

[Passed the 8th of December, 1792.]

I. BE it enacted by the General Assembly, That all promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn, or entered into, or executed by any person or persons whatsoever, before or after passing this Act, where the whole or any part of the consideration of such promise, agreement, conveyances, or securities, shall be for money or other valuable thing whatsoever, won, laid or betted at cards, dice, tables, tennis, bowles, or any other game or games whatsoever, or at any horse-race, cock-fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money, knowingly lent or advanced, at the time and place of such play, horseracing, cock-fighting, or other sport or pastime, to any person or persons so gaming, betting, or wagering, or that shall at such time and place, so play, bet or wager, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; any Law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

All promises, agreements, securities and conveyances for gaming debts, void.

II. ANY conveyance or lease of lands, tenements, or hereditaments, sold, demised, or mortgaged, and any sale, mortgage, or other transfer of slaves or other personal estate, to any person, or for his use, to satisfy or secure money, or other thing by him won of, or lent or advanced to, the seller, lessor, or mortgagor, or whereof money or other thing so won, or lent, or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor, or vendor, and shall vest the whole estate and interest of such person in the lands, tenements, or hereditaments, so leased, mortgaged, bargained, or sold, and in the slaves, or other personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor, or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate.

Real estate under any incumbrance for gaming debts, shall devolve to the next heirs.

1792.

When & how
any person lo-
sing money at
gaming may
recover it from
the winner.

If he does not
sue within
three months
any other per-
son may, and
recover the
money paid,
and treble the
value.

The defen-
dants compell-
able to an-
swer on oath,
bills in equity
for discover-
ing what was
won.

But discharg-
ed by repay-
ment thereof,
from the pe-
nalty.

Penalties for
playing at
public houses.

For losing or
winning more
than 20 dol-
lars in twen-
ty-four hours.

Gamesters
having no vi-
sible means of

III. IF any person or persons whatsoever, at any time hereafter within the space of twenty-four hours, by playing at any game or games whatsoever, or by betting on the sides or hands of such as do play at any game or games, shall lose to any one or more person or persons so playing or betting, the sum or value of seven dollars or more in the whole, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying, or delivering the same, shall be at liberty within three months then next following, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt founded on this Act, to be prosecuted in any Court of Record within this Commonwealth, where the sum or value thereof shall be cognizable; in which action it shall be sufficient for the Plaintiff to alledge that the Defendant is indebted to the Plaintiff, or received to the Plaintiff's use, the money so lost and paid, or converted the goods won of the Plaintiff to the Defendant's use, whereby the Plaintiff's action accrued to him according to the form of this Act, without setting forth the special matter; and in case the party losing such money or other thing, as aforesaid, shall not within the time aforesaid, really and *bona fide*, without covin or collusion, sue, and with effect prosecute for the money or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person or persons by any such action or suit, as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner or winners, as aforesaid, the one moiety thereof to the use of the person or persons suing for the same, and the other moiety to the use of the parish where such offence shall be committed; and every person who by virtue of this present Act, shall or may be liable to be sued for monies or other things so won, as aforesaid, shall be obliged and compellable to answer upon oath, such bill or bills as shall be preferred against him or them, for discovering the money or other things so won at play, as aforesaid.

IV. *PROVIDED always*, That upon discovery and repayment of the money, or other thing so to be discovered and repaid, as aforesaid, the person and persons discovering and repaying the same, shall be acquitted, indemnified, and discharged from any further or other forfeiture, punishment, or penalty which he or they may have incurred by the playing for and winning such money or other thing so discovered and repaid.

V. AND to prevent gaming at Ordinaries and other public places, which must be often attended with quarrels, disputes, and controversies, the impoverishment of many people and their families, and the ruin of the health, and corruption of the manners of youth, who upon such occasions frequently fall in company with lewd, idle and dissolute persons, who have no other way of maintaining themselves but by gaming: *Be it further enacted*, That if any person or persons shall at any time play in an ordinary, race-field, or any other public place, at any game or games whatsoever, except billiards, bowles, backgammon, chess, or draughts, or shall bet on the sides or hands of such as do game, every such person upon conviction thereof, before any Justice of Peace in any County within this Commonwealth, by the oath of one or more credible witness or witnesses, (which oath the said Justice is hereby empowered to administer) or by the view of such Justice, or the confession of the party accused, shall forfeit and pay twenty dollars, to be levied by distress and sale of the offenders goods, by warrant under the hand of the Justice before whom such conviction shall be, and for the use of the poor of the parish wherein such offence shall be committed; and moreover, every person so convicted, shall be committed to the County Jail, there to remain until he, she, or they, give sufficient security for his, her, or their good behaviour for twelve months next after such conviction.

VI. IF any person by playing or betting at any game or wager whatsoever, at any time within the space of twenty-four hours, shall lose or win to or from another, a greater sum, or any thing of greater value than twenty dollars, the loser and winner shall be liable to pay one half of the entire sum above the said sum of twenty dollars which he shall so win or lose; and upon information thereof made to any County Court, and due proof thereof had, such County Court shall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to lessening the levy of the County wherein such offence shall be committed.

VII. AND whereas divers lewd and dissolute persons live at great expences, having no visible estate, profession, or calling to support them, but by gaming only: *Be it therefore*

1792.

enacted, That it shall be lawful for any two Justices of Peace in any County or Corporation, to cause to come or be brought before them, every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession, or calling to maintain himself by, but for the most part supporting himself by gaming; and if such person shall not make it appear to such Justices, that the principal part of his expences is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for the space of twelve months, and on refusal thereof, shall commit him to the common Jail, there to remain until he shall find such securities; and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same.

supporting themselves, may be bound to good behavior committed.

VIII. AND to prevent quarrels happening by gaming, *It is hereby further enacted*, That if any person or persons shall assault and beat, or shall challenge or provoke to fight, any person or persons whatsoever, upon account of any money or other thing won by gaming or betting, the person and persons so assaulting, beating, challenging, or provoking to fight, being thereof convicted, shall forfeit to the party grieved thirty dollars, to be recovered with costs, by action of debt in any County Court; and moreover shall be liable to the action of the party grieved, at the common Law.

Penalty on persons assaulting or challenging others on account of money, &c. won by gaming.

IX. *AND be it further enacted*, That if any person or persons whatsoever, do, or shall at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device, or evil practice whatsoever, in playing at, or with cards, dice, or any other game or games, or in, or by bearing a share or part in the stakes, wagers, or adventures, or in, or by betting on the sides or hands of such as do or shall play, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment, or information, shall forfeit five times the value of the money or other thing so won, and shall be deemed infamous, and suffer such corporal punishment as in cases of wilful perjury; and such penalty shall be recoverable with costs by any person or persons suing for the same, by action of debt in any Court of Record in this Commonwealth, having cognizance thereof.

Punishment of cheats.

X. *PROVIDED always*, That any person aggrieved by the judgment of any Justice of Peace upon any conviction for any of the offences in this Act cognizable before him, may appeal to the next Court to be held for the County where such person shall be convicted, but shall give reasonable notice of such appeal to the party prosecuting him or her, and shall also enter into recognizances with two sufficient securities, before some Justice of the County wherein the judgment was given, on condition to try such appeal at the next Court held for the same County after the entering such appeal, which shall be by the said Court then heard and finally determined: *Provided also*, that no such judgment shall be set aside for want of form, wherein it shall appear to the Court, that the facts were sufficiently proved at the trial, nor shall any judgment be removed or removable by appeal, or any writ or process whatsoever, into the District Court.

Liberty of appeal from the judgment of the Justice to the county court.

XI. ALL and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A. B. C. or E. O. tables, or of a Farro-bank, or of any other gaming table or bank of the same, or the like kind under any denomination whatever, shall be deemed and treated as vagrants; and moreover it shall and may be lawful for any Justice of the Peace, or Magistrate of any Corporation Court, by warrant under his hand, to order any such gaming table to be seized and publicly burnt or destroyed.

Keepers of A. B. C. or E. O. tables, or Farro-banks, or other like tables or banks to be deemed vagrants. And their tables to be destroyed. Private lotteries prohibited.

XII. NO person in order to raise money for himself or another, shall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; and whoever shall offend herein, shall forfeit the whole sum of money proposed to be raised by such lottery, raffling, or playing, to the use of the Commonwealth.

XIII. THE presiding Justice as well in the District as in all the Inferior Courts of Law in this Commonwealth, shall constantly give this Act in charge to the Grand Juries of their Courts, at the times when such Grand Juries shall be sworn.

This act to be given in charge to grand juries.

1792.

Repealing
clause.
Proviso.

XIV. EVERY Act, or clause in any Act concerning any matter within the purview of this Act, shall be, and is hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commence-
ment of this
act.

XV. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. XCVII.

An Act against Champerty.

[Passed the 8th of December, 1792.]

Who are
champertors.

How they
shall be punish-
ed.

I. **B**E it enacted and declared, by the General Assembly, That Champertors be they that move pleas and suits, and cause them to be moved, by their own procurement or by others, and sue them at their own proper costs and charges, to have a part of the land in variance, or part of the gains; and those who are convicted thereof by the verdict of a Jury, shall be punished, by imprisonment and amercement, at the discretion of the Jury before whom they shall have been found guilty, and such amercement and imprisonment shall be ascertained at the time of such conviction.

Commence-
ment of this
act.

II. THIS Act shall commence in force, from and after the passing thereof.

C H A P. XCVIII.

An Act against Hog-Stealing.

[Passed the 8th of December, 1792.]

Punishment of
hog-stealers
not being
slaves, for the
first offence.

When sued
for the penal-
ty, the defen-
dant may be
ruled to give
special bail.

I. **B**E it enacted by the General Assembly, That if any person not being a slave, shall steal any hog, shoat, or pig, he, or she, shall, for the first offence, receive on his or her bare back, twenty-five lashes well laid on, at the public whipping-post of the County where he or she shall be convicted, or pay thirty dollars, to the use of the same County, towards lessening that County levy, and shall moreover pay eight dollars for every such hog, shoat, or pig, one half to the owner thereof, and the other half to the informer, to be recovered with costs at the suit of the informer, by action of debt in any County Court within this Commonwealth; and in all suits to be brought, or informations filed, against any person not being a slave, for hog-stealing, it shall be lawful for the Court to rule the Defendant to give special bail, and to commit him or her to prison, until he or she shall give such bail.

Punishment
for the second
offence.

Where there
are several of-
fenders in one
fact, each of
them liable to
punishment.

II. AND if any person other than a slave, shall offend a second time, and be thereof convicted, he, or she, shall stand two hours in the pillory, on a Court day, at the Court-house of the County where such conviction shall be, and have both ears nailed thereto, and at the end of two hours have the ears cut loose from the nails, which judgment the respective County Courts of this Commonwealth, are hereby empowered to give, and to award execution thereupon: Saving always to the party concerned, liberty of appeal to the District Court within whose jurisdiction such County shall be; such party giving bond with good security, in the sum of one hundred dollars, for his or her personal appearance in the said Court, according to the appeal, and to perform and abide their award; and moreover, every such offender shall pay and satisfy eight dollars for every stolen hog, shoat, or pig, to the owner or informer, to be recovered as aforesaid. And if there be several offenders in one and the same fact, although but one hog, shoat, or pig be stolen, each person may be particularly prosecuted, and upon conviction, shall be adjudged to suffer the punishment, and pay the whole fine as aforesaid.

If servants be
convicted, the
penalty to be

III. IF any servant shall be convicted of hog-stealing, his or her master or owner, shall pay and satisfy eight dollars, to be recovered and divided as aforesaid, whether it be for the

1792.

paid by the
master and re-
paid by the
servant.

first or second offence, and shall be repaid for the same, and costs of suit, by further service of such offender, after his or her time, due by indenture, contract, or former judgment shall be expired, at the rate of three dollars for one month's service, and judgment shall be entered up accordingly.

How slaves
shall be pro-
secuted and pun-
ished for
hog-stealing.

IV. WHEN any slave or slave shall hereafter steal any hog, shoat, or pig, it shall be lawful for any Justice of Peace of the County where such offence shall be committed, upon complaint or information thereof to him made, to cause such offender or offenders, and the witness or witnesses, to come before him; and if upon examination, any slave or slaves appear to be guilty, to commit him, her, or them to prison, or bind every such offender with security, to appear personally before the Court next thereafter to be held for his County, to answer such complaint or information, and to abide the judgment of the said Court; and the Justices thereof are hereby required to direct the person appointed to prosecute for the Commonwealth in the same Court, to exhibit a charge or complaint in writing against such slave or slaves for such offence, whereupon it shall be lawful for the said Court to hear and determine the matter of such charge or complaint without any jury, and to receive as evidence against the slave or slaves so charged, the confession of the offender, the oath of one or more credible witnesses, or such testimony of Negroes, Mulattoes or *Indians*, bond or free, as to them shall seem convincing; and if, in the opinion of such Court, the slave or slaves so charged, is, or are guilty, every such offender for the first offence, shall receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post; and upon a second conviction, shall stand two hours in the pillory, with both ears nailed thereto, and then cut loose, as is herein before directed. And if any Negro, Mulatto, or *Indian*, shall, upon due proof made, or pregnant circumstances appearing to any County Court, be found to have given false testimony, on the trial of any slave for the first or second offence of hog-stealing, every such offender, without further trial, shall be by such Court ordered to receive the same corporal punishment as the slave tried for hog-stealing would receive upon conviction. And the first Justice in commission, sitting at such trial, shall, before the examination of such Negro, Mulatto, or *Indian*, charge such evidence to speak the truth, and shall also inform him or her of the consequence of giving false testimony.

For the first
offence.

For the se-
cond offence.

Punishment
of false wit-
nesses.

V. IF any person whatsoever, shall be the third time convicted of hog-stealing, every such offender shall be adjudged a felon.

Third offence
felony.

VI. IF any person shall bring, or cause to be brought to his or her own house, or any other house, or on board of any ship, sloop, or other vessel, any hog, shoat, or pig, without ears, or shall receive any such, and not immediately discover the same to a Justice of the Peace, he or she so offending, shall be adjudged a hog-stealer: *Provided nevertheless*, that any person may bring, or cause to be brought to his or her own, or any other house, or on board any ship, sloop, or other vessel, his or her own swine, though without ears, he or she proving the same to be his or her property.

Bringing
home, or car-
rying on board
any vessel,
hogs without
ears, hog-
stealing, un-
less the party
proves his
property.

VII. ALL tributary *Indians* keeping swine, shall give them the same mark, which hath been, or by the next adjacent County Court shall be allowed to the town to which such *Indians* respectively belong; and if any person not being an *Indian*, shall buy or receive from any *Indian* any pork, and cannot prove such pork to be of the proper mark of the town of *Indians*, to which the *Indian* of whom the same was bought or received, shall belong, he or she so offending, shall forfeit and pay twenty-five dollars, one half to the Commonwealth, and the other half to the informer; to be recovered with costs, by action of debt in any Court of Record within this Commonwealth.

Indians hogs
to have the
mark of their
town.

VIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence, committed or done before the commencement of this Act.

Repealing
clause.

Proviso.

IX. THIS act shall commence in force, from and after the passing thereof.

Commence-
ment of this
act.

1792.

C H A P. XCIX.

An Act to prevent Malicious Shooting, Stabbing, Maiming, and Disfiguring.

[Passed the 17th of December, 1792.]

Punishment
for maiming
or disfiguring
another.

I. **B**E it enacted by the General Assembly, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite, or cut off a nose, or lip, or cut off or disable any limb or member of any person whatsoever, within the Commonwealth; in so doing to maim or disfigure, in any of the manners before mentioned, such person, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

For shooting
or stabbing
another.

II. IF any person shall shoot, or stab any person within the Commonwealth, with an intent to maim, disfigure, or kill, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

Repealing
clause.
Proviso.

III. ALL other Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commence-
ment of this
act.

IV. THIS Act shall commence in force, from and after the passing thereof.

C H A P. C.

An Act declaring the Punishment of the Crime of Buggery.

[Passed the 10th of December, 1792.]

Punishment
for buggery.

I. **B**E it enacted and declared, by the General Assembly, That if any do commit the detestable and abominable vice of Buggery, with man or beast, he or she so offending, shall be adjudged a felon, and shall suffer death, as in case of felony, without the benefit of Clergy.

Commence-
ment of this
act.

II. THIS Act shall commence in force, from and after the passing thereof.

C H A P. CI.

An Act declaring the Punishment of Horse-Stealers, and their Accessories, and reducing into one, the several Acts to encourage the Apprehenders of Horse-Stealers.

[Passed the 10th of December, 1792.]

Punishment of
horse-stealers.

I. **B**E it enacted and declared, by the General Assembly, That if any person do feloniously take, or steal, any Horse, Mare, or Gelding, Foal, or Filly, the person so offending, shall not be admitted to have or enjoy the benefit of Clergy, but shall be utterly excluded thereof, and shall suffer death as in case of felony.

Of their acces-
sories.

II. AND for as much as felons are much encouraged to steal Horses, because a great number of persons make a trade to receive and buy of such felons, the Horses by them feloniously taken, and also do make it their business to conceal such Offenders after the said fact, knowing such felonies to be by them committed: *Be it therefore enacted*, That if any person or persons shall receive or buy any Horse, that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall harbour or conceal any

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Horse-Stealer, knowing him, her, or them to be so, such person or persons shall be taken and received as accessory or accessories to the said felony; and being of either of the said offences legally convicted, by the testimony of one or more credible witness or witnesses, shall incur and suffer the pain of death as a felon convict.

III. *PROVIDED* always, That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence, yet, nevertheless, it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any Horses stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the Court shall think fit to inflict, although the principal felon be not before convict of the said felony; which shall exempt the Offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted.

How the accessories may be punished if the principals be not convicted.

IV. WHOSOEVER shall apprehend one charged with Horse-stealing, if the prisoner be convicted of that crime, shall be entitled to a reward of twenty dollars from the Treasury, upon a certificate from any of the District Courts of this State, that the claimant was the apprehender, and either that he was not examined as a witness at the trial, or that the other evidence then given was sufficient, without his testimony, to convict the prisoner.

Reward for apprehending a horse-stealer.

V. THE legal representative of any person killed in endeavouring to apprehend any Horse-stealer, shall receive the sum of one hundred and seventy dollars, to be paid by the Treasurer, upon the order of the Auditor, which he is hereby directed to issue, upon a certificate delivered under the hands and seals of two Justices of the Peace of the County where the fact was committed, that such person was so killed; which certificate the said Justices, upon sufficient proof before them made, are required immediately to give.

Reward of ex-ecutors, &c. of persons killed in pursuit of, or in taking a horse-stealer.

VI. ALL and every Act or Acts, Statute or Statutes, clause or clauses of Acts, coming within the purview of this Act (except as herein after provided) shall be, and the same are hereby repealed. *Provided*, nevertheless, that nothing herein contained, shall be construed to repeal any such Statute or Acts, for so much of any of them, as may relate to any offence within the purview thereof, committed or done before the commencement of this Act.

Repealing clause.

Provido.

VII. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P. CII.

An Act providing for the Poor, and declaring who shall be deemed Vagrants.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the Court of every County within this Commonwealth, after the expiration of the period during which the present Overseers of the poor for the respective Counties are to continue in office, under the last general election, or before that period, as hereinafter directed, shall cause their said County to be laid off into convenient Districts, not exceeding four in each County, and shall direct the Sheriff of the County to cause publication to be made, that on some day to be appointed by the said Court, an election will be held within each District, to consist of freeholders and house-keepers only, for the purpose of choosing three discreet and fit persons, being freeholders of, and resident within the same, who shall be called and denominated Overseers of the poor, and shall continue and be in office for and during the term of three years; at the expiration whereof, other triennial elections shall be made in the same manner, but the general elections shall in all cases be computed from the first day of April, in the year in which they shall be made, notwithstanding the time of service shall thereby be made shorter than this Act directs. The County Court may at any session within six months before the first day of April, which will be in the year in which the general election of Overseers is to be held, enter into the measures directed by this Act for regulating the same, and may fix on some convenient day for holding the said elections.

Overseers of the poor, how and by whom to be elected.

To continue in office three years.

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The county court to appoint a person to superintend the election.

Return to be made of the persons elected.

Overseers of the poor to be informed of their appointment.

How qualified.

Penalty for refusing to serve without a reasonable excuse.

Provido.

II. AND the said Courts respectively, shall appoint some person in each District, to superintend the election; and if any person so appointed, shall refuse, or neglect to serve, without reasonable excuse, he shall forfeit and pay for every such refusal or neglect, the sum of thirty dollars, to be recovered for the use of the poor of the County, in any Court of Record, by action of debt or information founded on this Act, together with costs. And the person who shall be appointed to superintend any election, shall return the names of the person or persons chosen, to the Clerk of the County, who shall thereupon issue a writ to the Sheriff of the County, commanding him that ten days before the ensuing Court-day, he shall inform the said person or persons, that he or they hath or have been elected Overseer or Overseers of the poor, and require him or them to appear at the next Court-day, and make oath that he or they will truly and faithfully administer the said office. And any person being duly elected, who shall refuse, or neglect to serve as an Overseer of the poor in the County of which he is an inhabitant, unless disqualified by age or other infirmity, such disqualification to be judged of by the County Court, shall forfeit and pay thirty dollars; to be recovered with costs, by action of debt or information, in any Court of Record within this Commonwealth: *Provided*, That no person shall be compelled to serve more than three years, nor be subject to the penalty for refusing more than once in every term of nine years.

When they shall be appointed by the county courts.

III. WHENEVER it shall so happen that the person appointed to superintend the election of Overseers of the poor in any District, shall fail to attend agreeable to his appointment, or in case there be no election, on account of the non-attendance of the electors, or in case of the death, refusal, or disability of any Overseer or Overseers of the poor, the County Court shall, and they are hereby required, at their next Court, to fill any vacancy that may so happen, by appointing persons to serve for the same time such person or persons should otherwise remain in office.

Overseers to meet together annually, and levy the poor rate.

IV. THE Overseers of the poor in every County, although in different Districts, shall meet annually at some convenient place, to be appointed by a majority of them, on the first Monday in *March*; but if the number required by law shall not assemble on that day, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the said month. The Overseers of the poor of the different Districts, if there be more than one in the County, shall bring with them to such annual meeting, a distinct state of the number, names, and situation of the poor, and an account of their expenditures in their respective Districts; and a majority of the Overseers of the poor in the County so meeting, and there being in such majority at least one Overseer of the poor from each District, shall choose a President, and shall be empowered to regulate the necessary provisions to be made for all the poor of the County, exclusive of the poor of any corporate town, for the succeeding year, as well as to adjust and settle the charges of supporting and maintaining the poor the preceding year, and to levy and assess upon all such taxables of their County as are subject to County levies, except the inhabitants of any corporate town, and settle the amount of the poor rate upon each such taxable in specie; for which purpose the Clerk of the County shall furnish the said Overseers with a certified copy of the list of all such taxables in the County, exclusive of those in any corporate town within the same, if any such there be.

To provide for the poor, lame, and blind.

V. THE Overseers of each District shall provide for the poor, lame, blind, and other inhabitants of the District not able to maintain themselves, and may also provide houses, nurses, and doctors, in such cases as they or a majority of them shall think necessary; the expences of which shall be provided for in the succeeding levy.

County court may direct them to receive any poor person on their list.

VI. IF any poor person shall suppose that he or she is entitled to the benefit of the laws for the relief of the poor, and the Overseers of the District in which he or she resides, shall refuse to give such person the benefit thereof, upon application of such person, the County Court may, if they think proper, direct the Overseers to receive him or her upon their lists of poor.

Poor persons strolling from one county to another, may be removed to that in which they were last legally settled.

VII. THE Overseers of each District shall take effectual measures to prevent the poor resident within the same from strolling into another County; and each of the Overseers within a County, may make complaint before a Justice of the Peace, that any poor person or poor persons, is, or are come into their County, and is, or are likely to become chargeable thereto; whereupon it shall be lawful for such Justice, by warrant under his hand, to cause

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such poor person to be removed to the County or District, where he or she was last legally settled; but if such poor person be sick or disabled, and cannot be removed without danger of life, the Overseers shall provide for his or her maintenance or cure, at the charge of their County, and after recovery, shall cause him or her to be so removed, and the County or District wherein he or she was last legally settled, shall repay all charges occasioned by the sickness, maintenance and cure of such poor person, and for removing him or her, and also all charges and expences, if such person shall die before removal. And if the Overseers of the County or District to which such poor person belongs, shall refuse to receive and provide for the person or persons so removed, every Overseer so refusing, shall forfeit and pay sixty dollars. And if the Overseers of the poor where such poor person was last legally settled, shall refuse to pay and satisfy all the charges and expences aforesaid, the same may be recovered from them by suit, to be brought in the names of the Overseers by whom such disbursement may have been made, with the costs of such suit, in any Court of Record.

VIII. WHERE any dispute shall arise respecting the residence of any poor persons, the Court of any County adjacent, is authorized to take cognizance thereof, and to determine the same.

Disputes concerning residence of poor persons how to be determined.

IX. THE Overseers of the poor of each District shall monthly make returns to the Court of their County of the poor orphans in their District, and of such children within the same, whose parents they shall judge incapable of supporting them, and bringing them up in honest courses; and the said Court is hereby authorized to direct the said Overseers, or either of them, to bind out such poor orphans and children apprentices to such person or persons as the Court shall approve of, until the age of twenty-one years, if a boy, or eighteen years, if a girl, on the terms prescribed and directed by the act, "*To reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters, and Apprentices.*"

Overseers of the poor to make monthly returns to the county courts of the poor orphans, and of the children of persons unable to support them, and bind them apprentices.

X. AND the Overseers of the poor shall also be, and they are hereby empowered and required, at their annual meeting, to appoint a collector of such County poor rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their President, for the use of the said Overseers of the poor, to be applied towards lessening the County poor rate, and conditioned for the faithful and diligent collection of the said poor rate, and the payment to the several persons respectively entitled thereto, of the sums of money due to them according to the entries and accounts of the said Overseers of the poor, (a copy of which shall be delivered to such collector,) and also for settling with the said Overseers of the poor, or their successors, at the next annual meeting, a just and true account of all his receipts and disbursements, with proper vouchers, and paying whatever balance shall, upon such settlement, appear to be in his hands.

To appoint a collector of the poor rate, and take bond and security of him.

XI. THE said collector shall be allowed the same commission for receiving the poor rate as the Sheriff is by Law allowed for receiving County levies, and shall be subject to the same rules and regulations, and shall have the power of distress in case of non-payment of any person chargeable therewith, immediately after the tenth day of *April* in every year.

Collectors commission.

When they may distress for the poor rates.

XII. IT shall be the duty of the Sheriff of every County, and of the Serjeant of any City or Borough, if appointed by the Overseers of the poor to collect any poor rate, to collect and account for the same, and they shall be liable to all things required and imposed on a collector of such rate by Law. Any Sheriff or Serjeant refusing to undertake such collection, shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered in manner aforesaid, for the use aforesaid.

Sheriffs and serjeants bound to collect the poor rates if required.

XIII. IN case of the death of any person appointed to collect the poor rates at any time before his collection begins, the Overseers of the poor shall and may have power to assemble and appoint another collector, of whom they shall take bond with sufficient security, in the same manner as is directed to be taken of a collector appointed at their annual meeting; which collector shall have the same powers, and be subject to the same rules and regulations, and be moved against in the same manner, as other collectors of the poor rates.

If the collector dies, another may be appointed.

XIV. IT shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself; and if such collector shall refuse or neglect to settle his accounts with the Overseers of the poor, as herein before directed, or shall

Collectors may appoint deputies. Remedy against them.

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for failing to
settle their ac-
counts or pay
the money.

fail or refuse to pay them any money which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, by order of two or more Overseers, on or before the first day of *September* annually, it may and shall be lawful for the Court of the County and Corporation wherein such collector was appointed, upon the motion of the Overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities, for the sums of money respectively due to the said Overseers, or to such legal claimants, with costs; provided such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies, or either of them, and their securities respectively, for any sums of money which, by virtue of this Act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies.

Against the
Overseers of
the poor for
failing to pay
the money to
the persons
intitled thereto

XV. WHENSOEVER any Overseer or Overseers of the poor have, or may hereafter receive of the collectors of the poor rates, any money, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors, or administrators, shall have the same remedy against such Overseer or Overseers, their heirs, executors, or administrators, as he, or they, might have had against the collector if the money had remained in his hands.

Overseers to
settle with
their prede-
cessors, and
with the for-
mer collec-
tors.

XVI. THE Overseers of the poor at their annual meeting, shall be, and they are hereby empowered to settle the accounts of the former Overseers, and to receive from them any sums of money which shall be in their hands, and to call upon the collector or collectors heretofore appointed by any Vestry, or by any former Overseers, for a settlement of their accounts, and payment for any balances which shall be in their hands; and on failure of such payment, they shall have the same mode of recovery as is directed by this Act, for the recovery of money or tobacco in the hands of a collector of their own appointment. Wheresoever any former churchwarden, collector, or Overseer of the poor is dead, or shall hereafter die, without settling his accounts and paying the balance due from him, his executors and administrators shall be liable to the same recovery as the churchwarden, collector, or Overseer himself would have been subject to in his lifetime: Saving to such executors and administrators, the benefit of all pleas, to which they may be by Law entitled.

To levy a suf-
ficient sum to
pay any ar-
rears due.

XVII. THE said Overseers of the poor shall also be, and are hereby empowered, to levy in the manner before directed, such sums of money as shall be necessary to pay any arrears which may be due and unpaid by any Parish or District to individuals.

Their pro-
ceedings and
accounts to be
entered in a
book.
May appoint
a clerk.

XVIII. ALL the proceedings and accounts of the Overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting; and for this purpose the said Overseers of each County, or a majority of them, shall be, and are hereby empowered to appoint a Clerk, and at any time upon his misbehaviour or neglect of duty, to remove him and appoint another in his stead, and to make such Clerk an allowance not exceeding twenty dollars annually for his services.

How they
shall vote.

XIX. AT the said annual meeting, each of the Overseers of the County who are present, shall have a vote, and if upon any such vote they be equally divided, the question shall be decided in favor of that side on which the President shall have voted.

Allowance to
them.

Penalty for
non-atten-
dance.

Penalty on
their clerk for
non-atten-
dance.

XX. THE Overseers of the poor if they demand the same, shall be allowed one dollar each, to be charged in their account of other expenditures, for every day they shall attend the beforementioned annual meeting, and shall be subject to a penalty of two dollars for every day each of them respectively shall fail to attend the same, to be computed in both cases from the first day of such annual meeting during the continuance thereof; and their Clerk shall in like manner be subject to the penalty of two dollars for every day he shall fail to attend such annual meeting, unless such Overseers of the poor, or their Clerk respectively, shall be prevented from attendance by sickness, or other unavoidable accident; to be recovered with costs by warrant before any Justice of the Peace for the County.

County courts
may exempt
persons from

XXI. THE Courts of the several Counties within this Commonwealth, are hereby empowered and required upon application, to exempt from the payment of poor rates all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from

the payment of public taxes ; and all those persons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the said poor rates.

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payment of
poor rates.

XXII. THE Overseers of each District shall in the month of *October*, in each year, settle their accounts with the County Court, and the money which shall remain in their hands, or in the hands of their collector, unappropriated, shall be deducted from the rate to be made for the ensuing year. And the Overseers of each District failing to render their accounts as aforesaid, shall respectively be liable to a forfeiture of one hundred dollars for such failure, to be recovered by an action of debt in their respective County Courts, commenced in the name of the Clerk of the said Court, (at the expence of the County) to be applied towards lessening the levy of such County, and the Court of the County where the failure shall happen, are hereby directed to order the Attorney for the Commonwealth to institute the suit.

Overseers annually to settle their accounts with the county courts.
Penalty for failure.

XXIII. IF any single woman not being a servant or slave, shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any County, and shall upon examination before any Justice of the Peace of the County, to be taken in writing upon oath, charge any person not being a servant, with being the father of such bastard child, it shall and may be lawful for any Justice of the Peace of the County, wherein the person so charged shall be a resident or inhabitant, upon application made to him by the Overseers of the poor, or any one of them of the County wherein such child shall be born, to issue his warrant for the immediate apprehending the person so charged as aforesaid, and for bringing him before such Justice, or before any other Justice of the Peace of the County wherein he is a resident or inhabitant ; and the Justice before whom such person shall be brought, is hereby authorized and required to commit the person so charged as aforesaid, to the common Jail of his County, unless he shall enter into a recognizance, with sufficient security, in the sum of thirty dollars, upon condition to appear at the next Court to be held for such County, and to abide and perform such order or orders as shall be made by the said Court. And if upon the circumstances of the case, the Court shall adjudge the person so charged to be the father of such bastard child, and that such child is likely to become chargeable to the County, they shall and may in their discretion take order for keeping such bastard child, by charging the father with the payment of money for the maintenance of such child, in such manner, and in such proportions as they shall think meet and convenient, and for such time as such child is likely to become chargeable to the County, and no longer. And the father of such child shall enter into a recognizance, with sufficient security before the said Court, in such sum as the said Court in their discretion shall think fit, payable to the Governor of this Commonwealth for the time being, and his successors, to observe and perform such order or orders of the Court as aforesaid. And if the father charged with the maintenance of such bastard child as aforesaid, shall make default and not pay the money so as aforesaid charged upon him by order of the said Court, to the Overseers of the poor, for the maintenance of such child, the Court before whom the recognizance was entered into, shall from time to time, upon the motion of the Overseers of the poor, or any one of them, enter up judgment and award execution for the money in such order or orders mentioned, as the same shall become due against the said father and his securities, their executors, or administrators ; provided ten days notice be given to the parties against whom such motion is made, before the making thereof. And if the father of such child shall refuse to enter into recognizance as aforesaid, such father shall be committed by the said Court to the common Jail of the County, there to remain without bail or mainprize, until he shall enter into such recognizance as aforesaid, or until he shall discharge himself, by taking the oath of an insolvent debtor, and delivering in a schedule of his estate in manner directed by the laws for debtors in execution, (and which estate shall by order of the Court be applied towards indemnifying the County,) or until the Overseers of the poor shall consent to his discharge.

How the fathers of bastard children, born of free single women, may be compelled to support them.

XXIV. *PROVIDED always*, That it shall not be lawful for any Justice or Justices of the Peace, to send for any woman whatsoever, before she shall be delivered, in order to her being examined concerning her pregnancy, or to compel her to answer any questions relating thereto before her delivery.

No woman while pregnant, to be questioned by the justices concerning her pregnancy.
Bastard children may be

XXV. EVERY bastard child may be bound apprentice by the Overseers of the poor of the District for the time being wherein such child shall be born ; every male until he attains

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bound apprentices by the overseers of the poor.

twenty-one years, and every female until she attains eighteen years, and no longer; and the master or mistress shall be subject to the same conditions as are prescribed in the case of an apprentice, by the Act, intituled, "*An Act to reduce into one, the several Acts concerning guardians, orphans, committees, infants, masters, and apprentices.*"

Vagrants how to be treated, when found within any county.

XXVI. THE Overseers of the poor, or any one of them, shall be, and are hereby empowered, upon discovering any vagrant or vagrants within their respective Districts, to make information thereof to any Justice of the Peace for the County, and to require a warrant for apprehending such vagrant or vagrants, to be brought before him, or some other Justice of the Peace for the said County; and if upon due examination, it shall appear to such Justice, that the person or persons are within the true description of a vagrant, as hereinafter mentioned, such Justice shall, by warrant under his hand, order such vagrant or vagrants to be delivered to some one of the Overseers of the poor of the District in which such vagrant or vagrants shall have been apprehended, to be employed in labor for any term not exceeding three months, and by the said Overseer of the poor hired out for the best wages that can be procured, to be applied to the use of the poor. And if any such vagrant or vagrants shall during such time of service, run away from the person so employing him or them, he, or they shall be dealt with in the same manner as other run-away servants.

Corporation courts to provide for their own poor

Any two magistrates thereof may remove poor persons to the places of their legal residence. Overseers of the poor of a county may remove to any corporation, any poor person belonging thereto.

XXVII. THE Corporation Courts of the several corporate towns within this Commonwealth, shall be, and they are hereby respectively empowered and required, to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the County; and any two Magistrates of any such Corporation Court, shall be, and are hereby empowered by warrant, under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the Overseers of the poor within the County, shall be, and they are hereby empowered, by warrant under the hands of any two of them, to cause to be removed into any corporate town, any poor person whose residence shall have been within the limits of such town for one year last past before such removal; except in both cases such poor persons only as have been lodged in any poor-house at any time during the last two years, who shall be respectively returned to, and maintained by the County or Town, according to their respective usual residence in either.

County and corporation courts may provide poor-houses.

XXVIII. THE several County and Corporation Courts, shall be, and they are hereby respectively empowered, whenever they shall judge it necessary, to provide or build a poor-house and work-house for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards or managers thereof, subject to the direction and controul of such Corporation Court.

Corporations to levy annually, money for the support of their poor.

XXIX. AND the said Corporations shall be, and they are hereby respectively empowered and required, to levy and assess annually upon their respective towns, either by way of poll-tax upon the inhabitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor; and also the charges which may be incurred in providing or building a poor-house and work-house, and in the government and management of the same.

Inhabitants thereof not freeholders in the county, not to vote for overseers of the poor.

XXX. THE inhabitants of any such corporate town not having a freehold estate in the County without the limits of the town, shall be disabled from voting in any election of the Overseers of the poor in the respective Counties, nor shall any inhabitant of any Corporate town be capable of serving as an Overseer of the poor in any County.

Vagrants how to be treated when found within a corporation.

XXXI. IT shall and may be lawful for any Magistrate of any such Corporation Court, upon discovering any vagrant or vagrants within the limits of the town, to issue his warrant for apprehending such vagrant or vagrants for examination; and if upon such examination before two Magistrates of the Corporation Court it shall appear that the person or persons so apprehended are within the true description of a vagrant as hereinafter mentioned, the said two Magistrates shall be, and are hereby empowered, by warrant under their hands to commit such vagrant or vagrants to the work-house, there to be employed in labor for any term not exceeding three months; and if there be no work-house in such town, the said two Magistrates may, and they are hereby empowered to proceed with such vagrant or vagrants

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in the same manner as the Overseers of the poor are herein before directed to proceed upon any vagrant or vagrants being delivered to them.

XXXII. ANY able bodied man, who, not having wherewithal to maintain himself, shall be found loitering, and shall have a wife or children, without means for their subsistence, whereby they may become burthenfome to their County or town; and any able bodied man without a wife or child, who, not having wherewithal to maintain himself, shall wander abroad, or be found loitering without betaking himself to some honest employment, or shall go about begging, shall be deemed and treated as a vagrant.

Who shall be deemed vagrants.

XXXIII. SO much of the clause respecting vagrants or idle persons not having wherewithal to maintain themselves in the Act, intituled, "*An Act concerning seamen*," as is contrary to this Act, shall be, and is hereby repealed.

Part of a former law concerning them repealed.

XXXIV. ALL the forfeitures and penalties inflicted by this Act, shall be, one half to the informer, and the other half to the use of the Overseers of the poor for the County, to be applied by them towards the support and maintenance of such poor; unless where by this Act it is otherwise directed.

Penalties and forfeitures how appropriated.

XXXV. AND for determining what shall be accounted a legal settlement within this Act, *It is hereby enacted and declared*, that no person shall be accounted an inhabitant so as to have gained a legal settlement, until such person shall have been actually resident in the County wherein he shall claim a legal settlement for the space of one whole year.

What shall be deemed a legal settlement.

XXXVI. ALL fines and forfeitures hereafter to be inflicted under any penal law, which are appropriated to the use of the County, towards lessening the levy for the support of the poor, shall be collected, levied, accounted for, and paid by the Sheriffs of the Counties to the Overseers of the poor in their several Counties respectively, in like manner, and subject to the same remedy and proceedings against them for default, as the collectors appointed by virtue of this Act are subject to, in default of collecting the levies imposed by virtue thereof.

Fines, &c. appropriated towards lessening the county levies, how to be collected.

XXXVII. THE trustees of any religious society shall have full power and authority to prosecute all suits heretofore instituted, and now depending upon bond or otherwise, for any arrearages due to the different parishes within this Commonwealth.

Arrearages due to parishes, how recoverable.

XXXVIII. ALL and every Act or Acts, clause or clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

XXXIX. *PROVIDED nevertheless*, That all rights, remedies, fines, penalties, and forfeitures, incurred or accruing under any former Act, shall remain in the same condition as if this Act had not been made. *And provided also*, that nothing herein contained shall be construed in any manner to alter or repeal one Act of General Assembly, passed on the twelfth day of December, one thousand seven hundred and ninety-one, intituled, "*An Act concerning the poor of the Parish of Suffolk, in the County of Nansemond*."

Proviso.

XL. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CIII.

An Act to reduce into one, the several Acts concerning Slaves, Free Negroes and Mulattoes.

[Passed the 17th of December, 1792.]

I. **B**E it enacted by the General Assembly, That no persons shall henceforth be slaves within this Commonwealth, except such as were so on the seventeenth day of October, in the year one thousand seven hundred eighty-five, and the descendants of the females of them.

Who shall be deemed slaves.

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When slaves hereafter imported shall be free.

II. SLAVES which shall hereafter be brought into this Commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free.

Penalties on the importers of slaves, and on the sellers and buyers.

III. EVERY person hereafter importing slaves into this Commonwealth, contrary to this Act, shall forfeit and pay the sum of two hundred dollars for every slave so imported; and every person selling or buying any such slaves, shall in like manner forfeit and pay the sum of one hundred dollars for every slave so sold or bought; one moiety of which forfeitures shall be to the use of the Commonwealth, and the other moiety to him or them that will sue for the same; to be recovered by action of debt or information in any Court of Record.

Exceptions in favor of emigrants from any of the United States taking a certain oath within a limited time.

IV. *PROVIDED*, That nothing in this Act contained, shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this, if within sixty days after such removal he or she shall take the following oath before some Justice of the Peace of this Commonwealth:

I, A. B. do swear, that my removal into the State of Virginia, was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves, with an intention of selling them, nor have any of the slaves which I have brought with me, been imported from Africa, or any of the West-India Islands, since the first day of November, one thousand seven hundred and seventy-eight. So help me GOD.

And of citizens claiming slaves by descent, devise, or marriage, or being now the owners & removing them from another state, and travellers carrying them out again. In what cases negroes or mulattoes may or may not be witnesses. Slaves not to go from home, without passes.

Nor to any persons claiming slaves by descent, marriage or devise; nor to any citizens of this Commonwealth, being now the actual owners of slaves within any of the United States and removing such hither; nor to travellers and others making a transient stay, and bringing slaves for necessary attendance, and carrying them out again.

V. NO negro or mulatto shall be a witness, except in pleas of the Commonwealth against negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone shall be parties.

VI. NO slave shall go from the tenements of his master or other person with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a Justice of the peace, to be by his order punished with stripes, or not, in his discretion.

Coming on the plantations of others without leave from their masters, may be whipped.

VII. AND if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner, or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence.

Negroes and mulattoes not to keep or carry arms.

VIII. NO negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any Justice of the peace of the County or Corporation where such seizure shall be, shall by his order be forfeited to the seizer for his own use; and moreover, every such offender shall have and receive by order of such Justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offence.

Except those living on the frontiers licensed by the justices of the peace.

IX. *PROVIDED nevertheless*, That every free negro or mulatto, being a house-keeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons, offensive or defensive, by license from a Justice of peace of the County wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.

Who shall be deemed mulattoes.

X. EVERY person other than a negro, of whose grand-fathers or grand-mothers any one is, or shall have been a negro, although all his other progenitors, except that descending from the negro, shall have been white persons, shall be deemed a mulatto; and so

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every such person who shall have one fourth part or more of negro blood, shall in like manner be deemed a mulatto.

XI. RIOTS, routs, unlawful assemblies, trespasses and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a justice of the peace, and he who will, may apprehend and carry him, her, or them, before such justice.

Punishment of slaves for riots, unlawful assemblies, seditious speeches, &c.

XII. AND to prevent the inconveniences arising from the meetings of slaves, *Be it further enacted*, That if any master, mistress, or overseer of a family, shall knowingly permit or suffer any slave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting, shall forfeit and pay three dollars for every such offence; and every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay one dollar for each negro or slave above that number; which said several forfeitures shall be to the informer, and recoverable with costs, before any justice of peace of the County or Corporation where such offence shall be committed.

No person shall permit the slaves of others to remain on his plantation.

XIII. *PROVIDED always*, That nothing herein contained, shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting, with their owner's or overseer's leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, so as such meeting be not in the night time, nor on a *Sunday*, nor to prohibit their meeting on any other lawful occasion, by license in writing from their owner or overseer, nor their going to church and attending divine service on the Lord's day, or any other day of public worship.

Proviso.

XIV. IF any white person, free negro, mulatto, or *Indian*, shall at any time be found in company with slaves at any unlawful meeting, or shall harbour or entertain any slave without the consent of his or her owner, such person being thereof convicted before any justice of the peace, shall forfeit and pay three dollars for every such offence to the informer, recoverable with costs before such justice; or on failure of present payment, shall receive on his or her bare back twenty lashes, well laid on, by order of the justice before whom such conviction shall be.

Punishment of persons present at unlawful meetings of slaves, or harbouring others slaves.

XV. AND every justice of peace upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or any other justice of his County or Corporation, to be dealt with as this Act directs; and every justice failing herein, shall forfeit and pay eight dollars for every such failure; and every sheriff, or other officer, who shall fail upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some justice of peace to receive due punishment, shall be liable to the like penalty of eight dollars; both which penalties shall be to the informer, and recoverable with costs by action of debt in any County or Corporation Court; and every under sheriff, serjeant, or constable, who upon knowledge or information of such meeting, shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay four dollars for every such failure to the informer, recoverable with costs, before any justice of the County or Corporation wherein such failure shall be.

Duty of justices, sheriffs, and other officers in suppressing unlawful meetings.

XVI. NO person whatsoever shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master, owner, or overseer of such slave. And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold, or received, to be recovered with costs, by action upon the case in any court of record within this commonwealth, and shall also forfeit and pay the further sum of twenty dollars to any person who will sue for the same; to be recovered with costs, by summons and petition in the same manner as other debts not exceeding twenty dollars, nor under five dollars, in any court of record, or receive on his or

Penalty for dealing with a slave without his master's leave.

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her bare back thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such summons and petition.

Punishment of a negro or mulatto lifting his hand against a white person.

XVII. IF any negro or mulatto, bond or free, shall at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she so offending, shall, for every such offence, proved by the oath of the party before a justice of the peace of the County or Corporation, where such offence shall be committed, receive such punishment as the justice shall think proper, not exceeding thirty lashes, on his or her bare back, well laid on, except in those cases when it shall appear to such justice, that such negro or mulatto was wantonly assaulted, and lifted his or her hand in his or her defence.

In what cases the courts may direct slaves to be castrated.

XVIII. IT shall not be lawful for any County or Corporation Court to order and direct castration of any slave, except such slave shall be convicted of an attempt to ravish a white woman, in which case they may inflict such punishment.

Owner not barred of his remedy where his slave is killed, or dies thro' negligence of the surgeon undertaking to dismember or cure him. Process against out-lying slaves.

XIX. *PROVIDED always*, That nothing herein before contained shall be construed to bar the action of any person whose slave or slaves shall be killed by any other person or persons whatsoever, or shall die through the negligence of any surgeon or other person undertaking the dismembering or cure of any slave so punished by order of Court; but every owner shall and may have the same remedy for the death and loss of his or her slave or slaves, as he or she might have had if this Act had never been made.

XX. AND whereas many times slaves run-away and lie out hid and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this commonwealth; *Be it therefore enacted*, that in all such cases, upon intelligence given of two or more slaves lying out as aforesaid, any two justices of the peace of the County wherein the slaves are supposed to lurk or do mischief, shall be, and are empowered and required by warrant, reciting their names and owners names if known, to direct the sheriff of the said County to take such power with him, as he shall think fit and necessary for the effectual apprehending such out-lying slave or slaves, and go in search of them, and upon their being apprehended to commit them to the jail of his County for further trial.

Conspiracy of slaves to rebel or murder, felony without clergy.

XXI. IF any negro or other slave shall at any time consult, advise, or conspire to rebel, or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting, or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof, in manner hereinafter directed, shall suffer death, and be utterly excluded all benefit of clergy.

Or to prepare or administer medicine.

XXII. IF any negro or other slave shall prepare, exhibit, or administer any medicine whatsoever, he or she so offending, shall be judged guilty of felony, and suffer death without benefit of clergy.

Provisos.

XXIII. *PROVIDED always*, That if it shall appear to the Court before whom such slave shall be tried, that the medicine was not prepared, exhibited, or administered with an ill intent, nor attended with any bad consequences, such slave shall be acquitted.

XXIV. *AND provided also*, That nothing herein contained shall be construed to extend to any slave or slaves administering medicines by his or her master's or mistress's order in his or her family, or the family of another, with the mutual consent of the owner of such slave, and the master or mistress of such family.

Penalty for suffering a slave to go at large and trade as a freeman.

XXV. IF any master or owner of a slave, shall license such slave to go at large, and trade as a freeman, the master or owner shall forfeit and pay the sum of thirty dollars for the use of the poor of the district where such slave shall be found going at large and trading as aforesaid, to be recovered by the Overseers of the poor, by action of debt, in any Court of record within this commonwealth; and if after conviction such slave shall be found so going at large and trading, the master or owner shall again be liable to the like penalty, to be recovered as aforesaid, and so as often after conviction, as such slave shall be found so going at large and trading.

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XXVI. IF any person shall permit or suffer his or her slave to go at large, or hire him or herself out, it shall be lawful for any person to apprehend and carry every such slave before a justice of peace in the County or Corporation where apprehended, and if it shall appear to the justice that such slave comes within the purview of this Act, he shall order him or her to the jail of the County or Corporation, there to be safely kept until the next Court, when, if it shall be made appear to the Court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out, contrary to the meaning of this Act; it shall be lawful for the Court, and they are hereby required, to order the sheriff or other officer of the County or Corporation, to sell and dispose of every such slave for ready money, at the next Court held for the said County or Corporation, notice being given by the sheriff or other officer at the Courthouse door, at least twenty days before the said sale.

Slaves suffered to go at large and hire themselves out, may be apprehended and sold.

XXVII. TWENTY-FIVE *per centum* upon the amount of the sale of every slave so going at large or hiring out himself or herself, shall be applied by the Court ordering such sale towards lessening the County levy, and the residue shall be paid by the sheriff or other officer, after deducting five *per centum* for his trouble, and the jailor's fees, to the owner of such slave.

Proceeds of the sales, how to be disposed of.

XXVIII. IF any person shall hereafter be guilty of stealing or selling any free person for a slave knowing the said persons so sold to be free, and thereof shall be lawfully convicted, the person so convicted shall suffer death without benefit of clergy.

Felony without benefit of clergy to steal or sell free persons as slaves.

XXIX. IF any person or persons shall steal any negro or mulatto whatsoever out of, or from the possession of the owner or overseer of such slave, the person or persons so offending, shall be, and are hereby declared to be felons, and shall suffer death without benefit of clergy.

Or to steal any slave.

XXX. THE justices of every County or Corporation, shall be justices of *oyer and terminer* for trying slaves charged with treason or felony, which trials shall be by five at least without juries upon legal evidence, at such times as the sheriffs or other officers shall appoint, not being less than five, nor more than ten days after the offenders shall have been committed to jail. No slave shall be condemned in any such case, unless all of the justices sitting upon his or her trial shall agree in opinion that the prisoner is guilty, after allowing him or her counsel in his or her defence, whose fee, amounting to five dollars, shall be paid by the owner of the slave: *Provided always*, that when judgment of death shall be passed upon any such offender, there shall be thirty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion.

How slaves shall be tried for criminal offences.

To be allowed counsel.

Not to be executed until the expiration of thirty days after conviction, except in certain cases.

XXXI. THE value of a slave condemned to die, who shall suffer accordingly, or before execution of the sentence perish, to be estimated by the justices triers, shall be paid by the public to the owner. One being detained in slavery, and having commenced an action to assert his freedom, shall be prosecuted and tried for any such crime in the same manner as a free man ought to be prosecuted and tried.

The value of slaves condemned and executed, or dying before execution, to be paid by the public.

XXXII. NO person having interest in a slave shall sit upon the trial of such slave.

None interested to sit on trial of slaves.

XXXIII. AND for a declaration of what shall be deemed to be legal evidence in such cases, *It is further enacted*, that the Court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes or mulattoes, bond or free, with pregnant circumstances, as to them shall seem convincing.

What shall be legal evidence against them.

XXXIV. WHEN any negro or mulatto whatsoever shall be convicted of any offence, within the benefit of clergy, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the jailor in open Court, and suffer such other corporal punishment as the Court shall think fit to inflict, except where he or she once had the benefit of this act, and in those cases such negro or mulatto shall suffer death without benefit of clergy.

How they shall be punished for offences within the benefit of clergy.

XXXV. WHERE any negro or mulatto shall be found upon due proof made, to any County or Corporation Court of this commonwealth, to have given a false testimony, every

Punishment of negroes or

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mulattoes for
giving false
evidence.

such offender shall without further trial, be ordered by the said Court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post, or such other punishment as the Court shall think proper, not extending to life or limb; and at every such trial of slaves for capital offences, the person first named in the commission then sitting, shall before the examination of any negro or mulatto, not being a christian, charge such evidence to declare the truth; which charge shall be in the words following, to wit:

A charge to
such witnesses.

YOU are brought hither as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and that if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory and cut off, and receive thirty-nine lashes on your bare back, well laid on, at the common whipping-post.

How slaves
may be eman-
cipated.

XXXVI. IT shall be lawful for any person by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the County or Corporation Court by two witnesses, or acknowledged by the party in the Court of the County where he or she resides, to emancipate and set free his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this Act.

But may be ta-
ken by execu-
tion, to satisfy
certain debts
of their former
masters.

XXXVII. *PROVIDED nevertheless*, That all slaves so emancipated, shall be liable to be taken by execution, to satisfy any debt contracted by the person emancipating them before such emancipation is made.

Those of cer-
tain descrip-
tions to be sup-
ported by their
former mas-
ters.

XXXVIII. *PROVIDED always*, That all slaves so set free, not being in the judgment of the Court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal so to do, the Court of the County or Corporation where such neglect or refusal may be, is hereby empowered and required upon application to them made, to order the sheriff or other officer to distrain and sell so much of the person's estate, as shall be sufficient for that purpose.

Copy of the
instrument of
emancipation
to be delivered
to the slave.

XXXIX. *PROVIDED also*, That every person by written instrument in his lifetime, or, if by last will and testament, the executors of every person freeing any slave, shall cause to be delivered to him or her a copy of the instrument of emancipation, attested by the clerk of the Court of the County or Corporation, who shall be paid therefor by the person emancipating, eighty-three cents, to be collected in the manner of other clerk's fees. Every person neglecting or refusing to deliver to any slave by him or her set free such copy, shall forfeit and pay thirty dollars; to be recovered with costs in any court of record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered.

Under a pe-
nalty.

Person eman-
cipated travel-
ling out of his
county with-
out such copy
may be com-
mitted.

XL. IT shall be lawful for any justice of the peace to commit to the jail of his County or Corporation, any emancipated slave travelling out of the County of his or her residence, without a copy of the instrument of his or her emancipation, there to remain till such copy is produced and the jailor's fees paid.

Failing to pay
taxes & levies
yearly, may be
hired out.

XLI. IN case any slave so liberated, shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the Court of the County or Corporation shall order the sheriff or serjeant to hire out him, or her, for so long time as will raise the said taxes and levies, provided sufficient distress cannot be made upon his or her estate.

Reservation of
the rights of
others.

XLII. SAVING nevertheless to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they or any of them could or might claim if this Act had never been made.

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XLIII. ALL negro and mulatto slaves in all courts of judicature within this commonwealth, shall be held, taken and adjudged to be personal estate.

Slaves to be deemed personal estate.

XLIV. IF any widow possessed of a slave or slaves, as of the dower of her husband, shall remove or voluntarily permit to be removed out of this commonwealth, such slave or slaves, or any of their increase, without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, custom or usage to the contrary notwithstanding.

Penalty on widow removing dower slaves out of the state.

XLV. IF any widow possessed as aforesaid, shall be married to a husband, who shall remove, or voluntarily permit to be removed out of this commonwealth, any such slave or slaves, or any of their increase, without the consent of him or her in reversion, in such case it shall be lawful for him or her in reversion to enter into, possess, and enjoy all the estate which such husband holdeth in right of his wife's dower, for and during the life of the said husband.

On the husband of any person so endowed.

XLVI. WHERE one or more slaves shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property, it shall be lawful for the High Court of Chancery, or the Court of the County or Corporation, by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves, and the distribution of the money arising therefrom, according to the rights of each claimant. *Provided always*, that each claimant shall be first duly summoned to shew cause if any he can against such sale.

Slaves of an intestate may be sold where an equal division in kind cannot be made.

XLVII. NO gift or gifts of any slave or slaves, shall be good or sufficient to pass any estate in such slave or slaves, to any person or persons whatsoever, unless the same be made by will, duly proved and recorded, or by deed, in writing, to be proved by two witnesses at the least, or acknowledged by the donor and recorded in the District Court, or the Court of the County or Corporation where one of the parties lives, within eight months after the date of such deed or writing.

Gifts of slaves not valid except by will or deed; if the donor remains in possession.

XLVIII. THIS act shall be construed to extend only to gifts of slaves, whereof the donors have, notwithstanding such gifts, remained in the possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee.

XLIX. *PROVIDED always*, That nothing in this act contained, shall be construed to alter any adjudication heretofore made, nor to affect the interest of any *bona fide* purchaser, for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift, nor in any manner to restrain or affect the operation of the act of limitation.

Proviso respecting former adjudications.

L. NO master of any ship, or any other vessel, shall transport or carry any servant whatsoever, or any negro, mulatto, or other slave out of this commonwealth, without the consent or permission of the person or persons to whom such servant or slave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars for every servant, and three hundred dollars for every slave transported or carried hence, contrary to this act; one moiety to the commonwealth, and the other moiety to the owner of such servant or slave, to be recovered with costs, by action of debt or information, in any court of record of this commonwealth; and moreover, such master shall be liable to the suit of the party grieved, at the common law, for his or her damages.

Penalty on a master of a vessel, carrying a servant or slave out of the state, without the owners consent.

LI. IN any action which shall be brought against the master of a ship or vessel under this act, the court wherein the same shall be depending, may rule the defendant to give special bail, if they see cause, and shall not allow him to plead in bar, or give in evidence any act or statute of limitation; any former or other law to the contrary, notwithstanding.

In suits therefor the defendants may be ruled to give bail.

LII. ALL and every act and acts, clauses and parts of acts, within the purview of this act, shall be, and are hereby repealed: *Provided nevertheless*, That all rights, remedies,

Repealing clause. Proviso.

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finer, penalties, and forfeitures incurred or accrued under any former act, shall remain in the same condition as if this act had not been made.

Commence-
ment of this
act.

LIII. THIS Act shall commence and be in force, from and after the passing thereof.

C H A P. CIV.

An Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy.

[Passed the 22d of December, 1792.]

No persons
shall be mar-
ried without li-
cense or pub-
lication of
banns.

Penalty on mi-
nisters marry-
ing without.

By whom the
banns may be
published
where there is
no minister.

Penalty for
granting a
false certificate
of the banns
being publish-
ed.

How they may
be published
on the western
waters.

Every ordin-
ed minister to
celebrate the
rites of matri-
mony accord-
ing to the
forms of his
church.

How they are
to obtain testi-
monials of
their authority
to solemnize
marriages.

I. **B**E it enacted, That no minister shall celebrate the rites of matrimony between any persons, or join them together as man and wife, without lawful license, or thrice publication of banns according to the rubrick in the book of common prayer, if the parties so to be married shall be members of the Protestant Episcopal Church; and if the persons to be married dwell in several parishes, the banns shall be published in each parish, and the minister of the one shall not solemnize the matrimony, until he hath a certificate from the minister of the other parish, that the banns have been thrice published and no objection made against the parties joining together. And if any minister shall celebrate the rites of matrimony, or join any persons in marriage, without such license or publication of banns as by this act required, he shall, for every such offence, be imprisoned one whole year without bail or mainprize, and shall also forfeit and pay fifteen hundred dollars. And if any minister shall go out of this government, and there join in marriage any person or persons belonging to this commonwealth, without such license or publication of banns, he shall be liable to the same penalties and forfeitures, as if such marriage had been by him celebrated within this commonwealth: *Provided always*, that where any parish or parishes have not a minister, the clerk or reader may publish banns, and if no objection be made, grant certificate thereof; which together with a certificate under the hand and seal of a justice of the peace for the said county, living in the parish where such publication shall be, certifying that the *feme* so to be joined, hath been an inhabitant of the said parish one month next before the date of such certificate, shall be sufficient for the minister to solemnize the rites of matrimony; and if any minister, clerk, or reader, shall grant or issue a false certificate, he shall suffer the imprisonment without bail, and pay the forfeiture aforesaid; and shall also be liable to be prosecuted and punished as in case of forgery. And that all or any of the offences aforesaid, may be prosecuted, tried and determined in any court of record within this commonwealth; which courts are hereby declared to have cognizance thereof, and may hear and determine the same, and award execution thereupon, according to the course of the common law. *And provided also*, that all publications of the banns of matrimony on the western waters of this commonwealth, shall be made on three several days, and not in less time than two weeks, in open and public assemblies, convened for religious worship, or other lawful purposes, within the bounds of the respective congregations or militia companies, in which the parties to be married severally reside; and for a certificate of such publication, the person making the same, may demand and receive fifty cents.

II. IT shall and may be lawful for any ordained minister of the gospel in regular communion with any society of Christians, and every such minister is hereby authorized to celebrate the rites of matrimony according to the forms and customs of the church to which he belongs, between any persons within this state, between whom publication of banns shall have been duly made, or who shall produce a marriage license pursuant to the directions of this act, directed to any authorized minister of the gospel.

III. *PROVIDED always*, That every such minister shall first produce credentials of his ordination, and also of his being in regular communion with the Christian society of which he is reputed a member, to the court of the county or corporation in which he resides; shall take the oath of allegiance to this commonwealth, and enter into bond, with two or more sufficient securities, in the sum of fifteen hundred dollars, payable to the Governor for the time being, and his successors, conditioned for the true and legal perform-

1792:

ance of this trust: Whereupon such court is hereby required to grant such minister a testimonial in the following form, given under the hand and seal of the then sitting judge or senior magistrate, and attested by the clerk, to wit:

Form of the testimonial.

THIS shall certify to all whom it may concern, that at a court held for
on the _____ day of _____, in the year one thousand _____ hundred
and _____ A. B. produced credentials of his ordination, and also of his being in regular communion with the _____ church; took the oath of allegiance to this commonwealth, and entered into bond as required by "An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy;" and that he is thereby authorized to celebrate the rites of matrimony agreeable to the forms and customs of the said church, between any persons to him regularly applying therefor within this state. Given under my hand and seal, the day and year above written.

Every testimonial so obtained, shall be taken as good and sufficient authority for celebrating the rites of matrimony according to law. *Provided nevertheless*, that no testimonial shall be granted to any minister who is itinerant, or who is not stated and settled within some parish, or with some Christian congregation within this commonwealth.

Not to be granted to itinerant ministers.

IV. *PROVIDED also*, If any authorized minister shall himself at any time decline, or be ejected from his office by the church to which he belongs; or if any of his securities shall give him notice in writing, that they desire to be released from their surety ship, in either of these cases, if he refuses or neglects to give up his testimonials to the court from which they were obtained, any one of his securities, without instituting a suit, may proceed against him as if they were special bail in an action of debt, until he is thereunto compelled, or gives them sufficient caution for their indemnification.

When and how the securities of an ordained minister may compel him to surrender his testimonials, or give them security.

V. IT shall and may be lawful for the people called Quakers and Menonists, or any other Christian society, that have adopted similar regulations in their church, to solemnize their own marriages, or to be joined together as husband and wife, by the mutual consent of the parties openly published and declared before their congregations when convened for religious worship, in the manner, and agreeable to the regulations that have heretofore been practised in the respective societies.

Quakers and Menonists, &c may solemnize marriages in the manner heretofore practised.

VI. AND whereas some magistrates and others, not authorized by law, have been induced by the want of ministers to solemnize marriages,

VII. *Be it enacted*, That all such marriages openly solemnized, and made at any time before the first day of July, one thousand seven hundred and eighty-five, and which shall have been made, consummated by the parties cohabiting together as husband and wife, shall be taken, and they are hereby declared good and valid in law; and all and every person or persons solemnizing such marriages, are and shall be exonerated from all pains and penalties, as if they had been authorized ministers. *Provided always*, and it is the true intent and meaning of this act, that nothing herein contained, shall extend or be construed to extend to confirm any marriage heretofore celebrated, or which may hereafter be celebrated between parties within the degrees of consanguinity or affinity, forbidden by law, or where either of the parties were bound by a prior marriage, to a husband or wife, then alive.

Certain marriages solemnized by magistrates, confirmed.

VIII. INSTEAD of the fees heretofore prescribed by law, any authorized minister may demand and receive in current money for the celebration of every marriage, the sum of one dollar.

Fee for a marriage.

IX. IF any minister shall refuse to celebrate the rites of matrimony for the fees herein before allowed him, or shall exact other or greater fees; or if he or any parish reader or clerk, shall refuse to publish the banns, or to certify the same when required for the fee aforesaid, or exact any other or greater fee, every person so offending, shall forfeit and pay fifty dollars to the party grieved for every such offence, recoverable in any court within this commonwealth, by action of debt or information.

Penalties, on ministers, clerks, and readers, for refusing to marry, publish the banns, or exacting more than legal fees.

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Marriages to
be registered.

X. AND that a register of all marriages may be preserved; *Be it enacted*, that a certificate of every marriage hereafter solemnized, signed by the minister celebrating the same, or in the case of Quakers, Menonists, and other societies that solemnize their marriages by the consent of the parties taken in open congregation as aforesaid, by the clerk of the meeting, shall be by such minister or clerk, (as the case may be) transmitted to the clerk of the county or corporation, wherein the marriage is solemnized, within twelve months thereafter, to be entered on record by the clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages. The clerk shall be entitled to demand and receive of the party so married, the sum of twenty-five cents for recording such certificate, and giving the bearer a receipt therefor.

XI. EVERY minister or clerk of a congregation (as the case may be) failing to transmit such certificate to the clerk of the court in due time, shall forfeit and pay the sum of sixty dollars; and if the clerk of any county shall fail to record such certificate, he shall forfeit and pay the like sum of sixty dollars, to be recovered with costs of suit, by the informer, in any court of record.

Manner of
issuing marriage
licenses.

Where either
of the parties
is an infant.

Penalty for
issuing or signing
a license
contrary to
this act.

XII. EVERY license for marriage shall be issued by the clerk of the court, of that county or corporation wherein the *feme* usually resides, in manner following, that is to say; the clerk shall take bond, with good security, for the sum of one hundred and fifty dollars, payable to the Governor of the commonwealth for the time being, and his successors, for the use of the commonwealth, with condition that there is no lawful cause to obstruct the marriage for which the license shall be desired, and every clerk failing herein, shall forfeit and pay one hundred and fifty dollars; and if either of the parties intending to marry shall be under the age of twenty-one years, and not theretofore married, the consent of the father or guardian of every such infant, shall be personally given before the said clerk, or certified under the hand and seal of such father or guardian, attested by two witnesses, one of which witnesses shall personally appear before the said clerk, and make oath, or affirmation (as the case may require) that he saw the father or guardian, whose name is annexed to such certificate, subscribe or acknowledge the same; and thereupon the clerk shall issue a license, and certify that bond is given, and every clerk is hereby authorized to administer such oath, or affirmation, as aforesaid; and if the parties or either of them be under the age aforesaid, he shall also certify the consent of the father or guardian, and the manner thereof, to any justice sworn in the commission of the peace, who is hereby authorized and required to sign and direct the same: and every license so obtained and signed, and no other whatsoever, is hereby declared to be a lawful license; and if any county or corporation court clerk shall in any other manner, issue or certify any marriage license, or if any person whatsoever shall presume to sign or direct such license, in other manner, or without such certificate, as is by this act required, every person so offending, shall be imprisoned one whole year without bail or mainprize, and shall forfeit and pay fifteen hundred dollars, recoverable in any court of record within this commonwealth.

Marriages
within certain
degrees to be
annulled, and
the parties se-
parated.

Duty of the
Attorney-Ge-
neral, when in-
formed of any
such marriage.

XIII. IF any person whatsoever since the eighth day of *December*, one thousand seven hundred and eighty-eight, hath, or at any time hereafter, shall marry within the following degrees, that is to say: If the son hath married, or shall marry his mother or step-mother, the brother his sister, the father his daughter, or his son's daughter, or his daughter's daughter, or if the son hath married, or shall marry the daughter of his father, begotten and born of his step-mother, or the son hath married or shall marry his aunt, being his father's or his mother's sister, or hath married or shall marry his uncle's wife, or the father hath married, or shall marry his son's wife, or the brother hath married, or shall marry his brother's wife, or any man hath married, or shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the High Court of Chancery; and the Attorney-General, upon any information made to him of any such marriage, shall, and may exhibit a bill to the Judge of the said court, against any persons so unlawfully married, who shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the said court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine; and if the court see fit, may cause the parties to give bond with sufficient security, that they will not cohabit hereafter, in such penalty as the said court shall judge reasonable: *Provided always*, that no punishment by

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fine shall be imposed on any person until the same shall have been assessed by a jury, duly impannelled at the bar of the said court. *And provided also*, that nothing herein contained, shall be construed to render illegitimate, the issue of any marriage so annulled.

XIV. IF any person or persons within this commonwealth, being married, or who shall hereafter marry, do at any time after the commencement of this act, marry any person or persons, the former husband or wife being alive, every such offence shall be felony, and the person or persons so offending, shall suffer death as in cases of felony; and the party and parties so offending, shall receive such and like proceeding, trial, and execution within this commonwealth, as if the offence had been committed in the county where such person shall be taken or apprehended. *Provided*, that nothing herein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of America or elsewhere, the one of them not knowing the other to be living within that time. *Provided also*, that nothing herein contained, shall extend to any person or persons, that are or shall be at the time of such marriage divorced by lawful authority, or to any person or persons where the former marriage hath been, or hereafter shall be by lawful authority, declared to be void and of no effect, nor to any person or persons for or by reason of any marriage had or made, or hereafter to be had or made within age of consent. *And provided also*, that no attainder for the offence made felony by this act, shall make or work any corruption of blood, or forfeiture of estate whatsoever.

Felony to marry a second time, the former husband or wife being alive.

Provisos.

XV. IF any *feme sole* of the age of twelve, and under fourteen years, shall marry any person contrary to the will or consent of her father or guardian, and without legal publication of the banns, then the next of kin to such *feme*, to whom the inheritance should descend or come, shall have right to enter upon and take possession of all lands, tenements, hereditaments, and other real estate whatsoever, which such *feme*, at the time of her marriage had in possession, remainder, or reversion, and shall have, hold, occupy and enjoy the same to him or her, and the representatives of his or her stock, with all the immunities and privileges thereto belonging, during the time of such coverture; but after determination thereof, all such estate, and the possession, reversions and remainders, rights, immunities, and privileges, shall immediately revert, be, and remain in the said *feme*, and her heirs, other than her husband; and she and they, and every of them, may re-enter and take possession thereof, as if this act had never been made.

In what case a *feme* of 12 and under 14 years shall forfeit her inheritance by marrying.

XVI. IF any minister, clerk, or reader, shall wittingly publish the banns of marriage between any servants by act of Assembly, indenture or custom, or between any free person and such servant, or if any minister shall knowingly marry any such without certificate from the master or owner of every such servant, that it is with his or her consent, every minister, clerk, or reader, so offending, shall forfeit and pay two hundred and fifty dollars for every such offence, recoverable in any court of record of this commonwealth; and every such servant, so married without consent of his or her master or owner, shall serve him or her, and his or her assigns, one whole year after all other time of service is expired, or pay him or her twenty dollars; and every free person so marrying such servant, shall pay the master or owner, twenty dollars for his or her own use, recoverable in any county or corporation court, with costs, or shall well and faithfully serve such master or owner one whole year in actual service.

Penalty for publishing banns, or marrying any servant without the master's consent.

On servants marrying, & free persons marrying them.

XVII. AND for preventing white men and women intermarrying with negroes or mulattoes, *Be it enacted*, That whatsoever white man or woman, being free, shall intermarry with a negro or mulatto man or woman, bond or free, shall by judgment of the County Court, be committed to prison, and there remain six months, without bail or mainprize; and shall forfeit and pay thirty dollars, to the use of the parish.

Punishment of white persons marrying negroes or mulattoes.

XVIII. NO minister or person whatsoever within this commonwealth, shall hereafter presume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying for every such marriage, two hundred and fifty dollars, one half to the use of the commonwealth, and the other half to the use of the informer; to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this commonwealth, wherein no essoin, protection or wager of law, shall be allowed.

Penalty on minister marrying a white person to a negro or mulatto.

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Felony to take
any woman
unlawfully
against her
will.

Proviso.

Punishment
for unlawfully
taking a *female*
under
16 years from
her father,
mother, or
others having
the care of
her.

For deflow-
ering or mar-
rying any
such *female* so
unlawfully
taken.

Appropriation
of fines.

Repealing
clause.
Proviso.

Commence-
ment of this
act.

XIX. AND whereas women, as well maidens as widows, and wives having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances, have been often times taken by misdoers contrary to their will, and afterwards married to such misdoers, or to others by their consent, or defiled: *Be it further enacted*, That whatsoever person or persons shall take any woman so against her will unlawfully, that is to say, maid, widow, or wife; such taking, and the procuring and abetting to the same, and also receiving wittingly the same woman so taken, against her will, shall be felony, and that such misdoers, takers, and procurers to the same, and receivers, knowing the said offence in form aforesaid, shall be reputed and judged as principal felons. *Provided always*, That this act shall not extend to any person taking any woman, only claiming her as his ward or bond-woman.

XX. IF any person above the age of fourteen years, shall unlawfully take and convey away, or shall cause to be unlawfully taken or conveyed away, any maiden or woman-child unmarried, being within the age of sixteen years, out of, or from the possession, and against the will of the father or mother of such maiden or woman-child, or out of, or from the possession, and against the will of such person or persons as then shall happen to have by any lawful ways or means, the order, keeping, education or governance of any such maiden or woman-child, and being thereof duly convicted, shall suffer imprisonment, without bail or mainprize, for any term not exceeding two years, as shall be adjudged against him.

XXI. IF any person or persons shall so take away, or cause to be taken away, as is aforesaid, and deflower any such maid or woman-child, as is aforesaid, or shall, against the will or knowledge of the father of any such maid or woman-child, if the father be in life, or against the will or knowledge of the mother of any such maid or woman-child, having the custody and governance of such child, if the father be dead, by secret letters, messages or otherwise, contract matrimony with any such maiden or woman-child, every person so offending, and being thereof lawfully convicted, shall suffer imprisonment of his body, by the space of five years, without bail or mainprize.

XXII. ALL the fines which shall or may be imposed by virtue of so much of this act, as relates to incestuous marriages, shall be to the use of the poor of the county wherein the offence or offences shall be committed; and one moiety of all the forfeitures arising under this act, and not otherwise appropriated, shall be to the use of the commonwealth, and the other moiety to the party or parties who shall sue for the same.

XXIII. ALL and every other act and acts, and clause or clauses of acts, for so much thereof as relates to any thing within the purview of this act (except as herein after provided) are hereby repealed, and made void. *Provided always*, that nothing in this act contained, shall be construed to repeal an act, intituled, "*An act concerning incestuous marriages*," or one other act, intituled, "*An act for the punishment of the crime of bigamy*," or one other act, intituled, "*An act against forcible and stolen marriages*," for so much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this act; but the said recited acts, as to all such offences shall be, and remain in full force in the same manner as if this act had never been made.

XXIV. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CV.

An Act to reduce into one, the several Acts concerning Mills, Mill-Dams, and other Obstructions of Water-Courses.

[Passed the 21st of December, 1792.]

Method of
proceeding
where the per-
son desirous of
building a mill
owns the land

I. **B**E it enacted by the General Assembly, That when any person owning lands on one side of any water-course, the bed whereof belongeth to himself, or to the commonwealth, and desiring to build a water grist-mill on such lands, and to erect a dam across the same for working the said mill, shall not himself have the fee simple property in the

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only on one
side of the
stream.

lands on the opposite side thereof, against which he would abut his dam, he shall make application for a writ of *ad quod damnum* to the court of the county wherein the lands proposed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the county, and if not, then to his agent therein, if any he hath, which court shall thereupon order their clerk to issue such writ, to be directed to the sheriff, commanding him to summon and impanel twelve fit persons, to meet upon the lands so proposed for the abutment, on a certain day to be named by the court, and inserted in the said writ, of which notice shall be given by the sheriff to the proprietor or his agent, as before directed, if neither of them were present in court at the time of the order made.

Notice to be
given to the
proprietor of
the opposite
land.Charge to the
Jury.

II. THE freeholders taken, shall be charged by the said sheriff impartially and to the best of their skill and judgment, to view the said lands so proposed for an abutment, and to locate and circumscribe, by certain metes and bounds, one acre thereof, having due regard therein to the interests of both parties, and to appraise the same, according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and say to what damage it will be of to the several proprietors, and whether the mansion-house of any such proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree fish of passage and ordinary navigation will be obstructed; whether by any, and by what means such obstruction may be prevented; and whether, in their opinion the health of the neighbours will be annoyed by the stagnation of the waters.

III. THE inquest so made and sealed by the said jurors, together with the writ, shall be returned by the said sheriff to the succeeding court, who shall thereupon order summonses to be issued to the several persons, proprietors, or tenants of the lands so located or found liable to damage, if they be to be found within the county, and if not, then to their agents therein, if any they have, to shew cause why the party applying should not have leave to build the said mill and dam.

On return of
the inquest the
persons con-
cerned to be
summoned.

IV. IN like manner, if the person proposing to build such mill and dam, shall have the fee-simple property in the lands on both sides the stream, yet application shall be made to the court of the County wherein the mill-house will stand, for a like writ; which writ shall be directed, executed and returned, as prescribed in the former case.

Where the
lands on both
sides belong to
the person in-
tending to
build a mill.

V. IF on such inquest, or on other evidence, it shall appear to the court that the mansion-house of any proprietor, or the offices, curtilage, or garden thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they shall not give leave to build the said mill and dam; but if none of these injuries are like to ensue, they shall then proceed to consider whether, all circumstances weighed, it be reasonable that such leave should be given, and shall give, or not give it accordingly; and if given, they shall lay the party applying, under such conditions for preventing the obstruction, if any there will be, of fish of passage, and ordinary navigation, as to them shall seem right.

In what cases
the court shall
not give leave
to build mills.Where they
may at their
discretion.

VI. IF the party applying, obtain leave to build the said mill and dam, he shall, upon paying respectively to the several parties entitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become seized in fee-simple of the said acre of land. But if he shall not within one year thereafter, begin to build the said mill, and finish the same within three years, and afterwards continue it in good repair for public use, or in case the said mill or dam be destroyed, if he shall not begin to rebuild it within one year after such destruction, and finish it within three years, the said acre of land shall revert to the former proprietor and his heirs; unless at the time of such destruction of the said mill or dam, the owner thereof be an infant, *feme covert*, imprisoned, or of unsound mind; in which case, he shall be allowed the same terms for beginning and completing the said mill or dam, after such disability removed.

Party obtain-
ing leave to
pay the value
of the land and
the damages
to the persons
intitled there-
to.
To begin and
finish his mill
within certain
periods.

VII. THE inquest of the said Jurors, nevertheless, or opinion of the court, shall not bar any prosecution or action which any person would have had in law had this act never been made, other than for such injuries as were actually foreseen and estimated by the said jury.

Actions, for
damages not
estimated by
the jury, not
barred by the
inquest.

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How owners
of mills may
obtain leave to
raise their
dams.

VIII. WHEN any owner of a mill heretofore or hereafter established by law, may think it necessary to raise his dam, the Court of the County wherein the pond lieth, upon application to them, shall grant a second writ of *ad quod damnum*, to value the additional damage done thereby, under the same rules and regulations as are herein before directed.

Duty of mil-
lers.
Toll.

IX. ALL millers shall well and sufficiently grind the grain brought to their mills, and in due turn as the same shall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part shall be ground into meal; and one sixteenth part, and no more, of that, the remainder of which shall be ground into hominy or malt. And every miller or occupier of a mill, who shall not well and sufficiently grind as aforesaid, or not in due time as the same shall be brought, or take or exact more toll, shall, for every such offence, forfeit and pay two dollars and fifty cents to the party injured, recoverable with costs, before a justice of peace of the county where such offence shall be committed. And where the miller shall be an indented servant, or slave, he shall, upon the first conviction for such offence, receive thirty lashes; and upon a second conviction, fifty lashes, on his bare back, well laid on, in lieu of the forfeiture aforesaid; but upon a third conviction, his master or owner shall be liable to pay two dollars and fifty cents, and so for every such offence by such servant or slave afterwards committed: *Provided*, That every owner or occupier of a mill, may grind his or her own grain at any time.

Penalty for
not grinding
well and in due
time or for
taking more
than legal toll.

Millers to
keep sealed
measures and
toll dishes.

X. EVERY owner or occupier of a mill, shall keep therein sealed measures of half bushel and peck, and a toll dish sealed, and shall measure all grain by strike measure, under the penalty of paying two dollars and fifty cents for every such failure; recoverable with costs, before a justice of the peace for the county wherein such mill shall be, to the use of the informer. And if the miller be a slave or servant, his master or owner shall be liable to the penalty; or if the owner of such mill shall not live within the same county, nor have any known attorney therein, the appearance of such servant or slave before the justice to whom such complaint shall be made, shall be sufficient for him to proceed against the master or owner, but if he, or she, his, or her known attorney lives in the county, his, or her appearance shall be required.

When they
shall not keep
hogs at large
at their mills.

XI. NO owner or tenant of any mill, not having fifty acres of land adjoining thereto, shall keep any swine uninclosed at such mill, on pain that the same shall be liable to be taken and converted to his own use by the proprietor or tenant of any adjacent lands, or by any other person authorized by them.

Their duty
where public
roads pass
over their
dams.

XII. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top through the whole length thereof, and shall keep and maintain a bridge of the like breadth with strong rails on each side thereof over the pier head, flood gates, or any waste, cut through or round the dam, under the penalty of one dollar and sixty-seven cents for every twenty-four hours failure, but where a mill dam shall be carried away, or destroyed by tempest, or accident, the owner or occupier thereof, shall not be liable to the said penalties from thenceforth until one month after such mill shall have been so repaired as to have ground one bushel of grain.

Regulation
respecting
locks & slopes
in the dams of
mills already
built.

XIII. WHERE the owner of any mill now standing, or licensed to be built, hath by any act of Assembly been compelled to make locks, slopes, or opening for navigation or the passage for fish, the same shall be continued under the conditions imposed by such act, and shall be deemed sufficient in law, so long as the dam now standing or building shall remain: But it shall not be lawful to rebuild such dam in future, but on enquiry by jury into the obstructions of fish and navigation, and the means of preventing the same, and the final order of the Court, to be applied for, and conducted in the manner before directed in other cases.

Navigation,
or the passage
of fish not to
be obstructed
by dams,
hedges, &c.
without leave
as in the case
of mills.

XIV. IT shall not be lawful for any person to erect or fix on any water course, any dam, hedge, weir, seine, drag, or other stoppage, whereby navigation or the passage of fish may be obstructed, save only for the purpose of working some machine or engine, useful to the public, in which cases the same proceedings shall be had, as are before directed in the case of a water grist mill, or for the purpose of a water grist mill, before provided for. And where any such are now standing, or shall hereafter be erected or fixed, the

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owner or tenant of the lands adjacent thereto (whether the same were erected or fixed by himself or another) shall cause it to be abated. And whoso offendeth herein, shall be deemed guilty of a nuisance.

XV. AND whereas many of the rivers and creeks of this commonwealth are stopped and choaked by stones, trees, stumps and rubbish therein, and by hedges, weirs, or stone stops, in or across the same, whereby the passage of boats and other vessels, and of fish, is obstructed, to the great damage of the inhabitants of this commonwealth, and the hindrance of trade and commerce; *Be it therefore enacted*, that where any river or creek shall be in one county only, the court of such county shall be, and is hereby empowered and required, to contract and agree with any person or persons they shall think fit to clear the same, as far as it shall be passable for loaded boats, if such obstructions were removed, and to levy so much money in their county levy as shall be sufficient to discharge such agreement; and where any river or creek in this commonwealth shall divide two or more counties, the courts of every such county shall join in such agreement, and levy the charge thereof in proportion to the number of tithables in each county: *Provided always*, that nothing herein contained shall be construed to oblige any county court or courts to contract for removing rocks, or such obstructions, in any river or creek, as cannot be removed without the force of gun-powder: *And provided also*, that the courts of the counties adjoining to the rivers *Moherrin, Nottoway, Roanoke and Rappabannock*, above the falls thereof, shall not be obliged by this act to contract for the clearing the said rivers or any of them.

County courts may contract for clearing rivers and creeks of certain obstructions to navigation, &c.

Not to extend to obstructions removable only by the force of gunpowder. Certain rivers excepted.

XVI. WHOSOEVER shall fell any tree or trees, or cause the same to be felled into any river or creek, or any run whereon there is or shall be erected any public bridge or bridges within this commonwealth, and shall not cut and carry away the same within the space of forty-eight hours after such felling, shall forfeit and pay two dollars and fifty cents for every tree so felled and not cut and carried away, to be recovered before a justice of the peace of the county where such offence shall be committed, and shall be to the use of the informer.

Penalty for felling trees into rivers or creeks.

XVII. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been veited, or incurred prior to the commencement of this act.

Repealing clause. *Proviso.*

XVIII. THIS act shall commence and be in force, from the passing thereof.

Commencement of this act.

C H A P. CVI.

An Act to reduce into one, the several Acts for regulating the Inoculation of the Small-Pox within this Commonwealth.

[Passed the 21st of December, 1792.]

I. **B**E it enacted by the General Assembly, That if any person or persons whatsoever, shall wilfully or designedly presume to import or bring into this commonwealth, from any country or place whatever, the small-pox, or any variolous or infectious matter of the said distemper, with a purpose to inoculate any person or persons whatever, or by any means to propagate the said distemper within this commonwealth, he or she so offending, shall forfeit and pay the sum of three thousand dollars for every offence so committed; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the county, where the offence shall be committed, for the use of the poor of the said county, to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this commonwealth.

Penalty for importing matter to inoculate for the small-pox.

II. BUT for as much as the inoculation for the small-pox may, under peculiar circumstances, be not only a prudent, but necessary means of securing those who are unavoid-

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ably exposed to the danger of taking the distemper in the natural way, and for this reason it is judged proper to tolerate it, under reasonable restrictions and regulations.

License to inoculate may be granted by the magistrates of the county or corporation.

III. *BE it therefore enacted*, That if any person shall think him or herself, his, or her family exposed to the immediate danger of catching the said distemper, such person may give notice thereof to the sheriff of any county, or to the mayor or chief magistrate of any city or corporation; and the said sheriff, mayor, or chief magistrate shall immediately, and without loss of time, summon all the acting magistrates of the said county, city, or borough, to meet at the most convenient time and place, in the said county, city, or borough, and the said magistrates, or such of them as shall be present, being assembled, shall consider whether, upon the whole circumstances of the case, inoculation may be prudent or necessary, or dangerous to the health and safety of the neighbourhood; and thereupon either grant a license for such inoculation, under such restrictions and regulations as they shall judge necessary and proper, or prohibit the same, as to them, or a majority of them, shall seem expedient; or any person having first obtained in writing (to be attested by two witnesses) the consent of a majority of the house-keepers residing within two miles, and not separated by a river, creek, or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the small-pox, either in his, or her own house, or at any other place.

Or by the house-keepers residing within a certain distance.

Under certain rules and regulations for confining the infection, and penalties for transgressing them.

IV. NO patient in the small-pox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the small-pox, or been inoculated, or go into any public road where travellers usually pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed in his or her person and cloaths, as to be perfectly free from infection, under the penalty of seven dollars for every offence, to be recovered, if committed by a married woman, from her husband; if an infant, from the parent or guardian; and if a servant, or slave, from the master or mistress.

V. EVERY physician, doctor, or other person undertaking inoculation at any house, shall cause a written advertisement to be put up at the nearest public road, or other most notorious adjacent place, giving information, that the Small-pox is at such house, and shall continue to keep the same set up so long as the distemper or any danger of infection remains there, under the penalty of seven dollars for every day that the same shall be omitted or neglected, to be paid by the physician or doctor, if the offence shall be committed when he is present, or by the master, mistress, manager, or principal person of the family, respectively, if the offence is committed in the absence of the physician or doctor. Every physician, doctor, or other person undertaking inoculation at any public place, or hospital, for the reception of patients, shall, before he discharges the patients, or suffers them to be removed from thence, take due care that their persons and cloaths are sufficiently cleansed, and shall give such patients, respectively, a certificate under his hand, that in his opinion they are free from all danger of spreading the infection, under the penalty of ten dollars for every offence; and every person wilfully giving a false certificate, shall be subject to the penalty of thirty dollars.

VI. IF any person who hath not had the small-pox, other than those who have been, or intend to be inoculated, shall go into any house where the small-pox then is, or intermix with the patients and return from thence, any justice of the peace for the county or corporation, on due proof thereof, may by warrant cause such person to be conveyed to the next hospital where the small-pox is, there to remain until he or she shall have gone through the distemper, or until the physician or manager of the hospital shall certify that in his opinion such person cannot take the same, and if such person be not able to pay the necessary expences, the same shall be paid by the county.

Expences incurred in checking the distemper or carrying on inoculation, how to be defrayed.

VII. AND whereas checking the progress of the said distemper, where it may accidentally break out, or the regulations which may be established for carrying on inoculation, may be attended with some expence, it shall and may be lawful for the justices of every county, at the time of laying their levy, and for the mayor, recorder, aldermen, and common-council of any city or borough, at such time as they shall judge most convenient, to levy on the tithable persons in their said county, city, or borough, so much money as will

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be sufficient to defray the expences necessarily incurred for the purposes aforesaid, in any such county, city, or borough.

VIII. IF any sheriff, mayor, or chief magistrate, shall, upon application to him made, in manner aforesaid, refuse, or unreasonably delay to summon the magistrates of any county, city, or borough, for the purpose aforesaid, or if any magistrate so summoned, shall refuse or neglect to attend, according to such summons, every such sheriff, mayor, or chief magistrate, shall forfeit the sum of three hundred dollars upon his refusing or neglecting to give such notice without reasonable excuse; and every other magistrate so refusing or neglecting, without reasonable excuse, shall also forfeit and pay the sum of twenty dollars to the person aggrieved.

Penalty on the sheriffs and magistrates for neglect of the duties hereby enjoined.

IX. IF any person or persons shall inoculate or procure inoculation for the small-pox, to be performed within this commonwealth, without obtaining a license or consent to inoculate in the manner herein before directed, or shall not conform to the rules and regulations prescribed by such justices, he, she, or they shall forfeit and pay respectively, for every such offence, the sum of three hundred dollars; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the county wherein such offence shall be committed, for the use of the poor of the said county; to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this commonwealth; and moreover it shall and may be lawful for any justice of the peace, upon information given to him upon oath, to issue his warrant against any person so offending, and upon sufficient proof before him made, to cause such offender to give security in such reasonable penalty as such justice shall think fit, for his or her good behaviour, and upon failure to give such security, to commit him or her to the jail of his county or corporation, there to be confined until such security be given: *Provided nevertheless*, that no person shall incur the penalties imposed by this act for inoculating his family without conforming to the rules herein prescribed, if any person of such family shall have before taken the infection in the natural way; nor shall any patient in the small-pox be compelled to remove from his usual place of residence.

Penalty for inoculating without license, &c.

Unless some person of the family has caught the infection in the natural way.

X. EVERY person wilfully endeavouring to spread or propagate the small-pox, without inoculation, or by inoculation, in any other manner than is allowed by this act in special cases, shall be subject to the penalty of fifteen hundred dollars, or suffer six months imprisonment, without bail or mainprize.

Penalty for propagating the small pox contrary to this act.

XI. ALL the penalties inflicted by this act, may be recovered with costs, by action of debt, or information, in any court of record, where the sum exceeds twenty dollars, and where it is under, or amounts to that sum only, by petition in the court of the county where the offence shall be committed; and where they are not hereby appropriated otherwise, shall be one half to the informer, and the other half to the commonwealth, or the whole to the commonwealth, where prosecution shall be first instituted on the public behalf alone.

Penalties, how recoverable, and how appropriated.

XII. ALL acts, and so much of any act of General Assembly, as contains any thing contrary to this act, is hereby repealed.

Repealing clause.

XIII. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CVII.

An Act for regulating Ordinaries, and restraint of Tippling Houses.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That every person intending to set up or keep an ordinary, or house of public entertainment, shall first petition the court of that county wherein such ordinary is intended to be, and obtain a license for keeping the same; and the justices of the court to whom such petition shall be exhibited, shall there-

Ordinary licenses how to be obtained.

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upon consider the convenience of the place proposed, and the ability of the petitioner to provide and keep good and sufficient houses, lodging and entertainment for travellers, their servants and horses; but the court shall not, under pretence of keeping any poor person from being chargeable to the parish, license any such person to sell liquors to the prejudice of the neighbouring inhabitants; and if such petition shall appear reasonable, such court is hereby authorized, and may, if they think fit, grant the petitioner a license to keep an ordinary, for the term of one year next ensuing the date of such license, and from thence till the next court held for the said county, and no longer; which license shall be signed by the first justice sworn in the commission of the peace for such county, and may, upon petition be renewed from year to year, if the court shall think fit.

Ordinary
keeper to give
bond and secu-
rity.

II. *PROVIDED* always, That before issuing such license, the petitioner shall enter into bond, with sufficient security, to the effect following:

KNOW all men, by these presents, That we A. B. and C. D. are held and firmly bound to _____, Governor of the commonwealth of Virginia, in the sum of one hundred and fifty dollars; to which payment, well and truly to be made, to the said _____, or his successors, we bind ourselves, and every of us, our _____ and every of our heirs, executors and administrators, jointly and severally, by these presents. Witness our hands and seals, this _____ day of _____, in the year one thousand _____ hundred and _____

Condition of
the bond.

THE condition of the above obligation is such, that whereas the above-bound A. B. hath obtained a license to keep an ordinary at _____, in the county of _____, if therefore the said A. B. doth constantly find and provide in his said ordinary, good, wholesome and cleanly lodging and diet for travellers, and stableage, fodder, and provender, or pasturage and provender, as the season shall require, for their horses, for and during the term of one year from the day of the date of these presents, and from thence till the next court held for the said county of _____, and shall not suffer or permit any unlawful gaming in his house, nor on the Sabbath day suffer any person to tipple and drink more than is necessary, then this obligation to be void, otherwise to remain in full force.

Rates for li-
quors, diet,
&c. to be fixed
by the county
courts;

and tables
thereof to be
set up by the
ordinary keep-
ers.

Penalty on
them for tak-
ing more than
the legal rates.

III. *THE* justices of every county court within this commonwealth shall, at their *March* court, or at any other court, set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, provender, stableage, fodder and pasturage, and may increase or lessen the rates as often as they shall see cause, but shall not fail to fix the rates at least twice in a year, under the penalty of fifteen dollars, on every member of such court so failing; and every ordinary keeper shall within one month after the rates so set, or from time to time altered, set up a copy of the rates aforesaid, attested by the clerk of the court, in some public entertaining room in his tavern, to be placed not more than six feet above the floor, and so long as he neglects this after the month, he shall have no right to demand any price for a rated article, and moreover be subject to a penalty of seven dollars. And if any ordinary keeper shall demand and take greater price for any drink, diet, lodging, provender, stableage, fodder, or pasturage, than by such rates shall be allowed, he or she so offending, shall forfeit and pay twelve dollars for every such offence to the informer, recoverable with costs before a justice of the peace of the county wherein such ordinary shall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not setting up a table of the same, shall be recoverable by action of debt or information, by any person who will sue for the same, in any court of record within this commonwealth.

Penalty for o-
pening tavern
or retailing li-
quors without
license for the
first offence.

IV. *IF* any person without such license, shall open a tavern, or sell by retail, wine, beer, cyder, rum or brandy, or other spirituous liquors, or a mixture thereof, to be drank in, or at the place where it shall be sold, or in any booth, arbor, or stall, such offence shall be deemed a breach of good behaviour, and he or she so offending, shall moreover forfeit and pay the sum of thirty dollars, to be applied towards lessening the county levy.

For the se-
cond offence.

V. *EVERY* person having been convicted of keeping a tippling house, or retailing liquors as aforesaid, who shall afterwards be guilty of the same offence, and be thereof again convicted, shall by the court before whom such conviction shall be had, be committed to prison, there to remain for and during the term of six months, without bail or mainprize.

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VI. THE presiding justice present shall give this act in special charge to the grand jury of the county, at every grand jury court; and whenever any prosecution or suit shall be instituted thereupon, the court before whom the same shall be depending, shall proceed to speedy trial thereof, out of course, and without delay.

This act to be given in charge to grand juries in county courts.

VII. AND every justice of the peace is hereby required and strictly enjoined to cause this act to be put in strict execution within his county. And if any justice, either from information, his own knowledge, or other just cause, shall suspect any person of keeping a tippling house, or retailing liquors, as aforesaid, he is hereby empowered and required, to summon such person to appear before him, together with such witnesses as he may judge necessary; and upon the person's appearing, or failing to appear, if the justice, upon examining the witnesses upon oath, shall find sufficient cause, he may, and is hereby required to direct the attorney for the commonwealth in such county, to institute a prosecution against such person on the public behalf, which such attorney is hereby required to institute accordingly. And such justice may also cause the person so suspected, to give bond with two sufficient securities, for his or her good behaviour, for the term of one year, the principal in the sum of one hundred and fifty dollars, and the securities in the sum of seventy-five dollars each; and upon failing to give such bond and security within three days, after being thereto required, such person may be committed to the jail of the county, there to remain until he or she shall give bond and security accordingly; and if such person shall afterwards during the said term, keep a tippling house, or retail liquors, as aforesaid, the same shall be, and is hereby declared a breach of the good behaviour, and of the condition of such bond.

And to be put in execution by every justice of the peace.

VIII. *PROVIDED-always*, That nothing in this act shall extend or be construed to prohibit any person or persons from retailing such liquors as shall actually have been made from the produce of such person's own estate, or brewed or distilled by him, her, or them, or those in his, her, or their employ; nor to prohibit any merchant or person keeping store for the sale of merchandize, from retailing liquors, so as such liquors be not drank, or intended to be drank at the house or plantation where the same shall be sold. And in case any dispute shall arise as to the making such liquors, the burthen of proof shall be on the defendant.

Provido in favor of brewers and distillers.

IX. IF guests or others play at any game contrary to law in a tavern, or in any out-house, or under any booth, arbor, or other place upon the messuage, or tenement in possession of any tavern keeper, and the keeper thereof shall not endeavour to hinder them, and if they persist, to give information of the offence, and to give in the names of the offenders, within one month thereafter, to the court, or to two justices of the peace, his license shall be revoked by the court, and he shall pay to the informer twenty dollars, unless being summoned to shew cause to the contrary, he appear and prove such facts, as induce them to believe, not only he did not know of, but moreover, that he had no reason to suspect such playing.

Penalties on ordinary keeper suffering gaming in the house.

X. IF the keeper of any ordinary or tavern, shall in his house, suffer any person to tiddle or drink more than is necessary, on the Lord's day, or on any other day set apart by public authority for religious worship, or shall harbour or entertain any seaman, contrary to law, such tavern keeper shall be deprived of his license in the same manner.

Or tippling on the sabbath day.

XI. IF any keeper of a tavern or ordinary, shall sell drink to any sailor in actual pay on board any ship, on credit, he or she shall not recover any money, tobacco, or other commodity, for liquors so sold upon credit, but every such debt, obligation or specialty, shall be void: and if any warrant, petition, writ, or bill be prosecuted or exhibited against any person for the same, such warrant, petition, writ or bill, shall be dismissed, and the defendant shall have double costs.

Tavern keepers not to sell liquor on credit to sailors.

XII. IF any ordinary keeper shall sell any liquor whatsoever upon credit, to any sailor in actual pay on board any ship or other vessel, or shall harbour, entertain, or sell drink to any such sailor, without license from the master of the vessel or ship, to which the sailor belongs, such ordinary keeper shall for every such offence, forfeit and pay two dollars to the master of the ship or vessel, recoverable with costs, before any justice of the peace of the county, wherein such ordinary keeper lives.

Penalty for selling, or for harbouring sailors.

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In what cases
debts for re-
tailed liquors
shall be void.

XIII. NO keeper of a tavern shall recover more than five dollars for liquor sold within the space of a year to one person, residing less than twenty miles from such tavern, and drank, or sold to be drank, in the place where it is kept; and a written contract, or bond, or other specialty for payment, delivery, or security of money or other thing, for performance of any work or service, whereof the whole, or any part, shall have become due for liquors so sold, shall be void.

Corporation
courts to have
the sole power
of granting li-
censes within
their jurisdic-
tions.

XIV. THE several corporation courts within this commonwealth, shall have the sole power of granting or revoking licenses to ordinary keepers, within their respective jurisdictions: *Provided*, That such licenses be granted in the manner above directed by this act.

Penalties,
how recovera-
ble and appro-
priated.

XV. ALL the penalties and forfeitures by this act given or laid, and not herein before appropriated, shall be, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs, in any court of record within this commonwealth.

Proviso.

XVI. EVERY act of Assembly, concerning any thing within the purview of this act, shall be, and the same is hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commence-
ment of this
act.

XVII. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CVIII.

An Act reducing into one, the several Acts for unlading Ballast, and Burial of Dead Bodies from on board Ships; and prohibiting the putting Sick or disabled Seamen and Servants on Shore, without providing for their Maintenance.

[Passed the 23d of December, 1792.]

Ballast masters
how to be ap-
pointed.

I. **B**E it enacted by the General Assembly, That the court of every county or corporation adjacent to any navigable river or creek, shall from time to time as vacancies happen, appoint one or more ballast masters, residing near the places where vessels usually ride in such river or creek, to be overseers and directors of the delivery and unloading of ballast from on board any ship or vessel, within a certain district to be by them ascertained.

How qualified

II. EVERY person so appointed, shall make oath in open court, that he will when required, diligently attend the delivery of ballast from on board any vessel within his district, and will not knowingly permit the same, or any part thereof, to be cast into the water where navigable, but will direct, and to the best of his power, cause all such ballast to be brought and laid on shore at some convenient place or places, where it may not obstruct navigation, nor be washed into the channel; and, that he will truly and faithfully execute his office, without favor, partiality, or malice.

Penalty for
failing or re-
fusing to qua-
lify and act.

III. IF any person so appointed, and having notice thereof by an attested copy of such appointment, issued by the clerk, and served by the sheriff or other officer, which notice the clerk is hereby directed immediately to issue, and the sheriff or other officer to serve, and thereupon make due return to the next court, shall fail to appear before the said court, unless hindered by sickness or other legal disability, or being there, shall refuse to be sworn, he shall be fined sixty dollars; and the court shall upon every such failure or refusal, or in case of death, removal, or other legal disability of any person so appointed, proceed to appoint another in his room.

Vacancies,
how to be
supplied.

Their duties.

IV. EVERY ballast master so appointed, upon receiving notice from the master or chief officer on board of any ship or vessel within his district, that ballast is to be discharged from such vessel, shall go on board the same, and attend until the whole ballast is delivered, which he shall see brought on shore, and laid at some convenient place near the vessel, where it may not obstruct navigation, nor be washed into the channel, shall thereupon give

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such master or officer, a certificate that the ballast has been duly unladen from on board such ship or vessel, and shall receive from him for the services so performed, eighty-three cents *per* day.

V. EVERY ballast master failing to do his duty according to this act, shall forfeit sixty dollars for each default.

Penalty for neglect.

VI. EVERY master or chief officer of any ship or vessel having ballast to unlade, shall give notice in writing, of the time he proposes to land the same, to the ballast master of the district; and if he shall presume to land or cast overboard any ballast therefrom, without giving such notice, or contrary to the orders he shall receive from the ballast master of the district, he shall forfeit one hundred and fifty dollars for every such offence or failure.

Duty of masters of vessels intending to unlade ballast.

VII. WHEN any person shall die on board of any ship or vessel within this commonwealth, the master thereof shall cause the dead body to be brought on shore, and there buried, at least four feet deep above high-water mark, or be subject to the like penalty of one hundred and fifty dollars.

Dead bodies from on board ships how to be buried.

VIII. IF any suit be brought for the penalties in this act before contained, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ, that bail is required.

Defendants in suits for penalties to be held to bail.

IX. IF any master or commander of any ship or vessel, shall discharge, or cause to be put on shore, any sick or disabled sailor or sailors, belonging to his ship or vessel, not entitled to his or their discharge by the contract between them, or any servant, without taking due care for his or their maintenance and cure, he shall forfeit and pay sixty dollars to the overseers of the poor of the county or corporation wherein such sailor or sailors, or servant, shall be put on shore, to be recovered with costs, by action of debt or information, in any county or corporation court, and applied towards lessening the poor rates of the county or corporation; and he shall also be liable to the action of the overseers of the poor of that or any other county or corporation wherein such sailor or sailors, or servant, shall become chargeable, for all expenses of maintenance and cure; and in any such action or actions, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ, that good bail is required: *Provided*, That the said overseers of the poor, or either of them, shall make affidavit of the cause of action, before a magistrate, which shall be certified to the clerk of the court who shall issue the writ.

Penalty on masters of vessels putting sick or disabled sailors on shore.

Defendants to be held to bail.

X. ALL and every act, clause and clauses of acts, within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Repealing clause. *Provido*.

XI. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CIX.

An Act to prevent the malicious burning any House; for taking away Clergy from certain Offences; and for punishing Accessaries to Felonies; and Receivers of Stolen Goods.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That all and every person and persons, that shall at any time, either in the night or the day, maliciously, unlawfully and willingly, burn any house or houses whatsoever, or shall comfort, aid, abet, assist, counsel, hire, or command, any person or persons to commit any of the said offences, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of

Felony without benefit of clergy to burn any house.

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twenty persons returned to be of the jury, shall be adjudged a felon, and shall suffer death as in case of felony, and shall not have the benefit of his, her, or their clergy.

Benefit of clergy not to be allowed to those who feloniously break any store or warehouse and take therefrom money, or goods of the value of four dollars.

II. ALL and every person and persons, that shall at any time, either in the night or the day, feloniously break any warehouse or storehouse, and shall take therefrom any money, goods or chattels, wares or merchandises, of the value of four dollars or more, although the owner of such goods, or any other person or persons, be, or be not in such warehouse or storehouse, or shall aid, assist, counsel, hire, or command any person or persons so to break and rob any such warehouse or storehouse, and shall be thereof convicted or attainted, or being thereof indicted, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall, by virtue of this act, be absolutely debarred of, and from the benefit of clergy.

When accessaries in felonies shall be prosecuted in the same manner as if the principals had been attainted.

III. IF any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, it shall and may be lawful to proceed against any accessary, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered, before attainder; and every such accessary shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, as he or she should have suffered if the principal had been attainted.

Receivers of stolen goods may be punished as for misdemeanors although the principals be not convicted.

IV. IT shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessary, if the principal shall be afterwards convicted.

Repealing clause.

Proviso.

V. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as herein after provided) shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

VI. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CX.

An Act declaring who shall be deemed Citizens of this Commonwealth, and pointing out the Mode by which the Right of Citizenship may be acquired or relinquished.

[Passed the 23d of December, 1792.]

Who shall be deemed citizens.

I. **B**E it enacted by the General Assembly, That all free persons born within the territory of this commonwealth, all persons not being natives, who have obtained a right to citizenship under former laws, and also all children wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character in manner hereinafter mentioned.

How emigrants, other than alien enemies, may become citizens.

II. AND that all persons, other than alien enemies, who shall migrate into this state, and shall before some court of record give satisfactory proof by oath, or being Quakers or Menonists, by affirmation, that they intend to reside therein, and also take the legal oath or affirmation for giving assurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court shall enter of record, and give a certificate thereof to the person taking the same, and shall on or before the first day of *October* annually, transmit to the Executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept

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for that purpose, for which he shall receive the fee of one dollar) shall be entitled to all the rights, privileges, and advantages of citizens, except that they shall not be capable of election or appointment to any office, legislative, executive, or judiciary, until an actual residence in the state for five years after the time of taking such oaths or affirmations, aforesaid; nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands of the value of three hundred dollars therein.

Exception as to holding offices.

III. *PROVIDED always*, That no person having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary, within this commonwealth.

IV. AND for the encouragement of useful artizans, mechanics, and handicraft tradesmen, to migrate into this commonwealth, *Be it further enacted*, that all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempt from the payment of any tax on his or their tools, or implements of trade, which he or they shall bring into this commonwealth, at the time of his or their migration thereto; and shall moreover be exempted from all taxes whatsoever except the land tax, for the space of five years next thereafter, and if he or they shall so long continue the actual exercise of his or their trade or occupation therein.

Artizans, mechanics, &c. migrating to this state, exempted from taxes for a certain time.

V. WHENSOMEVER any citizen of this commonwealth, shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by three witnesses, and by them, or two of them proved in the General court, any district court, or the court of the county or corporation where he resides, or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

How a citizen may expatriate himself.

VI. ALL persons who having accepted a military commission from the United States, or any of them, or who having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States, on the nineteenth day of April, in the year one thousand seven hundred and seventy-five, or at any time since, have at any time during the late war, voluntarily joined themselves to the fleets or armies of the king of *Great-Britain*, or have voluntarily borne arms against the United States, or any of them, in any garrison, port or fortification, or other place whatsoever, within their territories, or on their coasts; or have been owner, or part owner of any privateer, or other armed vessel cruising against the said United States, or any of them; and all and every person and persons, who at any time acted as a member of the board, commonly called the board of refugee commissioners, at New-York, or under the authority, or by the direction of the said board, shall be, and they are hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all such persons shall be equally subject to the pains, penalties and disabilities of this act, although they have been heretofore, or shall be hereafter admitted to take the oaths of fidelity to this commonwealth, in any court of record within the same, as if they had not taken the said oaths.

Certain descriptions of persons prohibited from migrating to, or becoming citizens of this commonwealth.

VII. ALL and every person and persons prohibited by this act, from migrating to this commonwealth, who shall be found within the same, shall and may be prosecuted in the General court of this commonwealth, as for a misdemeanor; and if upon trial, such person or persons be found guilty of a breach of this act, he or they shall be imprisoned, for a term not exceeding six months, in the public jail of this commonwealth, without bail or mainprize, and may be fined at the discretion of the said court, in any sum not exceeding three hundred dollars, and shall moreover stand committed until such fine be paid; and if the person or persons so convicted, shall be found at large in this commonwealth, after the expiration of one year, from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, such person or persons shall be committed to the public jail; and upon proof being made of the identity of such person or persons, he or they shall be thereafter imprisoned in the public jail for the space of five years, without bail or mainprize, and shall moreover forfeit all his goods and chattels, lands and tenements,

How they may be punished for contravening this act.

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In suits brought by them against citizens, judgment shall be rendered for the defendants with treble costs.

for the use of the commonwealth; and if any person prohibited by this act from migrating to this commonwealth, shall institute any suit or action whatsoever, in any of the courts of this commonwealth, against any citizen or other person entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of such action or suit; and if upon the trial of the cause, it shall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cause of action arose within the time, after the commencement of this act, the jury shall find for the defendant or defendants, and thereupon judgment shall be given against the plaintiff, with treble costs of suit; and the clerk of the Court in which such cause shall be tried, shall, within one month thereafter, transmit a copy of the record, together with the names of the witnesses sworn on the part of the defendant or defendants, to the Attorney General; who shall, at the next succeeding session of the General court, file an information, or prefer an indictment to the grand jury, against the person or persons against whom such verdict and judgment shall have been given.

All other former residents allowed to return.

But not to vote at elections or hold offices.

Nothing herein to contravene the treaty with Great-Britain. Repealing clause.

VIII. ALL persons resident in this, or any other of the United States, on the aforementioned nineteenth day of *April*, and not included in the above description, who are at present prohibited by law from migrating to this state, shall be, and they are hereby permitted to migrate into, and enjoy all the rights of citizenship, except that they shall not be capable of voting for members to either House of Assembly, or of holding or accepting any office of trust or profit, civil or military.

IX. *PROVIDED*, That nothing herein contained, shall be construed so as to contravene the treaty of peace with *Great-Britain*.

X. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

XI. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXI.

An Act concerning Coin, and for other Purposes.

[Passed the 19th of December, 1792.]

What gold and silver coins shall be current,

until regulated by congress. Rates.

So much of this act as relates to German gold and cut silver repealed. See acts of 1793, chap. 13. The public accounts to be kept in dollars and parts of dollars.

I. **B**E it enacted by the General Assembly, That from and after the first day of *January*, in the year of our Lord one thousand seven hundred and ninety-three, the gold and silver coin herein after mentioned, shall be current in this commonwealth, and shall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at the rates following, until it shall be otherwise regulated and directed by the Congress of the United States; that is to say: The gold coin of *France*, *Spain*, *Portugal*, and *England*, at the rate of five shillings and four-pence the pennyweight, or of a dollar for twenty-seven grains; the gold coin of *Germany* at the rate of four shillings and ten-pence the pennyweight, or a dollar for twenty-nine grains and eight tenths of a grain; *Spanish* milled dollars at the rate of six shillings, or one hundred cents; and other silver coin uncut, in like proportion. Cut silver coin shall be receivable at the treasury of this commonwealth for all public dues and taxes, at the rate of six shillings and eight-pence, or one dollar and eleven cents the ounce.

II. *AND* be it further enacted, That the money of account of the commonwealth, shall be expressed in dollars or units, dimes or tenths, cents or hundredths, and milles or thousandths; a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the public offices, shall be kept and had in conformity to this regulation.

The treasurer to receive the interest on the deficiency of

III. THE treasurer of the commonwealth is authorized and directed to receive from the commissioner of the loan-office of the United States in this state, the interest which hath or shall become due on the deficiency of the sum allowed to be subscribed of the debt of this

commonwealth, agreeably to an act of Congress, intituled, “ *An act making provision for the debt of the United States.*”

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the loan of the
state debt.

IV. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing
clause.

V. THIS act shall commence in force, from and after the first day of *January*, in the year of our Lord one thousand seven hundred and ninety-three.

Commence-
ment of this
act.

C H A P. CXII.

An Act against Divulgers of false News.

[Passed the 27th of December, 1792.]

I. **W**HEREAS many idle and busy headed people, do forge and divulge false rumours and reports :

Preamble.

II. *BE it therefore enacted by the General Assembly*, That what person or persons forever, shall forge or divulge any such false reports, tending to the trouble of the country, he shall be by the next justice of the peace sent for, and bound over to the next county court ; where if he produce not his author, he shall be fined forty dollars, (or less if the court think fit to lessen it) and besides give bond for his good behaviour, if it appear to the court that he did maliciously publish or invent it.

Divulgers of
false news to
be fined and
bound to good
behaviour.

III. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing
clause.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

C H A P. CXIII.

An Act to prevent unlawful Hunting.

[Passed the 23d of December, 1792.]

I. **W**HOSOEVER shall hereafter use any fire hunting, or the killing of any deer by such means, on any patented lands, every person present at such fire hunting, shall forfeit and pay four dollars for every such offence ; which penalties shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed, and shall be divided, one half to the use of the overseers of the poor of the district wherein the offence was committed, and the other half to the person or persons who will inform for the same. And every justice of the peace before whom information shall be made of any of the offences aforesaid, shall take for evidence the confession of the party accused, or the oath of one credible witness ; and where the owner of any lands shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender ; but in that case the whole penalty shall go to the overseers of the poor.

Penalty for
fire hunting.

What evi-
dence of the
offenders guilt
shall be suffi-
cient.

II. IF any person shall shoot, or otherwise kill any tame deer having a bell or collar on its neck, every person so offending, shall be liable to an action of trespass to the person whose property the same shall be, to be prosecuted in the court of the county where the offence shall be committed.

Penalty for
killing tame
deer.

III. ALL and every act and acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act contained, shall be

Repealing
clause.
Provido.

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construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commence-
ment of this
act.

IV. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXIV.

An Act concerning the right of Entry, and giving Remedy against collusive Judgments of Lands, and wrongful Alienations thereof in certain Cases.

[Passed the 19th of December, 1792.]

Preamble.

I. **W**HERE a husband doth lose the lands of his wife by default, it is unreasonable that the wife after the death of her husband, should have no other recovery but by writ of right :

A widow not
barred of right
of entry into
her land lost
by her hus-
band's default.

II. *BE it therefore enacted by the General Assembly,* That a woman after the death of her husband, shall not be injured by such default, but shall notwithstanding, retain her right of entry, and may prosecute the same, by any real or mixed action, that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required, he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife; and if he can shew such right, the wife shall gain nothing by her writ; but if the husband absent himself and will not defend his wife's right, or against the wife's consent, will render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right.

When the
wife may de-
fend a suit
brought for
her lands.

When the re-
versioner may
defend a suit
brought a-
gainst the re-
nant for life.

III. IF tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender.

When the dy-
ing seized of a
disseisor shall
not take away
the right of
entry.

IV. THE dying seized hereafter of any disseisor having no right or title, shall not be such descent in law as to take away the right of entry from such, as at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title.

Husband's
conveyance of
his wife's
lands not to
prejudice her
or her heirs.

V. NO feoffment, or other conveyance, or other act or acts hereafter to be made, suffered, or done by the husband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements, and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance, or act to the contrary notwithstanding.

Repealing
clause.
Proviso.

VI. ALL and every statute and act, or clause and clauses of any statute or act, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided nevertheless,* That nothing herein contained, shall be construed to affect any right which may have accrued, or been vested before the commencement of this act.

Commence-
ment of this
act.

VII. THIS act shall commence in force, from and after the passing thereof.

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C H A P. CXV.

An Act reducing into one the several Acts concerning the Fees of certain Officers, and declaring the Mode of discharging the said Fees and County Levies.

[Passed the 19th of December, 1792.]

I. **B**E it declared and enacted, by the General Assembly, That it shall and may be lawful for the clerk of the council, the clerk of the house of delegates, the register, the clerks of the general court, high court of chancery, court of appeals, district courts, clerks of corporation courts, and all county court clerks, sheriffs, coroners, constables, and surveyors, respectively, to demand, receive and take the several fees herein-after mentioned and allowed, for any business by them respectively done, by virtue of their several offices, and no other fees whatsoever: That is to say---

Fees to be received by

To the Clerk of the Council,

For every testimonial,

Dls. Cts. 1 67 The clerk of the council.

To the Clerk of the House of Delegates,

For a copy of an act of Assembly, if contained in one sheet,
And for every sheet after the first,

Dls. Cts. 1 0 The clerk of the house of delegates.
0 75

To the Register,

For issuing a warrant of survey, and recording the same,
For every warrant issued in exchange for another warrant, or where lands claimed under a former warrant, shall be recovered on a caveat, and recording the same,
For receiving a plat and certificate, and giving a receipt for the same,
For issuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,
For every hundred acres, exceeding that of four hundred,
For recording a plat and certificate of survey, if the quantity does not exceed four hundred acres,
For every hundred acres exceeding that quantity,
For entering a caveat, or for a copy thereof,
For a copy of any grant or patent of land,
For a search for any thing, or for reading the same, if a copy be not required,
For keeping a regular account of warrants, examined and cancelled, to be paid by the treasurer, on the auditor's warrant, for each warrant,

Dls. Cts. 0 63 The register of the land office.
0 63
0 10
1 26
0 10
0 42
0 10
0 42
0 63
0 21
0 6

To the Surveyor,

For every survey by him plainly bounded as the law directs, and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed four hundred acres of land,
For every hundred acres contained in one survey above four hundred,
For surveying a lot in town,
And where a surveyor shall be stopped or hindered from finishing a survey by him begun, to be paid by the party who required the same to be surveyed,
For running a dividing line,
For surveying an acre of land for a mill,
For every survey of land formerly patented, and which shall be required to be surveyed, and for a plat thereof delivered as aforesaid, the same fee as for land not before surveyed,
And where a survey shall be made of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed, but shall only receive what the survey of the additional land shall amount to,

Surveyors.

5 25
0 25
1 0
2 62
2 10
1 5

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	Dols.	Cts.
And where any surveys have been actually made of several parcels of land adjoining, and several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat for	1	5
For running a dividing line between any county or parish, to be paid by such respective counties or parishes, in proportion to the number of tithables, if ten miles or under,	10	50
And for every mile above ten,	0	30
For receiving a warrant of survey, and giving a receipt therefor,	0	17
For recording a certificate from the commissioners of any district of a claim to land allowed by them, to be paid by the claimant.	0	17
For making an entry for land, or for a copy thereof,	0	17
For a copy of a plat of land, or of a certificate of survey,	0	25

Assignees of surveys answerable for surveyor's fees where the assignor has not paid them.

II. *PROVIDED* always, That where any person shall employ a surveyor, and shall have received a plat of land surveyed, and afterwards shall assign the plat of land to any other, either before or after obtaining a patent for the same, if such person for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful for the sheriff or other officer of the county or corporation, where such assignee shall reside, at the instance of such surveyor, to make distress upon the slaves, goods and chattels of such assignee, in like manner as is herein after provided for surveyors or other officers fees refused or delayed to be paid.

To the Clerk of the Court of Appeals,

	Dols.	Cts.
The same fees with those of the high court of chancery and general court, for similar services.		

To the Clerk of the High Court of Chancery,

	Dols.	Cts.
For filing a bill, answer, replication, or other pleadings, each	0	26
For a copy thereof, for every twenty words,	0	2
For entering every decree,	0	18
For drawing up every decree at large, entering the substance of the bill, answer and other pleadings, the substance of the evidence and the decree thereupon, for every twenty words,	0	2
For filing the depositions in every cause in behalf of each party,	0	26
For a copy of the depositions, for every twenty words,	0	2

To the Clerk of the General Court,

	Dols.	Cts.
For a copy of a warrant and inquisition of escheat,	1	92
Or of an inquisition of escheat,	0	83
For the probat of any testament and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the probat, or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same where the appraisement doth not amount to above three hundred dollars,	3	50
Or where the appraisement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
Or where the appraisement exceeds fifteen hundred dollars, or there is no appraisement,	7	0
For a copy of a probat, or commission of administration,	0	70
For recording the memorial of each bargain, sale, mortgage, or other conveyance, marriage settlement, or deed of trust, there shall be paid by the person to whom the same shall be made,	0	18
For recording the certificate of a probat, or administration,	0	18
For a copy of a will, or inventory,	0	70
And if the original is contained in more sheets than one, for a copy of every such sheet,	0	52

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	Dols.	Cts.
For a copy of an account,	0	35
For recording of a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court,	2	62
For a copy of such deed or deeds, with the endorsements thereon, and for a certificate of the acknowledgment or proof, and recording,	1	57
For issuing a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , and recording it with the return of the commissioners,	0	87
For a copy thereof,	0	52
For recording a deed concerning slaves, or any personal matter only,	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording,	0	70
<i>Provided however</i> , that for a deed of gift for slaves only, or for a copy thereof there shall be allowed only	0	35
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating thereto,	1	22
For a copy thereof,	0	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	0	70
For a copy of a bond with condition,	0	35

In Actions and other Suits,

For every writ of error, <i>superfedeas</i> , or <i>scire facias</i> ,	0	43
For taking bond on issuing a writ of error or <i>superfedeas</i> ,	0	43
For every other writ in any action or suit whatsoever,	0	35
For entering the sheriff's return, and entering the bail by him returned in the rule-book,	0	35
For entering special bail,	0	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering security for costs for persons out of the country,	0	35
For filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or <i>superfedeas</i> ,	0	35
For a copy of every declaration, plea or demurrer, or of errors,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court before trial,	0	18
For a copy of the same,	0	18
For filing papers for each party in any action or suit,	0	26
For docketing every cause on the docket (to be charged but once)	0	18
For every trial, swearing the jury and witnesses, and recording a general verdict,	0	87
For administering an oath or affirmation in court, except witnesses to a jury,	0	18
For every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict,	1	30
And where there is no jury, but a case agreed,	0	43
For swearing witnesses for each party in every cause where there is no jury,	0	26
For a copy of a case agreed, or notes of a special verdict,	0	43
For entering every order made in court, after verdict, or demurrer joined,	0	18
For entering every continuance on the court docket,	0	18
For entering every judgment,	0	18
For making a complete record of every cause, inserting a case agreed or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	0	2
For a copy thereof or any part thereof, the same.		
For a recognizance in court,	0	35
For filing a return of a <i>habeas corpus</i> ,	0	26
For filing the record on a writ of error,	0	26
For a copy of such record for every twenty words,	0	2

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To the Clerk of the General Court or High Court of Chancery,

[as the case may be.]

The clerk of
the general
court, or the
high court of
chancery.

	Dols.	Cts.
For taking a bond upon issuing injunctions.	0	43
For every <i>dedimus potestatem</i> ,	0	35
For recording the report of auditors, when it is desired,	0	70
For making a complete record of every cause, for every twenty words,	0	2
For filing the return of a <i>certiorari</i> ,	0	26
For taxing the costs in any action or suit, and a copy thereof,	0	35
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	0	2
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required, if a copy be not taken,	0	18
For every order to a witness for attendance, (to be charged to the party against whom the order goes)	0	18

*To the Clerks of the District Courts,*The clerks of
the district
courts,

For issuing a summons on a petition for lapsed-lands,	0	87
For every order thereon,	0	26
In all other cases, the same fees with those of the county courts, for similar services; and for all other services the same as those of the clerk of the General Court.		

To the Clerk of a District Court, or the Clerk of the High Court of Chancery,

[as the case may be:]

The clerks of
the district
courts, or the
clerk of the
high court of
chancery.

For filing the record upon an appeal, or <i>superfedeas</i> from a county court, or any inferior court,	0	26
For a copy of such record, for every twenty words,	0	2

*To the Clerks of the County and Corporation Courts.*The clerks of
the county &
corporation
courts.

For every writ in the nature of an <i>ad quod damnum</i> ; (to be paid upon issuing such writ)	0	83
For recording the same with the inquisition thereupon, (to be paid before inquisition recorded)	1	92
For a copy of such writ and inquisition (to be paid down)	0	83
For taking a bond upon issuing injunctions in Chancery,	0	35
For recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	2	62
For a copy thereof,	0	95
For recording every deed of feoffment, or bargain and sale, or other single deed for conveying or settling lands and tenements only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	1	75
For a copy thereof,	0	70
For issuing and recording a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , with the certificate of the commissioners, if such commission be required,	0	70
For a copy thereof,	0	35
For recording a patent,	0	87
For a copy thereof,	0	43
For recording a deed concerning slaves, or any personal matter or thing only, with certificate of its proof or acknowledgment,	0	70
For a copy thereof,	0	52
<i>Provided however</i> , That for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only,	0	35
For recording a letter of attorney,	0	52
For a certificate of the proof or acknowledgment thereof,	0	18

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	Dols.	Cts.
For a copy of a letter of attorney with such certificate,	0	43
For recording a bond with condition, other than for performance of covenants in deeds of conveyance, or settlement of lands,	0	35
For a copy of a bond, with condition, other than an appeal bond, the same.		
For a copy of any other obligation or promissory note,	0	18
For the probaton of any will or testament, and recording the same, entering the order or orders for appraising the estate, and for any other matter con- cerning the same, where the will shall be contained in one sheet,	0	70
And if the will is contained in more than one sheet, for every such sheet,	0	35
For a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concerning the same,	0	70
For recording an inventory, where the appraisement doth not amount to more than thirty dollars,	0	18
Where the appraisement exceeds that value, and is under one hundred and fifty dollars,	0	87
And where it shall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
And where it shall exceed three hundred dollars, or there is no appraisement,	4	37
For a copy of a will or inventory, if the original is contained in one sheet,	0	52
If the original is contained in more sheets than one, for a copy of every such sheet besides the first,	0	35
For recording the age of a servant or slave, adjudged in court,	0	18
For a certificate thereof if required,	0	14
For attending a court for examination of criminals and trial of slaves, if the court is held for that purpose (to be paid by the public)	3	50
For a copy of a list of tithables, in his precinct,	0	35
For the whole fee for an ordinary license and bond,	0	87
For a copy of the rates of liquors,	0	26
For a marriage license, certificate, and bond,	0	87
For every search for any thing above a year's standing if a copy be not taken,	0	8
For reading any thing if a copy be not required,	0	8

In Actions and other Suits.

For every writ, other than such as are herein particularly mentioned,	0	18
For a copy of such writ,	0	8
For every writ of execution, or <i>scire facias</i> ,	0	26
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of attachment, in any action,	0	26
For recording the return thereof,	0	26
For an attachment granted by a justice of the peace, returnable to the court, and recording the return and putting the same on the docket,	0	35
For every summons to summon a garnishee on such attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cause, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering special bail,	0	18
For entering security for costs for persons out of the country,	0	18
For entering the appearance of the defendant or defendants, where there is no attorney, in any suit, except by petition,	0	8
For entering one or more attornies for each party,	0	8
For every petition, declaration, or other pleadings, except in suits by petition for debt, <i>detinue</i> , <i>assumpsit</i> , or <i>trover</i> ,	0	18
For a copy of any declaration, special plea, or demurrer,	0	18
For a copy of a plea, if the general issue,	0	5
For every trial, swearing the jury and witnesses, filing all papers, and record- ing a general verdict,	0	70
For every trial where there is a special verdict, or case agreed, and recording the same,	1	13

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	Dols.	Cts.
For swearing the witnesses in every other cause, where there is no jury or case agreed, except by petition,	0	18
For filing the papers of each party in every cause, except by petition, and where there is a jury or case agreed,	0	18
For a copy of a special verdict, or case agreed, and every thing therein set forth, or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof,	0	18
For filing a bill, answer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words,	0	2
For a commission to examine witnesses,	0	43
For attending and writing depositions taken against inspectors before justices of the peace,	1	75
For entering every decree in chancery,	0	26
For filing the depositions in any suit, for each party,	0	8
For every deposition taken in court,	0	18
For a copy of a deposition,	0	18
For administering an oath in court, not relating to the trial of any cause there depending, and certifying the same,	0	18
For every recognizance in court,	0	18
For entering the order or orders in any cause in one court,	0	26
For entering every order for attendance of witnesses,	0	18
For a copy of any order,	0	18
For recording the report of a jury in the county, surveyor, auditor or viewers,	0	35
For a copy thereof,	0	35
For taxing costs to any judgment or decree, where costs are recovered, or for a copy of a bill of costs, if required,	0	20
For a copy of an account,	0	18
For entering an appeal, and taking bond to prosecute it,	0	35
For a copy of the bond,	0	18
For returning an appeal and security to the office of the court of chancery, or a district court, (as the case may be)	0	52
For returning a writ of error, <i>superfedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i> ,	0	35
For a copy of the proceedings of the cause, wherein the appeal is granted, for every thirty words,	0	2
For recording the acknowledgment of satisfaction of a judgment,	0	18
For entering each order for a witness's attendance, (to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,)	0	18
For a copy thereof, to be taxed and charged in like manner,	0	18
For an attachment thereon, to be charged to the party against whom the attachment shall be issued,	0	18
For the whole fee chargeable for every petition for debt, <i>detinue</i> , <i>assumpsit</i> , or <i>trover</i> , and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees for summoning witnesses, entering attornies, for every order for continuance, and for issuing execution, where any of those matters happen,	0	87
For entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs,	0	8
For a summons for several witnesses living in one county, if summonses for all be taken out at one time,	0	18
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	0	2
For the acknowledgment and proof of any deed in the county court, and for certifying the same to be recorded in the General Court,	0	52

WHICH said several fees shall be charged to the party at whose instance the business shall be performed, except where it is otherwise directed.

The commissioners of the high court of chancery.

III. THE commissioner or commissioners of the High Court of Chancery may issue their tickets for the sums allowed by the said court, for services performed by them under the orders of the said court, and deliver them to the respective sheriffs, at the same time the

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clerk of the said court is directed by law to deliver his tickets; and the several sheriffs shall collect and account for them in the same manner, and under the like penalties, and shall have the same allowance for collecting and for insolvencies, as are prescribed in the case of the clerk of the said High Court of Chancery.

IV. IF any plaintiff or defendant, or his or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover; and where more attornies than one shall be employed in any cause on one side, if such attornies take out more than one copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerk tax any fee in the bill of costs for entering more than one attorney, although costs shall be adjudged against the adverse party.

Rules in taxing costs.

FOR all public services of the clerk, viz. entering and issuing copies of orders for appointing surveyors of high ways, appointing constables, grand juries, taking a list of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the list of tithables for the collector, and for entering and issuing the orders, except against guardians, where they shall stand out in contempt (to be charged to such guardian) and issuing the orders for recommending sheriffs and justices, and for processioning, and all other public services for which no particular fee is allowed, to be levied annually by the justices of the county

Dols. Cts.

25 0

V. AND where a motion or suit shall be instituted against any person or persons for money due to the public, in the name of, or by the person authorised by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion or suit shall be instituted, shall and is hereby required to charge all the fees accruing thereon, to the person or persons against whom such judgment shall be obtained.

In suits or motions against public debtors.

VI. NO county court clerk shall charge any fee for making up a complete record, unless it be in causes where the title or bounds of lands are determined, or where he is to transmit the transcript of the record of any cause to the office of a superior court upon appeals, writs of error, *superfedeas*, *habeas corpus*, or *certiorari*.

In what cases county court clerks may charge fees for making up complete records.

VII. AND to the end all persons chargeable with any of the fees aforesaid, may certainly know for what the same are charged, *Be it further enacted*, That none of the fees herein before mentioned, shall be payable by any person whatsoever, until there shall be produced, or ready to be produced unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable respectively; in which said bill or account, shall be expressed in words at length, and in the same manner as the fees aforesaid are allowed by this act, every fee for which any money or tobacco is or shall be demanded.

Fee bills to be produced.

To the Sheriff or Serjeant,
(as the case may be)

For an arrest, bond, and return,	-	-
For returning a <i>capias</i> , <i>non est inventus</i> ,	-	-
For serving a <i>scire facias</i> ,	-	-
For serving any person with an order of court, and making return thereof,	-	-
For pillorying any person,	-	-
For putting into the stocks,	-	-
For ducking any person,	-	-
For putting in prison and releasement,	-	-
For serving a <i>subpoena</i> in chancery,	-	-
For serving a summons upon a petition for debt, detinue, <i>assumpsit</i> , or trover,	-	-
For serving a <i>subpoena</i> for a witness in any cause in court, except summoned in court,	-	-

Dols. Cts.

0 63
0 21
0 30
0 30
0 42
0 21
0 42
0 42
0 30
0 30
0 21

Sheriff's fees.

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	Dols.	Cts.
For summoning an appraiser, auditor, viewer, or witness to any deed, will, or writing, if required to be summoned, but not else,	0	21
For summoning and impannelling a jury, in every cause wherein a jury shall be sworn,	1	5
For coming to and attending the district court with the <i>venire</i> , and return of the <i>venire facias</i> , the same as is allowed to a <i>venire</i> man, (to be paid by the public) and for attending the district with stolen goods where there is no <i>venire</i> , the same,		
For summoning the justices of the county and attending a court for the examination of a criminal (to be paid by the public)	4	20
For removing of every criminal from the county jail to a district jail, for every mile,	0	10
For removing a debtor by <i>habeas corpus</i> from the county jail to a district jail, for every mile,	0	4
For executing every condemned person, and all fees incident (to be paid as afore-said)	5	25
For summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear,	1	57
For making a return of a writ of dower, partition, or in the nature of an <i>ad quod damnum</i> ,	1	5
For every day's attendance upon a jury in the country after they are sworn, or attendance upon a surveyor, when ordered by the court,	1	5
For serving a writ of <i>habere facias seisinam</i> , or <i>habere facias possessionem</i> ,	1	5
For serving an attachment upon the body,	0	63
For serving a writ of <i>distingas</i> issuing from a judgment in detinue when the specific thing shall be taken,	1	5
For serving a declaration in ejectment, if against one tenant,	0	63
And if against more tenants than one, for serving the declaration on every other tenant,	0	30
For whipping a servant, to be paid by the owner, and repaid by the servant,	0	42
For whipping a free person by order of court (to be paid by such person) the same.		
For whipping a slave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, " <i>An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors,</i> "	0	63
For proceeding to sell on any execution on behalf of the commonwealth, or of any individual, if the property be actually sold, or the debt paid, the commission of five <i>per centum</i> on the first three hundred dollars, or ten thousand pounds of tobacco, and two <i>per centum</i> on all sums above that, and one half of such commission where he shall have proceeded to sale, and the defendant shall have replevied, and no other commission, fee, or reward, shall be allowed upon any execution, except for the expence of removing and keeping the property taken.		
For serving an attachment, or for making distress upon the goods exceeding ten dollars, if sold, the same fee as for serving an execution, where the goods do not exceed that value, or are not sold,	0	63
For every garnishee summoned on such attachment,	0	21
For executing any writ of <i>distingas</i> or attachment on a decree in chancery, the same fee or commissions upon the amount of the value of the goods and chattels recovered, or money mentioned in such decree as is by law allowed for serving any other execution.		
For serving and returning a general or district court writ, summons or order where the same is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For selling a servant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day,	0	21

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	Dols.	Cts.
For serving a justice's warrant,	0	21
For summoning a witness before a justice,	0	10
For all public services of the sheriff, to wit, attending the courts of claims, impannelling grand juries, publishing writs for electing delegates or senators, and attendance, serving all public orders of court (except against guardians where they shall stand out in contempt, to be charged to such guardian) and all other public and county services, to be levied annually by the justices on the county	25	0

VIII. AND when any person or persons presented by the grand jury, or prosecuted by the overseers of the poor, shall be discharged of such presentment or prosecution, the clerk, attorney for the commonwealth, and sheriff, shall be entitled to no fees for the same, but it shall be deemed to be included in the public services; but if the party or parties so presented or prosecuted shall be convicted, then in such case the clerk shall tax all such fees against such party or parties.

No fees to be charged to the defendants in presentments, if acquitted.

To the Coroner,

	Dols.	Cts.	
For taking an inquisition on a dead body, (to be paid out of the estate of the deceased) if the same be sufficient, if not by the county,	2	80	Coroner's fees.
For all other business done by him, the same fees as are allowed the sheriff for the same services.			

To the Constable,

	Dols.	Cts.	
For serving a warrant,	0	21	Constable's fees.
For summoning a witness,	0	10	
For summoning a coroner's jury and witnesses,	1	5	
For putting into the stocks,	0	21	
For whipping a servant, (to be paid by the owner, and repaid by the servant)	0	21	
For serving an execution or attachment, returnable before a justice,	0	21	
For serving an attachment, returnable to the county court, against the estate of a debtor removing his effects out of the county,	0	63	
For whipping a slave, (to be paid by the overseer, if the slave is under an overseer, if not, by the master)	0	21	
For removing any person suspected to become chargeable to the county, (to be paid by the overseers of the poor) for every mile,	0	4	
The same for returning,			

IX. THE clerks of the general court, high court of chancery, court of appeals, and district courts, shall cause to be set up in some public place in their offices, and there constantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the same shall be missing through their neglect; and the clerk of every county and corporation court, shall in like manner set up a fair table of all other fees, herein before mentioned, in the courthouse of his county, to be there constantly kept, on pain of forfeiting twenty dollars, for every court day the same shall be missing through his neglect; and the surveyor of every county shall also cause to be set up in some public place, in his office, and there constantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties shall be to the person or persons, who shall inform or sue for the same, and shall and may be recovered in any court of record within this commonwealth, by action of debt or information.

Tables of fees to be set up.

X. IF any officer hereafter shall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other business by him done, within the purview of this act, than herein before set down and ascertained, or if any officer whatever shall charge or demand, and take any of the fees herein before mentioned, where the business for which such fees are chargeable, shall not have been actually done and performed, (to be proved by the fee book of such officer, upon his corporal oath) such officer for every such offence shall forfeit and pay to the party injured, besides such fee or fees, six dollars for every particular article or fee so unjustly charged or demanded or taken; to be recovered with costs, in any court of record in this commonwealth, by action of debt or information: *Provided* the same be sued for within twelve months after the offence shall be committed.

Penalty for over charging.

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Surveyors and clerks of district and county courts to deliver accounts of fees to the sheriffs.

XI. AND for the better collecting the said fees, *Be it enacted*, That the surveyor of every county shall, annually, before the twentieth day of *January*, and the clerk of every district, county and corporation court, respectively, shall, annually, before the first day of *March*, deliver or cause to be delivered, to the sheriff of every county in this state, and to the serjeant of every corporation, respectively, their accounts of fees due from any person or persons residing therein, which shall be signed by the clerks or surveyors respectively.

Their duty in collecting them.

XII. AND the said sheriffs and serjeants are hereby required and empowered to receive such accounts, and to collect, levy and receive the several sums of money therein charged of the persons chargeable therewith; and if such person or persons, after the said fees shall be demanded, shall refuse or delay to pay the same, till after the tenth day of *April*, in every year, the sheriff of that county, or serjeant of that corporation wherein such person resides, or of the county in which such fees became due, shall have full power, and are hereby required, to make distress of the slaves, or goods and chattels of the party refusing or delaying payment, either in that county or corporation where such person inhabits, or where the same fees became due. And the sheriff of any county, or serjeant of a corporation, for all fees which shall remain due and unpaid after the said tenth day of *April* in any year, either to themselves or the sheriffs or serjeants of another county or corporation, which shall be put into his hands to collect as aforesaid, is hereby authorized and empowered, to make distress and sale of the goods and chattels of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned; but no action, suit, petition or warrant from a justice, shall be had or maintained for clerks, or surveyors fees, unless the sheriff or serjeant shall return, that the person owing or chargeable with such fees hath not sufficient within his bailiwick whereon to make distress, except where the clerk or other officer, as aforesaid, shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriffs hands to collect; and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

No action to be brought for fees where distress can be made.

When the sheriffs are to account for them.

Remedy against them in case of refusal.

XIII. EVERY sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of *May*, in every year, account with the clerks of the respective district, county and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating *fix per centum* for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate in his county, it shall and may be lawful for the clerks or surveyors, their executors or administrators, upon a motion made in the next succeeding district court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

Clerks of the court of appeals of the high court of chancery and general court to deliver accounts of fees to sheriffs. Remedy against them for failing to account for them.

XIV. THE clerks of the courts of appeals, high court of chancery, and general court, shall deliver their tickets to the respective sheriffs and serjeants, annually before the first day of *May*, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods, or chattels, for all such tickets as shall remain unpaid after the first day of *July*, in any year; and if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks at their offices in *Richmond*, or such town or place as the treasury may be kept at, by the fifteenth day of *September*, annually, abating *ten per centum* for collecting, and making an allowance for insolvencies and non-residents, having no estates within their counties, which shall be accounted for on oath, the said clerks or either of them, their executors or administrators, upon motion made in the court of the district, county or corporation, in which the sheriff or serjeant failing to make payment as aforesaid, may be found, may demand judgment against him for all fees, wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly; provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff, who may fail to add the name of his principal to the receipt for such fees.

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XV. THE executors or administrators of any such sheriff, under sheriff, or serjeant, shall be liable to judgment as aforesaid, for the fees received, to be collected by their tefiator or intestate, and accounted for. Every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

Sheriff's receipt to be deemed his act unless denied upon oath,

XVI. THE clerks of the said courts, their executors or administrators, may obtain judgments as aforesaid, for all balances now due to them from any sheriff, under sheriff, or serjeant, on account of fees heretofore put into their hands to be collected.

XVII. THE judges of the superior courts (except the general court) shall make such allowances from time to time to their respective officers as they shall think reasonable; taking into account the time past for which no allowance hath been made by the assembly; which allowances when made and audited, shall be paid by the treasurer out of any public money in his hands.

Superior courts to make allowances to their officers.

XVIII. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed. *Proviso*,

XIX. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. CXVI.

An Act reducing into one, the several Acts for the Settlement and Regulation of Ferries.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry; that is to say:

Public ferries established.

Over the Bay of Chesapeake:

FROM York, Hampton and Norfolk towns, to the land of the heirs of John Bowdoin, deceased, on Hungar's river, for a man or horse passing singly, three dollars and thirty-three cents; for a man and horse, or if there be more, for each, two dollars and fifty cents.

Over Patowmack River and its Branches.

	For a man Cents	For a horse Cents
From Henry Ashton's to Cedar Point, Maryland,	42	42
From Thomas Rowe's to Cedar Point,	42	42
From Hooe's to Cedar Point,	33	33
From Lawrence Washington's to Maryland, opposite,	42	42
From Boyd's-hole to Maryland, opposite,	42	42
From the land of Gustavus Scott in Stafford, to Kennedy's in Maryland,	33	33
From Newport in Prince-William, to Chamberlayne's in ditto,	33	33
From the town of Carbury to Brook's in ditto,	25	25
From William Clifton's to Wallis's in Maryland,	17	17
From Hereford's in Doeg's neck, to the lower side of Pamunkey in Maryland,	17	17
From Hugh West's to Frazier's or Addison's in ditto,	17	17
From Hunting Creek warehouselanding, to Frazier's point or Addison's in do.	17	17
From Floyd's to Powell's,	8	8
Over Occoquan in Prince-William to Colchester,	4	4
Over Nominy in Westmoreland,	6	6
From Mafon's to Rock Creek in Maryland,	6	6
From Earl Tankerville's in Loudoun, to Maryland,	6	6
From Noland's in Loudoun, to Arthur Nelson's land in ditto,	5	5
From Swearingen's, Berkeley, to his land in ditto,	5	5
From Harper's to his land in ditto,	5	5

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	For a man Cents	For a horse Cents
From Foreman's, Frederick, to the opposite shore,	5	5
From Aubrey's in Loudoun, to Hook's in Maryland,	5	5
From Watkins's, opposite Canagocheo Creek, to Wade's in ditto,	4	4
From John Rout's land, Shenandoah, to the fork, or over the main river,	4	4
From Kersey's or Burwell's to the land of Landon Carter,	5	5
From Key's landing to William Fairfax, or his heirs land,	5	5
At Williams's Gap, from Lord Fairfax's land, to Ralph Wormeley's land,	5	5
From Samuel Earl's, Frederick, to Lord Fairfax's,	4	4
From Thomas Bryan Martin's, Frederick, over the Shenandoah,	5	5
From John Turberville's at Dial's landing, over Patowmac,	8	8
From Ralph Humphreys's, Hampshire, over the south branch of Patowmac,	6	6
From Thompson Mason's, deceased, Loudoun, over Patowmac,	8	8
From R. Parker's, Hampshire, over south branch, Patowmac,	5	5
From Isaac Parsons's, over the south branch of Patowmack, opposite,	6	6
From John Pankake's, Hampshire, over the south branch ditto, to Jacob Earlom's,	5	5
From B. Rankin's over the Shenandoah, to the land of G. W. Fairfax,	5	5
From Peter Harbout's, Loudoun, over Goose Creek, to the land of Dr. W. Selden,	4	4
From Edward Snicker's at Williams's Gap, over the Shenandoah, opposite,	5	5
From Cuthbert Bullitt's, over the mouth of Quantico,	8	8
From J. Chenowith's, Hampshire, across Cacapon, opposite, to James Largent's,	6	6
From Elias Poston's ditto, across to his land opposite,	6	6
From C. Buck's, Frederick, across the north fork of Shenandoah, mouth of Passage Creek, to the land of Isaac Hite, opposite,	5	5
From Thomas Buck's, to the lands of G. Harden and Rowley Smith,	4	4
From Luther Martin's Hampshire, across Patowmack, at the confluence of the north and south branches, opposite,	6	6
From Jos. Berry's across the Shenandoah, opposite,	5	5
From J. Chenowith's Hampshire, across great Cacapon Creek, opposite,	6	6
From Conrad Glaze's, Hampshire, across south branch Patowmac, to his land opposite,	6	6
From Rees Prichard's Hampshire, over the north fork of Great Cacapon, opposite,	6	6
From Benjamin Edwards's, Goose Creek, Loudoun, over Patowmac opposite,	6	6
From John Hooe's, Prince-William, across Occoquan, to the old warehouse,	4	4

Over Rappahannock, and its Branches.

From Urbanna to Locust Point,	4	4
From the lands of J. Chowning, Lancaster, to Urbanna,	33	33
From Byrd's to Williams's,	33	33
Over Piscataway Creek in Essex,	4	4
Over Rappahannock Creek, Richmond county,	4	4
From the landing of William Ritchie on Tappahannock to the Causey on the opposite side,	17	17
From Fauntleroy's to the landing of William Ritchie,	25	25
From Ley's land to Robinson's,	8	8
From Leed's Town to the causey opposite,	8	8
From the public landing at Port Royal, to Gibson's warehouse landing,	6	6
From Taliaferro's landing to Carter's,	4	4
From Alexander's to Conway's,	4	4
From the wharf at Newport to Ball's landing,	4	4
From Johnson's plantation, Spotsylvania, to Washington's in King George,	4	4
From Fredericksburg warehouse landing to Hunter's landing,	4	4
From Henry Fitzhugh's, Fredericksburg, to the land of William Fitzhugh, opposite,	4	4
From Falmouth to the land of Francis Thornton,	4	4

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	For a Man Cents	For a horse Cents
From the land of William Richards, Stafford, to those of Simon Miller, } Culpeper, - - - - - }	4	4
From the lands of Gawin Lawson, Stafford, to Fielding Lewis's land, } Spotsylvania, - - - - - }	4	4
From Port Royal in Caroline, to the lands of Francis Conway, vested in } James Bowie, jun. - - - - - }	5	5
From the lands of Landon Carter, Culpeper, across at Norman's ford,	4	4
From Francis Thornton's lands in Spotsylvania, to the town of Falmouth, } opposite, across his bridge, - - - - - }	4	4
At Lowry's across Corotomon river, - - - - -	6	6

On Pianketank River.

From Seaton's to the opposite shore, - - - - -	8	8
From Turk's to the opposite shore, - - - - -	5	5

On York River and its Branches.

From York town to Gloucester town, - - - - -	13	13
From Cappahosick to Scimino, - - - - -	25	25
From the brick house to Dudley's, - - - - -	25	25
From West Point to Dudley's, - - - - -	13	13
From Fox's in Gloucester, to Scimino over York river, - - - - -	25	25
From Frazier's to the causey opposite, - - - - -	8	8
From Mantapike on G. Brooke's land, to the causey on William Fra- } zier's land, - - - - - }	8	8
From Waller's to Walkerton, - - - - -	8	8
From Brick House to West-Point, - - - - -	13	13
From Sweet-Hall to Claiborne Gooch's, - - - - -	8	8
From the land of John Watkins, New-Kent, to Thomas Claiborne's } land, King-William, - - - - - }	8	8
From Chamberlayne's to Claiborne's, - - - - -	8	8
From the land of George Webb, to the opposite landing, - - - - -	8	8
From Blackwell's to King's, - - - - -	4	4
From Taylor's land to Nelson's, - - - - -	4	4
From Philip Aylett's, at his warehouse across Mattaponi opposite, - - - - -	4	4
From Dabney's to Page's, - - - - -	4	4

On James River and its Branches.

From Hampton to Brook's Point, - - - - -	4	4
To Norfolk or Nansemond Town, - - - - -	One	Doll.
From the Borough of Norfolk to Portsmouth or Washington, - - - - -	5	5
From Portsmouth to Washington, - - - - -	5	5
From Hodfden's over Pagan Creek to Smithfield, - - - - -	6	6
From Charles Fulgham's to Smithfield, - - - - -	8	8
From Cockfield's Point, to Robert Peale's near Sleepy-Hole, - - - - -	8	8
From Jeremiah Godwin's over the Western Branch to James-Benn's, - - - - -	6	6
From Benjamin Bascomb's over Bennet's Creek, to James Buxton's, - - - - -	6	6
From John Reid's over the Western Branch, to Jeremiah Godwin's, - - - - -	4	4
From the lands of Lemuel Riddick, in Suffolk, to Jordan's, - - - - -	6	6
From Hog-Island in Surry, to Higgason's Landing, so long as the ferry- } keeper shall keep up the bridge over Hog-Island Creek at his own charge, }	21	21
From James-Town to Swan's Point, <i>vice versa</i> , - - - - -	21	21
From Cobham to James-Town, under the regulation of trustees to let the } ferry, and superintend the boats, - - - - - }	21	21
From Edloe's land in Charles-City, to his land in James-City, - - - - -	8	8
From Edloe's land in Charles-City, to Armistead's Point, - - - - -	5	5
From Dancéy's land in Charles-City, to Barrett's, - - - - -	8	8
From Deloney's to Edloe's, - - - - -	10	10
From Westover to Maycox's, or Coggin's Point, - - - - -	10	10

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	For a man Cents	For a horse Cents
From Bermuda-Hundred to Shirley,	8	8
From Bermuda-Hundred to City-Point,	25	25
From the land of Thomas Pierce, Smithfield, across Pagan Creek, to the land of William Hodsdon,	17	17
From the land of William Black, Chesterfield, over James River to Rockett's,	6	6
From the land of David Ross, Bedford, across James River at the mouth of Archer's Creek, to the land of R. Bolling,	4	4
From William Anderson's, Botetourt, over James River to William Crow's shore,	4	4
From the lands of William Pride, over Perfie Stile's Creek, to the land of Peter Baugh,	4	4
From the land of Henry Trent, Amherst, over the Fluvanna, to the land of Nicholas Davies,	4	4
From Nicholas Lewis's, Albemarle, across the Rivanna,	4	4
From Charles Woodson's, in Henrico, to Tarlton Woodson's, Chester- field,	6	6
From Bolling's Point, over Appamattox River,	3	3
From the lands of Henry Batte, Henrico, to the glebe lands, Verina,	5	5
From Charles Ellis's, to Daniel Weldon's,	4	4
From the land of Reuben Coutts, in Richmond, to Manchester Town,	6	6
From the upper landing in Beverly Town, to the land of Anderson Brit- ton,	4	4
From the land of Matthew Woodson, to the Manacon Town,	4	4
From the land of Benjamin Jude, to the land of William Reynolds,	4	4
From the land of Samuel Woodson, to the land of Jacob Michaux,	4	4
From the land of John Woodson, below the mouth of Willis's creek, to his lands on the opposite side of the river,	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, across the Fluvanna, to the lands of Joseph Mayo, deceased,	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, across the Rivanna, to the lands of David Ross,	3	3
From the said lands of David Ross, to the lands of Joseph Mayo, deceased,	4	4
From the lands of John Harvie, across the Rivanna, to the lands of David Ross,	4	4
From the lands of David Ross, across the Fluvanna, to his lands on the opposite shore,	4	4
From John Lynch's, Bedford county, across the Fluvanna,	4	4
From the land of John Nicholas, over Slate river,	4	4
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferson,	4	4
From the land of William Howard, over Rockfish river, to his lands op- posite,	4	4
From ditto, over the Fluvanna, to Thomas Anderson's landing, and from said Anderson's to Howard's,	4	4
From the land of Nicholas Cabell, in the county of Amherst, at the mouth of Swan creek, over the Fluvanna, to the land of Francis W. Spencer,	4	4
From the land of John Cabell, in the county of Buckingham, over the Fluvanna, to his land on the opposite shore,	4	4
From the land of Joseph Cabell Megginson, in the county of Bucking- ham, over the Fluvanna, to his land on the opposite shore,	4	4
From the land of G. Stovall, over the Fluvanna, to his land opposite,	4	4
From the land of William Crow, to the land of Andrew Boyd, Botetourt, over James river,	4	4
From the land of John Buchanan's heirs, to his lands opposite,	4	4
From Branch's, on James river, to the opposite shore,	4	4
From the land of Jacob Michaux, to the land of Thomas Atkins,	4	4
From the land of Wilson Cary Nicholas, across the Fluvanna, to the lands of John Hardy,	4	4

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	For a man Cents	For a horse Cents
From the lands of Henry Martin, jun. Fluvanna, over the north fork of James river, - - - - - }	6	6
From the lands of John Grymes, deceased, over the west branch of Eli- zabeth river, to the land of M. Warren opposite. }	6	6
From Richmond to Manchester, over Mayo's bridge, - - - - - }	6	6

Over Nottoway River.

From Thomas Drew's land, to Dr. Browne's, - - - - -	4	4
From Bolton's land, to Simmons's land, - - - - -	4	4
Over the toll-bridge in Southampton, - - - - -	4	4

On Roanoke River and its Branches.

From Skipwith's land, Mecklenburg, to the opposite shore, - - - - -	4	4
From the land of John Dix, Pittsylvania, across the Dan river, to his land opposite, - - - - - }	4	4
From Anderson's land, to Taylor's land, - - - - -	4	4
From the land of Sir Peyton Skipwith on the north side, to his land on the south side, over the rivers Staunton and Dan, - - - - - }	4	4
From Maynard's to Field's, - - - - -	4	4
From Samuel Jones's land, to Frederick Jones's land, - - - - -	4	4
From Fox's land, to Blanton's land, - - - - -	4	4
From Ross's land, to Royster's land, - - - - -	4	4
From William Black's land, to the opposite shore, - - - - -	4	4
From Hunt's land, to Abney's land, - - - - -	4	4
From the land of Edward Booker, Halifax, to the land of John Fuqua, Charlotte, - - - - - }	4	4
From Black's land, to Brua's ford, - - - - -	4	4
From Simms's land in Halifax, to Randolph's land, across Staunton river, From Morton's landing, to Watkins's, - - - - -	4	4
From the land of Edward Mitchell, Mecklenburg, across the Roanoke, to the land of Christopher Haskins, - - - - - }	4	4
From John Flin's, across Staunton river, to Thomas Hoad's, opposite, - - - - -	4	4
From Cargill's in Charlotte, to Foushee's land, Halifax, over Staunton river, From Watkins's to Murphy's, - - - - -	4	4
From Irving's landing across Dan river, to Davenport's, - - - - -	3	3
From John Bibb's across Staunton river, to the opposite shore, - - - - -	4	4
From Cole's to Fuqua's - - - - -	4	4
From Boyd's to Hopson's - - - - -	4	4
From the lands of John Owens, Pittsylvania, over the Dan, to Sylvester Adams's land, - - - - - }	4	4
From the land of Margaret Boyd, over Dan, to her land opposite, - - - - -	4	4
From the land of Nathaniel Terry to Fuqua's, - - - - -	4	4
From Dix's to Green's, - - - - -	4	4
From Harman Miller's, Halifax, to Legrand's over Dan river, - - - - -	4	4
From Jones's in Halifax, to Selden's opposite, across the Dan, - - - - -	4	4
From David Brandon's over Dan, to the land of John Lawton, - - - - -	4	4
From John Boyd's over Dan, to the land of Patrick Boyd, - - - - -	4	4
From the land of Joseph Eckolls, Halifax, across Staunton river, opposite, From Wade's over Staunton, to the opposite shore, - - - - -	4	4
From John Ward's, over Staunton, Bedford, to his land opposite, - - - - -	4	4
From John Canefax's, Campbell, across Staunton, to Ward's opposite, - - - - -	4	4
From J. Harper's, across the Meherrin, over his bridge, - - - - -	3	3
From the land of William Gee, across Meherrin, to his land opposite, - - - - -	3	3

Ferries on the Ohio river and its branches.

From the lands of Van Swearingen, Ohio county, across the Ohio, - - - - -	8	8
From the land of David Chambers, Ohio county, across the Ohio opposite, From the land of George Cox, Ohio county, across Ohio opposite, - - - - -	8	8
	8	8

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	For a man Cents	For a horse Cents
From the land of Abfalom Wells, Chio county, across the Ohio opposite, -	8	8
From the land of Reason Pomfrey, Chio county, across the Ohio opposite, -	8	8
From the land of Jonas Minser, Ohio county, across the Ohio opposite, -	8	8
From the lands of Jesse Martin, across Monongahela, to the land of James Hord, on the opposite shore, - - - }	4	4
From the land of Jesse Martin, across Monongahela, to the shore of David Scott, - - - }	4	4
From the lands of James Cleland, Monongalia, across Cheat river, -	4	4
From the lands of Andrew Ramsay, Monongalia, across to William Morgan's, and from Morgan's to Ramsay's, the same, - - }	4	4
From Josiah Prickett's, Monongalia, across the Monongahela opposite, -	4	4
From Robert Wood's, Ohio, across the Ohio, opposite, -	8	8
From the land of John Henderson, Ohio, across the Ohio, opposite, -	8	8
From the lands of Isaac Williams, Harrison county, across the Ohio above and below the mouth of the Muskingum, - - }	8	8
From the lands of Thomas Evans, across the Monongahela, at the mouth of Decker's creek, opposite, - - }	4	4
From the lands of John Pettyjohn, Monongalia, across Tyger Valley river, -	4	4
From the lands of Adrew Jee, over Cheat river, to Jacob Scott's shore, -	4	4
From the land of Thomas Butler, over Cheat river, to his land opposite, -	4	4
From the land of Samuel Morton, Monongalia, across Big Sandy creek, to the land of John Connor, senior, opposite, - - }	4	4
From the land of George Jackson, Harrison county, over Elk creek opposite, -	3	3
From the land of John Wickwire, Harrison county, over Tyger Valley river, -	4	4
From the lands of John Jones, Ohio county, across the Ohio, opposite, -	8	8
From the lands of David Scott, across Monongahela river, opposite, -	4	4
From the lands of Charles Prather, Ohio, across the Ohio, to the opposite shore, - - - }	8	8
From the lands of Charles Prather, Ohio, across the mouth of Buffaloe creek, to the opposite shore, - - - }	3	3
From the lands of Edward Duling, deceased, Ohio county, over Ohio river, opposite, - - - }	8	8
From the lands of Edward Duling, across the mouth of Fishing creek, to the land of Robert Woods, - - }	3	3
From the lands of Robert Woods, Ohio, across the Ohio, opposite, -	8	8
From the lands of George Hollinbough, Monongalia, across Monongahela, to the land of Asay Holl, - - - }	4	4
From the lands of Thomas Lewis, Kanawha county, across Ohio river, to the land of Isaac Greyham, opposite, - - }	8	8
From the lands of Thomas Lewis, across the Kanawha river, to the lands of Robert Henderson, opposite, - - }	6	6
From the land of Cornelius Brown, in Montgomery, over New-river opposite, - - - }	4	4
From the lands of Samuel Pepper, at Buffaloe pond, Montgomery, over New-river, opposite, - - - }	4	4
From the land of William Ingles, over New-river, to the opposite shore, -	4	4
From the land of John Anderson, over Greenbrier river, to the opposite shore, -	5	5
From the land of Austin and company, at the Lead Mines, Wythe, over New-river, to the opposite shore, - - }	4	4
From the lands of Thomas Herbert, in Wythe, across New-river, to the opposite shore, - - - }	4	4
From the lands of Dudley Evans, Monongalia, over Monongahela river, to the lands of George Wilson, - - }	4	4
From the lands of John Collins, Monongalia, over Monongahela at the mouth of Robinson's run, opposite, - - }	4	4
From the lands of James Caldwell, Ohio county, across the mouth of Wheeling creek, to the lands of Ebenezer Zane, - - }	4	4

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	For a man Cents	For a horse Cents
From the lands of Hezekiah Davison, Harrison county, over west fork of the Monongahela, to William Berkley's, opposite,	4	4
From the lands of Edward Jackson, Randolph county, across Buchanan ri- ver opposite,	4	4

II. THE rates of ferries kept opposite to those abovementioned, shall be governed by the same rates and rules. Same rates, &c. at the opposite ferries.

III. THE transportation of the following things shall be at the rates following: For every coach, waggon, chariot, and the driver, the same as for six horses. For every four wheeled chaise, phaeton, and driver, the same as for four horses. For every two wheeled riding carriage, the same as for two horses. For every hoghead of tobacco, the same as for one horse. For every head of neat cattle, the same as for one horse. For every sheep, hog, goat or lamb, one fifth part of the ferriage for one horse. Rates for wheel carriages.

Tobacco, cattle, sheep, goats, & hogs.

IV. IF the keeper of any ferry or toll-bridge shall demand and take from any person, a greater sum for the ferriage or toll, than is allowed by this act, such offender shall forfeit to the person so over charged, the ferriage or toll demanded and received, and two dollars for every such offence; recoverable before any justice of the peace of the county. Penalty for taking greater rates.

V. THE court of every county or corporation wherein a ferry is, or shall be appointed, shall have, and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands which shall be kept at each ferry respectively, and the owner of the land whereon any such ferry is, if he hath not already given bond and security, shall within six months from the commencement of this act, give bond with one security, in the court of the county or corporation wherein such ferry is, in the penalty of sixty dollars, with condition, that he will duly keep such ferry, or cause the same to be kept according to law, and will give immediate passage to all public messengers and expresses, when required from time to time. And in case any such person shall neglect or refuse to give such bond, or to cause the same to be given on his behalf, he shall forfeit and pay seven dollars for every month's refusal or neglect to the governor for the time being, and his successors, for the better support of the contingent charges of government, recoverable with costs, in any court of record, where the same shall be cognizable. County courts to direct the number of boats & hands, &c.
Owners of ferries to give bond and security.

VI. ALL expressses sent on public service by a member of the council, or commander in chief, general or field officer, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, shall be accounted public messengers and expressses, and ferry free, within the condition and meaning of the bond aforesaid, in case the dispatch carried by such express, be endorsed "on public service," and signed on the superscription by the person sending the same. Public expressses to be ferry free.

VII. AND for encouragement of ferry-keepers, and in consideration of setting over public messengers, and the persons exempted by this act: *Be it further enacted*, that all the men attending the said ferries be free of county levies, and from all other public services of musters, constables, clearing highways, impressments and other things of like nature, and that keepers of ferries shall not be chargeable with any fee for giving bond; and if the county or corporation court shall find it requisite or useful that an ordinary be kept at any ferry, they may license such ferry-keeper to keep ordinary, without any fee for the license, or obtaining the same, notwithstanding there be a sufficient number of other ordinaries in the same county or corporation. *Provided always*, that every ferry-keeper so licensed to keep ordinary, shall give bond and security, and be liable to the same penalties as other ordinary keepers. And if any other person whatsoever shall for reward, set any person or persons over any river or creek, whereon public ferries are by this act appointed, he or she so offending, shall forfeit and pay twenty dollars for every such offence, one moiety to the ferry-keeper nearest the place where such offence shall be committed, the other moiety to the informer; and if such ferry-keeper informs, he shall have the whole penalty; to be recovered with costs. Men attending ferries to be free from levies, musters, &c.

Owners may be licensed to keep ordinaries without fee.

Penalty on other persons taking ferriages.

VIII. IT shall be lawful for the court of the county of *Norfolk*, to let annually to the highest bidder, the ferries across *Elizabeth* river and the branches thereof, taking bond and Court of *Norfolk* county to let ferries

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across *Elizabeth* river annually.

County courts may establish ferries opposite to those now appointed.

For what causes ferries heretofore established shall be discontinued.

For what causes those hereafter established shall be discontinued.

The owners to be summoned on complaint to shew why they should not be discontinued.

Ferry keepers may convey passengers, &c. from either side to the other.

Repealing clause.

Commencement of this act.

good security for due payment of the money, and to apply the same as it may be received, towards lessening the county levy.

IX. WHERE there is no ferry corresponding to one appointed by this act, it shall be lawful for the court of the county to constitute an opposite ferry, with the same rates. And the courts are empowered to appoint ferries over such rivers and creeks in their respective counties, as shall be deemed convenient and necessary.

X. ALL ferries heretofore established, and which have not been generally frequented for the space of two years, shall be, and the same are hereby discontinued, unless the persons entitled to keep the same, shall within six months after the passing of this act, procure all necessary boats and ferrymen, for the transportation of passengers at their respective ferries.

XI. ALL ferries now established, and which may be hereafter generally disused and unfrequented for the space of two years, shall be likewise discontinued, unless necessary boats and ferrymen are prepared for the same, within the space of six months, after the expiration of the said two years. And all ferries which may be hereafter established, and which shall not be furnished with necessary boats and ferrymen within the space of six months after the establishment thereof, or shall at any time thereafter be generally disused and unfrequented for the space of two years, shall be, and the same are hereby discontinued.

XII. AND it shall be lawful for the court of the county in which such ferry or ferries shall be, on complaint to them made, to summon the proprietor or proprietors of the same, to shew cause why it shall not be discontinued, and to decide according to the testimony adduced.

XIII. IT shall and may be lawful for any keeper of a ferry, to take into his boat or boats any passenger or passengers, carriages, horses, or cattle of any kind whatsoever, on either side, to convey them over, and to receive the ferriage for the same; any law, usage, or custom to the contrary, notwithstanding.

XIV. ALL and every other act and acts, clause and clauses of acts, heretofore made for, or concerning any matter or thing within the purview of this act, shall be, and are hereby repealed.

XV. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXVII.

An Act reducing into one, the several Acts for regulating the Inspection of Flour and Bread.

[Passed the 21st of December, 1792.]

Preamble.

I. WHEREAS the laws heretofore made for the inspection of flour, have been found defective, and it has become necessary to adopt some regulations for the prevention of frauds in the exportation of bread:

Inspectors of flour to be appointed. Places of inspection.

II. BE it therefore enacted by the General Assembly, That one inspector of flour shall be appointed at each of the following places, to wit:---*Alexandria, Fredericksburg, Richmond, Petersburg, Blandford, West-Point, Newcastle, York, Falmouth, Port-Royal, Hobb's-Hole, Colchester, Dumfries, Manchester, Osborne's, Pocahuntas, Nomony, Broadway, Low-Point in Surry, Suffolk, Hampton, South-Quay, Norfolk, Morgan's-Town, Smithfield, Fort-Wheeling, Lynchburg, Hanover-Town, Portsmouth, Cumberland-Town*, at the mouth of *Buffaloe Creek*, on the lands of *Charles Prather*, and at the mouth of *Short Creek*, on the lands of *David Chambers*, in the county of *Ohio*:

Inspectors how to be appointed.

III. THE courts of the several counties in which the places aforesaid are situated, shall at their courts held in the months of *September* or *October* in every year, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, to be in-

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pector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, or refusing or neglecting to act, who shall execute the duties of his office, until the next court held for the county, where such vacancy may have happened; and at such court the justices shall appoint in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspector at the time directed by this act, the governor, with the advice of the council, may supply such vacancy; and the person so appointed, having taken the oath herein after mentioned, before a justice of the peace, shall continue in office during the same time, and have the same power and authority as if he had been appointed by the court of the county.

IV. ALL bolted wheat flour, and every cask thereof, brought to any of the places before mentioned for exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat.

Wheat flour
not to be mix-
ed with any
other.

V. ALL bread and flour casks which shall be brought to any of the places before mentioned for exportation, shall be well made, of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit: the staves shall be twenty-seven inches in length, and the heads seventeen inches and a half in diameter; and half barrels shall be of the following dimensions, to wit: the staves shall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

How barrels
to be made.

VI. EVERY miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand-mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every cask of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed, and not branded and marked as aforesaid, to be recovered from such miller or baker, who shall neglect to comply with the directions of this act, or from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said flour or bread for sale, such person shall and may recover the same from the miller, baker or bolter from whom such flour or bread was purchased or received; provided that it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before mentioned for sale or exportation, and that he requested such baker, miller, or bolter, to secure and brand the said barrels.

Millers & ba-
kers to keep
brand-marks.

Penalty for
removing flour
and bread not
hooped, nail-
ed, & branded.

VII. EVERY miller and bolter shall put into a barrel the full quantity of one hundred and ninety-six pounds of flour, and shall put into every half barrel the full quantity of ninety-eight pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, seventeen cents.

Contents of
casks of flour.
Penalty for
deficiency in
the weight.

VIII. ALL casks wherein bread shall be packed, shall be weighed and the tare marked thereon; and if any person shall put a false or wrong tare on any cask of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents; and the inspector, or his assistants, upon suspicion, or at the request of the purchasers, shall, and he is hereby required, to unpack any cask of flour or bread; and if there shall be a less quantity of flour than is above directed, or if the cask wherein bread is packed, shall be found to weigh more than is marked thereon, the miller, baker, or bolter (as the case may be) shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise the said charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Casks of bread
to be weighed
& tare marked
thereon.

Inspector may
unpack flour
suspected to be
falsely packed.

IX. EVERY baker of bread for exportation, shall deliver with the said bread a manifest of the contents thereof, with his brand marked thereon, and his name subscribed there-
to, under the penalty of seven dollars for every manifest delivered contrary thereto; and if

Bakers to de-
liver manifests
with bread in-
tended to be
exported;

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Penalty for
deficiency in
the weight.

any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion as is heretofore directed as to flour.

Flour to be
inspected be-
fore exported.

Marks when
inspected.

Fee for in-
spection.

Inspector to
condemn un-
merchantable
flour.

But the pro-
prietor may
have it re-
viewed.

Penalty for
exporting con-
demned or un-
inspected flour

Penalty for
packing flour,
&c. in old casks
which have
been branded
and marked.

When flour
may be inspec-
ted at merch-
ant mills.

X. ANY cask of flour brought to any of the places before mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument, not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed and merchantable according to the directions of this act, he shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness, which he shall on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, ship-stuff; for which trouble the inspectors at *Alexandria, Fredericksburg, Falmouth, Richmond, Manchester, Petersburg, Pocahontas, and Blandford*, shall have and receive of the owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment or want of skill in an inspector, in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is hereinafter directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall re-pay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation, out of this state, any cask of flour marked "condemned," by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board any ship or vessel for exportation.

XI. AND whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: *Be it enacted*, that if any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

XII. *PROVIDED nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him, and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before mentioned places.

XIII. EVERY inspector of flour before he enters on the execution of his office shall make oath or affirmation---

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THAT he will without favour, affection, malice or partiality, carefully inspect all flour brought to him, and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand, or cause to be branded, as passed, any cask or casks of flour, that do not appear to him to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained; and that he will not pass or brand any such casks, unless they be of such size, goodness and thickness, as by this act required.

XIV. NO inspector of flour shall directly or indirectly purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased.

Not to purchase flour.

XV. IF any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of an inspector's mark or brand, or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or after any cask of flour shall be branded "condemned," shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask.

Penalty for altering the mark of flour. For marking uninspected flour.

For packing other flour in casks marked. For packing condemned flour in other casks.

When inspectors may appoint deputies.

XVI. IF the quantity of flour which shall be brought to any of the above mentioned places for inspection, shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch; or if through sickness the inspector shall be incapable of discharging the duties of his office, on such occasions, it shall be lawful for him to appoint one or more persons of good repute, and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector, shall be authorized to inspect and brand any flour in the same manner as the inspector may do.

XVII. THE courts of the several counties in which the before mentioned places are situated, may at any time remove from office any inspector of flour for neglect of duty, malfeasance, or corrupt practices, and may supply the vacancy occasioned thereby, by appointing another inspector for the residue of the year.

How they may be displaced.

XVIII. THE penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate, where the penalty does not exceed five dollars, and where they are over that sum, but do not exceed twenty dollars, the same shall be recovered by petition in the same manner as is by law directed in case of petitions for the like sum of money, and where the penalty incurred shall exceed the sum of twenty dollars, the prosecutor may sue for the same in the court of the county, or corporation, where the defendant resides, or where the offence was committed, one half of which said penalties and forfeitures shall accrue to the use of the informer, and the other half to the use of the commonwealth, if not otherwise appropriated. The prosecutor may make oath before the justice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, shall endorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail.

Penalties how recoverable.

Defendants may be ruled to give special bail.

XIX. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed. *Provido*.

XX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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C H A P. CXVIII.

An Act directing the mode of suing out and prosecuting Writs of Habeas Corpus.

[Passed the 19th of December, 1792.]

Duty of officers and others to whom writs of *habeas corpus* are directed. Charges of conveying the prisoner before the court, &c. to be tendered to them.

I. **B**E it enacted by the General Assembly, That whensoever a *habeas corpus* shall be served by delivering it to the officer or other person to whom it is directed, or by leaving it at the jail or prison in which the party suing it out is detained, unless the warrant of commitment plainly and specially expresses the same to have been for treason or felony, if the charges of bringing the prisoner, to be ascertained by the court or judge who awarded the writ, and thereon endorsed, not exceeding seventeen cents *per* mile, be paid or tendered, and sufficient security to pay the charges of carrying him back, in case he be remanded, and that he will not escape by the way, be given, then the officer, or his deputy, within three days after such service, or if the prisoner is to be brought more than twenty miles, within so many days more as will be equal to one day for every twenty miles of such further distance, shall make return of the writ, and bring the body of the prisoner, or cause it to be brought, before the proper judge or judges, according to the command thereof; and then shall likewise certify the true causes of his detainer or imprisonment.

By whom such writs shall be signed. How they shall be obtained.

II. EVERY such writ shall be signed by him who awards it.

When and before whom returnable.

III. AND if any person shall be, or stand committed or detained as aforesaid for any crime, unless it be for treason or felony, plainly expressed in the warrant of commitment, in the vacation time, the prisoner not being convicted, or in execution by legal process, or any one on his behalf may appeal and complain to the judge of the high court of chancery, or any judge of the general court, who at the request of such prisoner, or other person on his behalf, attested by two witnesses present at the delivery thereof, is hereby authorized upon view of a copy of the warrant of commitment or detainer, or otherwise upon affidavit made, that such copy was desired to be given by him in whose custody the prisoner is detained, to award and grant a *habeas corpus*, to be directed to the officer in whose custody the party committed or detained shall be, returnable immediately before the said judge, or any other judge of one of the said courts; and upon service thereof as aforesaid, the officer or his deputy, in whose custody the party is so committed or detained, shall within the times before respectively limited, bring the prisoner before the court, or one of the judges thereof before whom the writ is made returnable, or in case of his absence, before any other of them, with the return of the writ, and the true causes of commitment and detainer; and thereupon the judge before whom the prisoner shall be brought, shall, within two days thereafter, discharge him from imprisonment, taking his recognizance, with surety in any sum, according to the discretion of the judge, having regard to the circumstances of the prisoner and nature of the offence, for his appearance in the court of the district the term following, or in some other court where the offence is properly cognizable, as the case shall require; and then also certify the said writ with the return thereof, and the said recognizance into the said court where such appearance is to be made, unless it shall appear to the judge, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said judges, or some justice of the peace, for such matters or offences, for the which by the law the prisoner is not bailable.

How the prisoner when brought before the judge shall be discharged.

When writs of *habeas corpus* shall not be granted in vacation.

IV. IF any person shall have wilfully neglected, by the space of two terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such writ shall not be granted to him in vacation in pursuance of this act.

Penalty on the officer for disobeying the writ, &c.

V. ANY officer neglecting or refusing to make the return aforesaid, or to bring the body of the prisoner according to the command of the writ within the time aforesaid, or not delivering a true copy of the warrant of commitment and detainer within six hours after demand thereof made, to the prisoner, or person demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, shall forfeit to the prisoner three

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hundred dollars; to recover which, the right of action shall not cease by the death of either or both the parties.

VI. NO person who shall have been delivered upon a *habeas corpus*, shall afterwards be imprisoned or committed for the same offence, otherwise than by the order or process of the court wherein he shall be bound by recognizance to appear, or some other court having jurisdiction of the cause.

No person to be again committed for the same offence after a discharge on a *habeas corpus*.

VII. A CITIZEN of this commonwealth committed to prison in custody of an officer for any criminal matter, shall not be removed from thence into the custody of another officer, unless it be by *habeas corpus*, or some other legal writ, or where the prisoner shall be delivered to the constable, or other inferior officer, to be carried to some common jail, or shall be sent by warrant of an overseer of the poor to some common work-house, or shall be removed from one place to another, within the same county, in order to his discharge or trial in due course of law; or in case of sudden fire or infection, or other necessity, or where the prisoner shall be charged by affidavit with treason, felony, or other crime, alleged to be done in any other of the United States of *America*; in which last case he shall on demand from the Executive authority of the state from which he fled, be sent thither in custody by order of the general court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with sureties before them, to appear there, whichever shall seem most proper, if the said court or judges, upon consideration of the matter, shall think he ought to be put upon his trial.

Prisoners not to be removed from the custody of one officer to another, except in particular cases.

VIII. ANY person as aforesaid, may move for and obtain his *habeas corpus* as well out of the high court of chancery as out of the general court, or out of the court of that district wherein he shall be confined. And if any judge of either of the said courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that such copy was denied as aforesaid, shall refuse any writ of *habeas corpus*, by this act required to be granted, being moved for as aforesaid, such judge shall be liable to the action of the party grieved.

Writs of *habeas corpus*, by whom they may be granted. Penalty on a judge refusing to grant one.

IX. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

X. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXIX.

An Act for improving the Breed of Horses.

[Passed the 24th of December, 1792.]

I. **B**E it enacted by the General Assembly, That no person shall suffer a stoned horse of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the inclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so after having been admonished to confine such horse, shall forfeit and pay twenty dollars to him who will sue for it, and double that sum for any such transgression, after one conviction; and if after a second conviction, the same horse be found so running at large, it shall be lawful for the person who will take him up, to retain him to his own use.

Penalties for suffering a stoned horse to run at large. After a second conviction on the person taking him up may retain him.

II. ALL and every act and acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

III. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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C H A P. CXX.

An Act reducing into one, the several Acts making Provision for the Restraint, Support and Maintenance of Idiots and Lunatics, and the Preservation and Management of their Estates.

[Passed the 24th of December, 1792.]

Directors of
the lunatic
hospital incor-
porated.

I. **B**E it enacted by the General Assembly, That the present directors of the hospital for the reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by the Governor, with the advice of the Council, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds; and by that name may sue, and be sued, and may and shall have, and use a common seal, and are enabled to take and hold any estate, real or personal, given or to be given to the said hospital, or to themselves, for the use thereof, so as the annual revenue, or income of such donations, exceed not three thousand dollars; any law or statute to the contrary, notwithstanding.

Annual
income of the
hospital not to
exceed a cer-
tain sum.

Directors may
choose a presi-
dent;
Seven to form
a court.
Keeper, ma-
tron, nurses,
guards.

II. THE said directors shall and may so often as it may be necessary, choose a president to continue in office until his death, resignation or removal; and they, or any seven of them, shall form a court, and shall from time to time ordain regulations for the government of the said hospital, and appoint a keeper and matron thereof, with nurses and guards when they shall be necessary; and provide for the accommodation, maintenance, and cure of the patients remaining and to be received therein.

Justices to ex-
amine insane
persons;

III. BY warrant to be directed to the sheriff or serjeant, a justice of the peace shall order to be brought before him, any person whose mind from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who at his request, shall associate with him, shall enquire into the state of such person's mind, and the said justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses, touching the supposed insanity; and if two of them adjudge the party to be such a person as ought to be confined in the hospital, and some friend will not become bound with surety, to restrain and take proper care of him, or her, until the cause for confinement shall cease, the said justices, or two of them, shall order the insane to be removed to the said hospital and there received, and for that end direct a warrant to the sheriff or serjeant, and a mittimus to the said keeper, transmitting therewith to the latter, the examinations of the witnesses, and a relation of such facts as the said justices shall think pertinent to the subject, to be laid before the directors.

And send
them to the
hospital unless
security be
given for their
restraint.

How to be re-
ceived, ex-
amined and
registered.

IV. THE said keeper immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge, in a writing signed by him, and delivered to the sheriff or serjeant, shall inform the president thereof, who shall require his colleagues to meet as soon as may be, and at such meeting, which shall not unnecessarily be delayed, the directors, if having considered the case, they concur in opinion with the justices, shall register the insane as a patient, but they may at any time afterwards deliver him or her to a friend, becoming bound to restrain and take care of him or her, in the same manner as the justices might have done.

But may be
delivered to
their friends,
giving security
for their res-
traint,
Or discharged
if the directors
do not think it
necessary to
confine them.

V. IF upon the examination of any person charged with being a lunatic or idiot, or otherwise insane, the said court shall be of opinion, that he or she ought not to be confined, it shall be lawful for the said court forthwith to discharge him or her.

Justices to
send with an
insane person
a certificate of
his estate.

VI. WHEN any insane person shall be removed as aforesaid to the said hospital, the justices before whom such person was examined, shall cause a certificate of the estate of such insane person (if any there be) and of the probable annual profits arising therefrom, to be sent to the said directors, together with the proceedings before directed, to be transmitted to them; and shall also certify such removal, and the insane's estate, to the next court to be holden for the county, city, or borough, whence such removal was. On receipt of such certificate, it shall be lawful for such court, to appoint a committee, in whose hands shall be committed such insane's estate, for the safe keeping and good management thereof; which committee shall have power to sue for, and recover all debts due to, and be liable to be sued

Committees to
be appointed
to manage es-
tates of insane
persons.

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for all debts due from such insane person, in the same manner as executors to deceased persons are or may be; and out of the profits of such insane person's estate, the said court may direct to be defrayed, the expences attending, as well the removal as the annual support of every such person while remaining in the said hospital, to be paid to the said court of directors. *Provided*, That such county, city, or borough court, may allow a reasonable support to the family of such insane person, (if any he hath) out of his estate, so that neither the expences attending such insane person, nor the allowance to his family, shall defeat the claims of his or her creditors. Upon the appointment of any such committee by the court as aforesaid, such court shall take bond, with good security, in a sufficient penalty, for the true and faithful performance of the trust thereby reposed in them; and in case of failure in the examining justices to perform the duties by this act enjoined, or in case of failure in any such court, to appoint committees as aforesaid, and to take such bond and security as is hereby required, the justices in either case so refusing or neglecting, shall forfeit and pay for every such refusal or neglect, one hundred and fifty dollars, to be prosecuted for, and recovered by the attorney general in the name of the said court of directors, for the use of the commonwealth.

Profits thereof to be applied to the support of them and their families.

Committees to give bond with security. Penalty on the justices for neglect.

VII. IF any person possessing lands or other property in this commonwealth, shall have removed, or shall hereafter remove out of the State, the high court of chancery, or the court of the county or corporation in which the greater part of such person's property is, (on satisfactory proof being made that such person has become insane) shall and may appoint a committee, into whose hands shall be committed such insane's estate, for the safe keeping thereof, and for the necessary support of such insane, and his or her family; which committee shall give the like security, have the same powers, and be governed by the same rules as are prescribed for the committees appointed by virtue of a certificate from justices of the peace, who have examined insane persons, agreeably to the directions of this act.

How a committee shall be appointed, where an insane person removes out of the state.

VIII. IN case an infant child or ward, be suggested by the parent or guardian of such infant child or ward, to be of unsound mind, the court of the county, city or borough, wherein such person may reside, shall appoint three justices to examine into the state of his or her mind; and upon the report of the said justices, if the suggestion appears to be true, such court shall order the insane to be removed to the hospital, in the manner before directed, where he or she shall be received and registered.

Insane infants to be examined and sent to the hospital.

IX. THE expence of maintaining and endeavouring to cure a registered insane, shall be paid by the public, and reimbursed out of his estate, (if any such there be); and in case of an infant, not an orphan, shall be reimbursed by the parent, if of sufficient ability to support such infant; to be adjudged of, and certified by the court of that county where the parent resides, and may in either case be recovered by an action, in the name of the directors, who shall account for what shall thus come to their hands.

Expence of maintaining and curing registered infantes, how to be defrayed.

X. ACCOUNTS of expences incurred in the execution of this act, as well as for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts.

Hospital accounts to be audited and discharged as other public accounts.

XI. THE directors shall enlarge every person confined in the hospital, who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof.

Persons cured of insanity to be discharged.

XII. A PERSON registered in the hospital, shall nevertheless, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal settlement at the time of his or her removal to the hospital.

Persons confined in the hospital to be deemed inhabitants of the counties from which they were removed.

XIII. IN case of the absence of the president of the directors, the members present may choose a president, *pro tempore*.

Directors may choose a president *pro tempore*.

XIV. ANY director who shall remove to the distance of twenty miles or upwards, from the said hospital, shall be considered as having vacated his office.

How directors shall vacate their seats. Two guards allowed for removing an insane to the hospital.

XV. NOT more than two persons shall be paid as a guard for removing any insane person to the said hospital; which two shall have the same allowance made them for their services, as is at present allowed to guards employed in removing criminals, and who shall be paid by the court of directors, out of the monies appropriated for the use of the hospital.

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Committees of
insanes seized
of lands in
trust, may ex-
ecute such
deeds, &c. as
the trustees
could if of
sound mind.

XVI. WHERE any person of unsound mind, is, or shall be seized or possessed of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the committee appointed for the care of such person, on the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of sound mind, might have executed or performed. And such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Such committee may also make or take a surrender of a former lease, or take or make a new lease, as the case may require, and as it shall seem most for the advantage of such insane person; out of whose estate, any fine that may be advanced, and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

Estates of lu-
natics, &c. not
sent to the hos-
pital to be kept
as the estates
of those who
are.

Estates of per-
sons dying in-
sane, how to
be disposed of.

XVII. THE lands, tenements and chattels, of all idiots and lunatics whatsoever, shall be kept in like manner as is herein before directed, in the case of such as be sent to the hospital, safely, without waste or destruction; and they and their household, shall live and be maintained competently, with the profits of the same; and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right mind; and if they die in such state, their lands and chattels shall be distributed in the manner directed by the act, intituled, "*An act to reduce into one, the several acts directing the course of descents.*"

Repealing
clause.

XVIII. ALL and every act and acts, clause and clauses of acts, concerning any matter or thing within the purview of this act, are, and shall be henceforth repealed.

Commence-
ment of this
act.

XIX. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXXI.

An Act to regulate Impresses.

[Passed the 24th of December, 1792.]

Officers and
others making
illegal impres-
ses, to be ap-
prehended and
secured until
discharged by
due course of
law.

I. **B**E it enacted by the General Assembly, That if any officer, foldier, commissary, quarter-master, or other person, shall presume to take from any citizen or citizens of this commonwealth, any part of their property by way of impress, unless it be by warrant from the executive in case of actual invasion, or by the sheriffs or serjeants bringing criminals to a district court, or in such other cases as is or shall be expressly allowed by law, it shall be lawful for any magistrate in the county or corporation where the offence is committed, upon information on oath, to issue his warrant for the immediate taking and safe keeping of such offender or offenders, till they are delivered by due course of law; and all officers of the militia are hereby enjoined to support the civil power in securing and bringing such offenders to justice.

Repealing
clause.

Proviso.

II. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as hereinafter provided) shall be, and the same are hereby repealed: *Provided always*, that nothing in this act contained shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commence-
ment of this
act.

III. THIS act shall commence in force, from and after the passing thereof.

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C H A P. CXXII.

An Act concerning tributary Indians.

[Passed the 24th of December, 1792.]

I. **B**E it enacted by the General Assembly, That it shall not be lawful for any *Indian* king, or any other tributary *Indians* whatsoever, upon any pretence, or upon any consideration, to bargain and sell, or demise to any person or persons, other than to some of their own nation, or their posterity, in fee, for life or for years, the lands laid out and appropriated for the use of such *Indians*, or any part or parcel thereof; or to bargain and sell as aforesaid, any other land whatsoever now actually possessed, or justly claimed, and pretended to by the said *Indians*, or any of them, by virtue of any articles of peace made and concluded with such *Indians* by this commonwealth, or by the government existing previous to the establishment of this commonwealth, or by virtue of any other right and title whatsoever; and every bargain, sale, or demise, hereafter made contrary to this act as aforesaid, shall be, and is hereby declared to be null and void to all intents, constructions, and purposes.

Tributary *Indians* not to sell their lands to any, other than persons of their own nation.

II. IF any person or persons (other than the *Indians* and their posterity) shall from and after the publication of this act, presume to purchase or obtain any deed, or conveyance in fee, or any lease for years, from any of the tributary *Indians*, of any lands, tenements, or hereditaments, laid out or appropriated, or now actually possessed, or justly claimed, or pretended to by the said *Indians*, or shall occupy or tend any of the said lands by permission of the said *Indians*, or otherwise, every person so offending, and being thereof lawfully convicted in any court of record within this commonwealth, shall forfeit and pay the sum of one dollar and sixty-seven cents for every acre of land so purchased, leased, or occupied, and so for every year such person or persons may hold possession of such lands, by virtue of such purchase or lease; one moiety of which penalty shall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information in any court of record within this commonwealth.

Penalty for purchasing or occupying their lands.

III. THE *Indians* tributary to this government, shall be well secured and defended in their persons, goods and properties; and whosoever shall defraud or take from them their goods, or do hurt or injury to their persons, shall make satisfaction, and be punished for the same according to law, as if the *Indian* sufferer had been a citizen of this commonwealth.

Indians rights and privileges to be secured to them.

IV. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Repealing clause. *Provido*.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXXIII.

An Act declaring that Joint-Tenancy may be pleaded in Abatement.

[Passed the 19th of December, 1792.]

I. **B**E it enacted and declared by the General Assembly, That in all actions, real or mixed, which shall hereafter be brought for the recovery of any lands or tenements, within this commonwealth, if the tenant shall plead that he holdeth the tenements in demand, jointly with his wife, or any other person, not named in the writ, and shew forth a deed testifying the same, and demand judgment of the writ, and thereupon issue be joined, and it be found against the truth of the plea by him in manner and form aforesaid pleaded, the plaintiff shall recover his seizin of the tenements in demand, and double damages against the party by whom such plea shall have been pleaded; but if it be found that the

Tenant in real actions falsely pleading joint-tenancy in abatement, liable to double damages.

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matter aforesaid was truly and lawfully alledged by such defendant in his plea, the writ shall be abated.

Such pleas to
be sworn to.

II. *PROVIDED always*, That no such plea shall be admitted or received, in any case, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require.

Repealing
clause.

III. ALL and every statute and statutes, act and acts, within the purview of this act, shall be, and the same are hereby repealed.

Commence-
ment of this
act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXIV.

An Act reducing into one, the several Acts concerning the Inspection of Lumber.

[Passed the 26th of December, 1792.]

Inspectors to
be appointed.

I. **B**E it enacted by the General Assembly, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits, as they shall deem necessary.

How qualified.

II. THE inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security, in the sum of one thousand dollars, for the faithful performance of the duties of their office, and shall moreover take the following oath:---

I, do swear that I will well and truly demean myself as inspector of lumber, without favor, affection, or partiality: So help me GOD.

Length,
breadth and
thickness of
staves and
heading.

And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations; that is to say, all drawn white oak hoghead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick, when green, and five eighths of an inch, if seasoned; white oak hoghead heading, shall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, and five inches in breadth, seven eighths of an inch thick, when green, and three quarters of an inch, if seasoned; the staves and heading aforesaid, to be without sap: Red oak hoghead staves, shall not be of less dimensions than the white oak aforesaid: Rough hoghead staves shall be at least forty-two inches long, three and an half inches wide, and one inch thick: Barrel staves shall be at least thirty-two inches long, three and an half inches wide, and three quarters of an inch thick: Pipe staves shall be at least four feet and a half long, three inches wide, and one inch thick: Shingles shall not be less than eighteen inches long, four inches wide, and half an inch thick at the butt: And all plank, scantling, and ranging timber, shall be sound, and have square edges.

Of shingles.
Plank, scant-
ling, &c. to
have square
edges.

Inspectors
fees.

III. THE inspectors of lumber, shall be entitled to demand and receive the following fees: For all hoghead staves and heading, twenty-five cents *per* thousand: For all pipe staves, thirty-three cents *per* thousand: For all barrel staves, seventeen cents *per* thousand: For all shingles, six cents *per* thousand: For all plank and scantling, fifty-six cents *per* thousand: And for all ranging timber, forty-two cents *per* thousand, and no more; to be paid by the person offering the same for inspection; and the inspectors shall be continued in office during good behaviour.

Lumber not
to be exported
until inspect-
ed.

IV. IT shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel, for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector or other proper officer of the customs of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander or skipper of

such vessel shall produce inspectors notes or certificates for all lumber which he means to clear out, and shall also make oath, that he hath no lumber on board but what is particularly entered in his manifest. Any master, commander or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and sixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

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Vessels not to be cleared until the masters produce such certificate, and take an oath.

Penalty for exporting it without.

V. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Repealing clause.
Provifo.

VI. THIS act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXXV.

An Act providing that the Exception of Non-tenure of Parcel, shall not abate the whole Writ.

[Passed the 19th of December, 1792.]

I. **B**E it enacted and declared by the General Assembly, That by the exception of non-tenure of parcel, of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the non-tenure which is alleged.

Exception of non-tenure of parcel, not to abate the whole writ.

II. ALL and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed.

Repealing clause.

III This act shall commence and be in force, from the passing thereof.

Commencement of this act.

C H A P. CXXVI.

An Act providing a Method to help and speed poor Persons in their Suits.

[Passed the 24th of December, 1792.]

I. **B**E it enacted by the General Assembly, That every poor person who shall have cause of action against any person within this commonwealth, shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of *subpoena*, according to the nature of his cause, nothing paying for the same.

Poor persons may sue out original writs, &c. without paying therefor.

II. THE said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made, who shall do their duties without any reward for their councils, help and business in the same.

The courts shall assign them counsel.

III. ALL and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit, so admitted by the court, shall not be compelled to pay any costs.

When plaintiffs, shall pay no costs.

IV. ALL statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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C H A P. CXXVII.

An Act to reduce into one, the several Acts for regulating Pilots, and ascertaining their Fees.

[Passed the 26th of December, 1792.]

Examiners
appointed.

I. **B**E it enacted by the General Assembly, That Paul Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Parish, and Edward Rudd, or any three of them, be, and they are hereby appointed to examine every person that shall desire to be admitted a pilot.

II. EACH examiner before he enters on the duties of his office, shall take an oath before some court of record truly and impartially to execute the trust reposed in him.

Persons applying for examination to produce certain certificates to the examiners.
Fee for examination.
Branches to be given to those who are qualified.

III. EVERY person applying to be examined, shall produce a certificate from the county or corporation court where he resides, of his honesty and good behaviour, satisfactory proof that he hath served as an apprentice to some branch pilot for the term of five years at the least, and that he is an inhabitant of this commonwealth; and shall moreover pay down to the examiners the sum of five dollars. And if upon examination, such person shall appear to be of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot.

Pilots to be arranged into three classes.

IV. ALL pilots within this commonwealth shall be arranged into three distinct classes, and distinguished by the numbers, first class, second class, third class; in order to effect which, in each branch hereafter to be granted, the said examiners shall distinguish to what class the pilot obtaining such branch shall belong. And if there be any pilots whose branches do not distinguish to which class the pilot holding it belongs, such pilot shall on or before the first day of May next, surrender such branch to the examiners, who are hereby empowered and directed to issue a new branch to such pilot, without any additional fee or charge, distinguishing therein to what class such pilot shall in future belong. And if any pilot holding such branch shall not surrender the same by the time aforesaid, he shall forfeit his branch, and shall not be capable of exercising the office of a pilot under the same.

To take charge of vessels according to their classes.

V. THOSE pilots belonging to the first class shall alone have power to take the charge and pilotage of every vessel of whatsoever burthen or description. Those belonging to the second class, shall be confined to the charge and pilotage of such vessels, whose draught of water does not exceed twelve feet. And those belonging to the third class, shall be confined to the charge and pilotage of vessels, whose draught of water shall not exceed nine feet.

Removal out of the state, a disqualification.

VI. EVERY person obtaining a branch and afterwards removing into another state, shall thereupon be disqualified and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence, as is imposed by this act, on such as violate the terms of their branch and respective class; to be recovered in like manner.

Examiners may give to apprentices copies of their masters branches.

VII. WHEN any branch pilot shall have an apprentice that in the opinion of the examiners shall be qualified to take charge and pilot a vessel, it shall and may be lawful for the examiners to give to such apprentice or apprentices a copy of his master's branch, and endorse thereon the name of the pilot-boat and the port to which she belongs, distinguishing the ability of the apprentice by classes as aforesaid; after which it shall not be lawful for any branch pilot to take from such apprentice any vessel he may have in charge.

How pilots may be suspended and removed.

VIII. IN case of the misconduct or misbehaviour of any pilot in the exercise of his business, it shall be lawful for the examiners to suspend him, and if upon examination before the next succeeding county or corporation court, the court shall be of opinion that such misconduct or misbehaviour is sufficiently proved, they shall cause the same to be certified to the examiners, and the person shall thenceforth be altogether disqualified, and cease to act as a pilot.

Names of the boat and port

IX. EVERY pilot-boat, the owner whereof hath or shall obtain a branch in this commonwealth, shall have, ten feet below the head of his forefall, and on each side thereof the

name of such boat and the port to which she belongs, painted in letters of not less than nine inches in length.

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to be painted
on the fore-
sail.

X. NO person whatever shall be permitted to execute the business of a pilot, notwithstanding he may have such branch as aforesaid, unless he, or the company to which he belongs, shall keep one sufficient boat of eighteen feet keel at the least, under the penalty of one hundred and fifty dollars for every vessel such pilot shall undertake to conduct; to be recovered with costs in any court of record in this commonwealth, by the party suing for the same, to his or her own use; and if any person not having such branch, and keeping such boat as aforesaid, shall presume to take upon himself to conduct or pilot any vessel coming from sea, to or from any place or places hereafter mentioned, every such person shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered with costs in any court within this commonwealth, by the party suing for the same; and moreover such person shall be liable for all damages occasioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth by the party injured.

Pilots must
keep sufficient
boats.

Penalty for
piloting a ves-
sel without
having a
branch and
boat.

XI. *PROVIDED*, That this act shall not be construed to extend to hinder any person or persons from assisting any vessel in distress, so as he or they shall deliver up such vessel to the pilot, who shall come on board and offer to undertake the conducting of her; for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act.

Proviso as to
vessels in dis-
tress.

XII. NO more than four pilots shall be in partnership under the penalty of three hundred dollars each, to be recovered with costs by any person suing for the same.

No more than
four pilots to
be in partner-
ship.

XIII. EVERY master of a merchant vessel coming from sea, shall be obliged to receive the first pilot who offers below the *Horje-shoe*, to conduct his vessel, or shall pay him full pilotage to the first port, and shall continue the same pilot to his port of discharge; and every pilot cruising or standing out to sea, shall offer his services first to the vessel nearest land, or in most distress; and if any pilot not being hindered by sickness, or any other lawful cause, shall refuse to go on board any vessel when required by the master, to execute his office, such pilot or pilots in either case, shall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured sixty dollars, and be liable to be suspended by them for such time as they shall think fit. Every vessel having no pilot on board, and following another that has a pilot, shall pay such pilot half fees.

Rules for
masters of ves-
sels and pilots.

XIV. IF any pilot shall negligently or carelessly lose any vessel under his care, and be thereof convicted by due course of law, he shall forever after such conviction, be incapable of acting as a pilot in this state, and shall be also liable to pay all such damages as any person or persons shall sustain by such negligence or carelessness, to be recovered in manner before directed.

Pilots losing
vessels incap-
acitated, and
liable to dam-
ages.

XV. THE following and no greater prices shall be taken or demanded for pilotage, that is to say; On *James river* for all vessels coming from sea, from *Cape Henry*, or *Lynhaven bay*, to *Hampton road*, six dollars and sixty-seven cents; and for going out to sea, five dollars; and for each foot depth of water they draw, from *Hampton road*, or *Sewell's point* to *Norfolk* or *Portsmouth*, fifty cents per foot; to *Sleepy-hole*, or *Look-out*, sixty-one cents per foot; to *Pagan creek*, fifty cents per foot; to *James-town*, one dollar and twenty-one cents per foot; to *Martin's Brandon*, one dollar and thirty-three cents per foot; to *Flour-de-Hundred*, one dollar and forty-two cents per foot; to *City-point*, or *Bermuda Hundred*, one dollar and eighty-three cents per foot; to *Four-Mile creek*, two dollars and twenty-one cents per foot; to *Osborne's*, two dollars and fifty cents per foot; to *Warwick*, two dollars and eighty-one cents per foot; and to *Richmond*, three dollars per foot. On *York river*, coming from sea, from the *Capes*, or *Lynhaven-bay*, to *York town*, ten dollars; and for going to sea, six dollars and sixty-seven cents; from *Back river*, or *Egg Island*, to *York town*, five dollars; from *York town* to *West-point*, eighty-one cents per foot; to *Cumberland* one dollar per foot; to the highest landings on *Pamunkey river*, one dollar and twenty-five cents per foot; to *Shepherd's*, ninety-two cents per foot; to *Meredith's*, *Moore's*, or the highest lands on *Mattapony*, one dollar and nineteen cents per foot. From *Cape Henry* to any river on *Mockjack bay*, ten dollars; from the *Cape* to *Urbanna*, thirteen dollars and thirty-three cents; and for going from *Urbanna* to sea, ten dollars; from *Urbanna* to *Tappahannock*,

Rates of pilot-
age.

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Allowance
where they are
detained by
the vessel's not
being ready.

eighty-three cents *per foot*; to *Naylor's hole*, eighty-one cents *per foot*; to *Leeds's* or *Micou's*, one dollar and twenty-nine cents *per foot*; to *Port Royal*, one dollar and eighty-three cents *per foot*; to *Fredericksburg*, two dollars and twenty-nine cents *per foot*; from *Cape Henry* to *Pianketank*, thirteen dollars and thirty-three cents; from *Cape Henry* to *Smith's point*, on *South Patuxmack*, coming from sea, twenty dollars; and for going out, sixteen dollars and sixty-seven cents; from *Smith's point*, to *Coan* or *Yeocomico*, fifty cents *per foot*; to *Machadock*, fifty-eight cents *per foot*; to upper *Machadock*, eighty-one cents *per foot*; to *Nangomy*, one dollar *per foot*; to *Boyd's hole*, one dollar and eight cents *per foot*; to *Quantico*, one dollar and twenty-one cents *per foot*; to *Occoquan*, one dollar and twenty-nine cents *per foot*; to *Piscataway*, one dollar and fifty-eight cents *per foot*; to *Alexandria*, one dollar and eighty-nine cents *per foot*; to *Eastern branch*, two dollars *per foot*; and the same fees by the foot back again, and from the places aforesaid to the *Capes*. And where any master of a vessel shall give reasonable notice to the pilot, he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of one dollar and sixty-seven cents for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand or exact any greater or other fee, he shall forfeit double the sum so demanded; recoverable before two justices, one of whom being of the quorum, with costs by the informer.

Pilots to carry
with them,
and produce a
copy of this
act.

XVI. AND to the end that strangers may not be imposed on in the rates of pilotage as settled by this act, *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act. And if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay sixty dollars to any person who shall sue for the same, to be recovered in any court within this state.

Officers of the
customs not to
permit a ves-
sel to clear out
till the pilot-
age is paid.

XVII. AND where any pilot has reason to believe the master of any vessel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the same to the collector or other officer of the customs, where the master of such vessel clears out; and the said collector or other officer of the customs, is hereby authorized to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The collector or other officer of the customs, shall retain two and a half *per centum* for receiving money and paying the same to the pilot.

Examiners to
be furnished
with copies of
this act.

XVIII. THE public printer shall furnish the examiners, on demand, with one hundred copies of this act; one of which copies signed by three of the said examiners, shall be delivered to each pilot.

Repealing
clause.

XIX. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commence-
ment of this
act.

XX. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXVIII.

An Act reducing into one, the several Acts for regulating the Inspection of Pork, Beef, Tar, Pitch, and Turpentine.

[Passed the 26th of December, 1792.]

Preamble.

I. **W**HEREAS experience has shewn, that the establishment of proper regulations for the inspection of pork, beef, tar, pitch, and turpentine, have contributed to the sale and export of those articles:

II. *BE it therefore enacted by the General Assembly*, That no pork or beef shall be exported out of this commonwealth, or tar, pitch, or turpentine exposed to sale or exported, until the same shall be packed or filled in barrels, under the regulations herein after expressed;

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and the justices of every county court within this commonwealth, are hereby authorized and required, whenever application shall be made to any court for that purpose, and in the months of *August* and *September*, annually, to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons, residing in the same county, to inspect the package, and weigh all pork and beef, and also to inspect the filling of all tar, pitch, and turpentine, packed or filled for sale or exportation in their respective counties; and the said courts may appoint the said person or persons to be inspectors of pork, beef, tar, pitch, and turpentine, if such person appears to them to be duly qualified, or may appoint several inspectors, as in their discretion shall seem best: And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for sale or exportation, and to the best of his skill and judgment, not to pass or stamp any barrel of pork or beef, or any tar, pitch, or turpentine, that is not good, clean, sound, merchantable, and of the weight or gauge by this act directed, and faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend, upon notice, at such time and place as the owner of any of the said commodities shall appoint, to inspect the same within his county, but shall not inspect or stamp any pork, beef, tar, pitch, or turpentine, imported from *Carolina*, until the same shall be brought to some public landing; and shall provide a stamp or stamps, with the first letter of his county, the letter V, for *Virginia*, the first letter of his own christian name, and his whole surname at length, to be stamped on each barrel or cask by him passed; and on every barrel of pork, the letter L, for large, or the letter S, for small pork; and on the head of every barrel of tar, pitch, or turpentine, shall distinguish whether the same be tar, pitch, or turpentine; for which he may demand and take, for every barrel of pork or beef by him stamped, six cents; for every barrel of tar, pitch, or turpentine, four cents, and no more; to be paid down by the owner. And if any officer so appointed and sworn, shall neglect his duty, or stamp any of the commodities aforesaid, contrary to this act, he shall forfeit and pay four dollars for every barrel of pork or beef, and one dollar for every barrel of tar, pitch, or turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires; and also one dollar for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed.

Inspectors,
how appointed,and qualified.
Their duty.

Their fees.

III. EVERY barrel of pork or beef, packed within this commonwealth for sale or exportation, or imported here, shall contain at least two hundred and four pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef, that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, weighed, found merchantable, and passed by the inspector or inspectors, residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner. And every barrel of tar, pitch, and turpentine, shall contain thirty-one gallons and a half, at the least; and after the same shall be inspected, gauged, found clean, and well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and a certificate thereof given to the owners as aforesaid.

Contents and
quality of barrels
of pork
and beef.Of tar, pitch,
and turpentine.

IV. ALL beef or pork exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from *Carolina*, or any other place, shall contain at least two hundred and four pounds nett meat, allowing only two and a half *per centum* for shrinkage or loss of weight. And every barrel of tar, pitch, or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty-one gallons and a half, and be stamped as this act directs; and if any person shall presume to sell, or expose to sale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of less weight or gauge, he or she shall forfeit and pay to the informer four dollars for every such barrel of pork or beef, and one dollar for every such barrel of tar, pitch or turpentine, sold or exposed to sale or barter in this commonwealth; recoverable with costs by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace, upon

Penalties for
exposing to
sale barrels of
less weight or
gauge.

How recoverable.

1792.

such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

Judgments
for, may be
appealed from.

V. *PROVIDED nevertbeless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Oath of seller
or exporter of
pork, beef,
tar, pitch, or
turpentine.

VI. EVERY seller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury; and moreover shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered by any person or persons that will sue for the same, to his or their own use.

Coopers duty
in setting up
barrels for
pork, beef,
tar, pitch, and
turpentine.

VII. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit; barrels for pork and beef, shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five-eighths of an inch thick, tight and well hooped, with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two-thirds of their length: Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave, at length, stamped or branded upon every barrel, under the penalty of forty-two cents for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

Fines, &c.
how recover-
able.

VIII. THE several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

Repealing
clause.
Proviso.

IX. ALL acts and parts of acts coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commence-
ment of this
act.

X. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXIX.

An Act reducing into one, the several Acts to oblige Vessels, coming from foreign Parts, to perform Quarantine.

[Passed the 26th of December, 1792.]

I. **W**HEREAS it is necessary to compel vessels arriving in this country from foreign parts of the world, to perform quarantine in certain cases :

How rules for
performing
quarantine

II. *BE it enacted by the General Assembly*, That vessels, persons, and merchandize, coming or brought into any place within this commonwealth, from any other part of the

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shall be made
and ordered.

world, whence the governor, with advice of his council, shall judge it probable that any plague or other infectious disease may be brought, shall be obliged to make their quarantine in such place, during such time, and in such manner as shall be directed by the governor, by his order in council, notified by proclamation, to be published in the *Virginia* gazette: And until they shall be discharged from the quarantine, no such persons or merchandize shall come or be brought on shore, or go or be put on board of any other vessel in the commonwealth, but in such manner, in such cases, and by such license, as shall be permitted by the order; and the vessels and persons receiving goods out of her, shall be subject to the orders concerning quarantine, and for preventing infection, which shall be made by the governor and council, and notified as aforesaid.

III. THE master of a vessel coming from sea, on board of which there shall be a person infected with the plague or other pestilential disease, shall immediately make the case known to such person as shall be appointed for the purpose, in the manner as is hereinafter directed, who shall give intelligence thereof with all speed to the governor, that measures may be taken for support of the crew, and precautions used to prevent the spreading of the infection; and the master shall not enter into any port, but shall remain in some open road, and shall avoid and hinder all intercourse with other vessels or persons, nor shall any of the passengers or crew go on shore, until the order of the governor and council shall be received by the master. Whosoever shall offend against this act, in either or any of the afore mentioned instances, shall be amerced the sum of fifteen hundred dollars.

Duty of mas-
ters of vessels
having on
board persons
infected with
pestilential
diseases.

IV. WHEN a place shall be infected with the plague or other pestilential disease, or when the governor, with the advice of council, shall have notified by proclamation published in the *Virginia* gazette, that it is judged probable the plague or other pestilential disease may be brought from any place, if a vessel from such place shall be coming into a port of the commonwealth, the person who shall be authorized to see quarantine performed, shall go off, or cause some other to go off to the vessel, and at a convenient distance require the commander, to declare what is his name, at what place the cargo was taken on board, at what places the vessel touched in her passage, whether any of those places were infected with the plague or any other pestilential disease, how long the vessel had been in her passage, how many persons were on board when she set sail, whether any on board during the voyage had been infected with the plague or other pestilential disease, and who they are, how many died in the voyage, and of what distemper, what vessels he or any of his company with his privacy went on board of, and whether any of their company had been on board of his vessel, in their voyage, and to what places those vessels belonged, and what are the contents of his lading.

Enquiries to
be made when
vessels come
from infected
places.

V. THE master of a vessel coming from a place infected with the plague or other pestilential disease, or having any person on board so infected, who shall conceal it, or who shall not give true answers to the questions so to be propounded to him, shall be amerced the sum of fifteen hundred dollars.

Penalty on
the masters
for concealing
it.

VI. THE master of a vessel ordered to perform quarantine, when he shall be required, after his arrival at the place appointed, shall deliver to the officer authorized to see it performed there, the bills of health and manifests he shall have received during the voyage, with his log-book and journal; and refusing or neglecting so to do, or to repair in convenient time after notice to the place appointed, or escaping from thence before quarantine performed, shall be amerced the sum of fifteen hundred dollars.

Duty of the
master of a
vessel per-
forming qua-
rantine.
Penalty for
breach.

VII. PERSONS ordered to perform quarantine, if they shall escape, may be compelled to return, or if they shall attempt to escape, may be detained by the persons who shall be authorized to see the quarantine performed, and who may employ force, and call for the assistance of others, if it be necessary for this purpose.

Persons esca-
ping, to be
compelled to
return to the
vessel.

VIII. ANY person going on board a vessel, or into a place under quarantine, without license from the superintendant thereof, may be compelled to remain there, in the same manner as he might have been if he had been one of the crew of the vessel. The person thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, shall be amerced the sum of three thousand dollars. And any person embezzling, or wilfully damaging goods performing quarantine under his direction, shall be liable to the party injured for treble the value of the damages sustained thereby. The vessel, per-

Various pe-
nalties.

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sons, and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the superintendant, shall be no further restrained by virtue of this act.

IX. A PERSON authorized to see quarantine performed, or a watchman upon any vessel, place, or goods, under quarantine, deserting his duty, or willingly permitting a person, vessel or goods to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful license, or a person empowered to give a certificate of the performance of quarantine, knowingly giving a false certificate, shall be amerced the sum of three hundred dollars.

Forfeitures
how recover-
able and ap-
propriated.

X. THE forfeitures inflicted by this act, shall be, one moiety to the use of the commonwealth, the other moiety to any person who shall sue for the same; and shall be recovered by action of debt, in which action the defendant shall be ruled to give special bail.

Appointments
of persons to
see quarantine
performed,
how to be
made.

XI. THE governor, with the advice of council, shall be, and he is hereby authorized to appoint, and from time to time to fill up such vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the Congress of the United States, as ports of entry and delivery, some suitable person to discharge the duties above designated, and to make such compensation as in their judgment may be sufficient to each of the said persons, for any services they may occasionally perform in the same.

Expences of
performing
quarantine,
how to be de-
frayed.

XII. THE governor in council, shall direct the auditor to issue his warrant on the treasurer for such sums of money as may be necessary for the support of the persons performing quarantine, and those appointed to see it performed, who is directed to pay the same out of the public money in his hands, appropriated to defray the contingent charges of government, and shall be repaid by the master or owner of the vessel, after quarantine performed.

Repealing
clause.

XIII. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Commence-
ment of this
act.

XIV. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXXX.

An Act declaring the Punishment in case of Rape.

[Passed the 26th of December, 1792.]

Punishment in
case of rape.

I. **B**E it enacted by the General Assembly, That if any man, from and after the commencement of this act, do ravish a woman married, maid, or other, where she did not consent before nor after; or shall ravish a woman married, maid, or other, with force, although she consent after, the person so offending, shall be adjudged a felon, and shall suffer death as in case of felony, without the benefit of clergy.

For carnally
knowing a
woman child
under the age
of ten years.

II. IF any person shall unlawfully and carnally know and abuse any woman child under the age of ten years, every such unlawful and carnal knowledge shall be felony, and the offender being duly convicted thereof, shall suffer as a felon, without benefit of clergy.

Repealing
clause.
Provido.

III. ALL and every statute and statutes, within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act contained, shall be construed to repeal any such statute or statutes, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Commence-
ment of this
act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXXI.

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An Act reducing into one, the several Acts for apprehending and securing Runaways.

[Passed the 26th of December, 1792.]

I. **B**E it enacted by the General Assembly, That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath; and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled; and the apprehender shall thereupon convey the runaway to the last mentioned place, or deliver him to the owner, or some other authorized to receive him, or to the jailor of the county or corporation in which he was apprehended; and shall be entitled to one dollar and sixty-seven cents; and ten cents for every mile of such distance as he shall necessarily convey him, to be paid by the owner; and if such runaway be committed to the jail of any county or corporation, the keeper thereof shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the courthouse of his county or corporation: *Provided*, that if the owner or overseer of such runaway shall be an inhabitant of the county where such runaway is taken up, the taker-up shall, in that case, convey and deliver him or her to the owner or overseer, as aforesaid, and shall not be at liberty to carry such runaway to the jail of the county or corporation, as is before directed.

Method of taking up runaways & conveying them to prison, or to their owners.

Reward for apprehending them. Jailors to advertise descriptions of them.

Not to be conveyed to prison if the owner lives in the county.

II. IF the owner claim not within two months thereafter, the sheriff or serjeant shall publish a like advertisement for three months in the *Virginia* gazette, and shall hire the runaway out during such time, and for such wages as his county or corporation court shall approve, having put an iron collar, stamped with the letter F round his neck; and out of his wages pay the reward for apprehending, and the expences incurred on his account; but he shall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who shall claim, and who having proved before the court of some county or corporation, or a justice of the peace of the county or corporation, in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff or serjeant, shall produce the clerk's, or the justice's certificate, of such proof made, and security given, proved by his own or another's oath, the runaway when shewn to him, to be the same that was so lost; and pay so much as the expences aforesaid shall exceed the wages.

How to be employed when the owners do not claim them.

Owners to prove their property.

III. THE runaway being a slave, after the end of one year from the last advertisement, shall be sold; and the proceeds of the sale, with the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth.

Runaways to be sold, if not claimed within certain time.

IV. IF the runaway die in jail, the expences shall be defrayed by the public.

Where they have crossed the bay.

V. THE runaway, if he shall have crossed the bay of *Chesapeake*, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff twenty dollars, and to the constable ten cents for every mile he shall necessarily travel in performing this duty.

VI. UPON any owner's neglecting or refusing to pay the above reward, the taker-up may sue for, and recover the same with costs, either by warrant before a single justice, where the reward shall not exceed five dollars, or where the reward shall exceed that sum, by petition, or action, as the case may require, in any court of record within this commonwealth.

How rewards for apprehending them may be recovered.

VII. THE keeper of every jail may demand and take for the commitment of every runaway, twenty-five cents, and the same for releasement; and for every twenty-four hours keeping him or her in jail, seventeen cents, and no more; and if he, or any sheriff, serjeant, or jailor, shall demand or take any other or greater fee than is, or shall be allowed by law for runaways, he or they so offending, shall for every such offence, forfeit and pay

Jailor's fees for committing, maintaining, and releasing them.

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four dollars to the party grieved, and shall also refund and pay back all money received over and above the legal fees; recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed.

Repealing
clause.
Proviso.

VIII. ALL and every act and acts, or parts of acts, within the purview of this act, shall be, and are hereby repealed. *Provided*, that all rights and remedies, given by every such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made.

Commence-
ment of this
act.

IX. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXXXII.

An Act reducing into one, the several Acts concerning Servants.

[Passed the 26th of December, 1792.]

What servants
shall specifi-
cally perform
their contracts

I. **B**E it enacted by the General Assembly, That all white persons, not being citizens of any of the confederated states of *America*, who shall come into this commonwealth under contract, to serve another in any trade or occupation, shall be compellable to perform such contract, specifically during the term thereof, or during so much of the same as shall not exceed seven years. Infants under the age of fourteen years brought in under the like contract, entered into with the consent of their father or guardian, shall serve till their age of twenty-one years only, or for such shorter term as the said contract shall have fixed.

Master's duty
to servants.

II. THE said servants shall be provided by their master with wholesome and sufficient food, cloathing and lodging; and at the end of their service, if they shall not have contracted for any reward, other than transportation, food, cloathing, and lodging, shall receive from him, one new and complete suit of cloathing, suited to the season of the year; to wit, a coat, waistcoat, pair of breeches and shoes, two pair of stockings, two shirts, a hat and blanket.

Contracts for
service, how
assignable.

III. THE benefit of the said contract of service, shall be assignable by the master to any person to whom the servant shall in the presence of a justice of the peace, freely consent that it shall be assigned, the said justice attesting such free consent in writing, and shall also pass to the executors, administrators, and legatees of the master.

How lazy and
disorderly
servants may
be punished.
Shall compen-
sate by further
service, for
time lost, and
for expences
of bringing
them home
when ab-
sconding.

IV. ANY such servant, being lazy, disorderly, guilty of misbehaviour to his master, or in his master's family, shall be corrected by stripes, on order from a justice of the county, city, or corporation, wherein he resides; or refusing to work, shall be compelled there-to in like manner, and moreover shall serve two days for every one he shall have so refused to serve, or shall otherwise have lost, without sufficient justification. All necessary expences incurred by any master for apprehending and bringing home any absconding servant, shall be repaid by further service, after such rates as the court of the county, city, or corporation, shall direct; unless such servant shall give security, to be approved of by the court, for repayment in money, within six months after he shall be free from service, and shall accordingly pay the same.

County courts
to hear ser-
vants com-
plaints.

V. IF any master shall fail in the duties prescribed by this act, or shall be guilty of injurious demeanor towards his servant, it shall be redressed on motion, by the court of the county, city, or corporation, wherein the servant resides, by immediate discharge from service, if the injury were gross, or by a specific order for a change in his demeanor, and a discharge from service, if such order be disobeyed.

Contracts be-
tween masters
and servants
during service,
void.
Proceedings
on complaints
of servants
against mas-
ters, and of

VI. ALL contracts between master and servant during the time of service, shall be void.

VII. THE court of every county, city, or borough, shall at all times receive the complaints of servants, being citizens of any one of the confederated states of *America*, who reside within the jurisdiction of such court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging,

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masters against
servants.

and may hear and determine such cases in a summary way, making such orders thereupon, as in their judgment will relieve the party injured in future; and may also in the same manner hear and determine complaints of masters or mistresses against their servants, for desertion, without good cause, and may oblige the latter, for loss thereby occasioned, to make retribution, by further services, after expiration of the times for which they had been bound.

VIII. IF any servant shall, at any time, bring in goods or money, or during the time of their service, shall, by gift or any other lawful means, acquire goods or money, they shall have the property and benefit thereof to their own use. And if any servant shall be sick or lame, and so become useless or chargeable, his or her master or owner shall maintain such servant until his or her whole time of service shall be expired. And if any master or owner shall put away a lame or sick servant, under pretence of freedom, and such servant becomes chargeable to the county, such master or owner shall forfeit and pay thirty dollars to the overseers of the poor of the district, wherein such offence shall be committed, to the use of the poor of the district; recoverable with costs, by action of debt, in any county or corporation court of this commonwealth; and moreover shall be liable to the action of the said overseers of the poor at the common law, for damages.

Servants shall
have the pro-
perty of their
effects.Sick or lame
servants may
not be dis-
charged.

IX. NO negro, mulatto, or *Indian*, shall at any time purchase any servant, other than of their own complexion; and if any of the persons aforesaid, shall, nevertheless, presume to purchase a white servant, such servant shall immediately become free, and be so held, deemed, and taken.

Who may not
have white
servants.

X. NO person whatsoever shall buy, sell, or receive of, to, or from any servant, any coin or commodity whatsoever, without the leave or consent of the master or owner of such servant; and if any person shall presume to deal with any servant, without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such servant, four times the value of the thing so bought, sold, or received; to be recovered with costs, by action upon the case, in any county or corporation court of this commonwealth; and shall also forfeit and pay the further sum of twenty dollars, to any person who will sue for the same; to be recovered with costs, by summons and petition, or receive on his or her bare back, thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such petition and summons.

Penalty for
dealing with
servants with-
out leave.

XI. IN all cases of penal laws, where free persons are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every eight dollars, so that no servant shall receive more than forty lashes at any one time, unless such offender can procure some person to pay the fine.

Punishment of
servants for
breach of pe-
nal laws.

XII. EVERY servant upon expiration of his or her time, and proof thereof made before the court of the county where he or she last served, shall have his or her freedom recorded, and a certificate thereof under the hand of the clerk, which shall be sufficient to indemnify any person for entertaining or hiring such servant; and if such certificate shall happen to be torn or lost, the clerk, upon request, shall issue another, reciting therein the loss of the former. And if any person shall harbour or entertain a servant, not having and producing such certificate, he or she shall pay to the master or owner of such servant, one dollar for every natural day he or she shall so harbour or entertain such runaway; recoverable with costs, by action of debt, in any county or corporation court of this commonwealth. And if any runaway shall make use of a forged certificate, or after delivery of a true certificate to the person hiring him or her, shall steal the same, and thereby procure other entertainment, the person entertaining or hiring, shall not be liable to the said penalty, but such runaway, besides making reparation for loss of time and charges of recovery, shall stand two hours in the pillory, on a court day, for making use of such forged or stolen certificate; and the person forging the same, shall forfeit and pay thirty dollars; one moiety to the commonwealth, and the other moiety to the owner of such runaway, or the informer, recoverable with costs, in any county or corporation court of this commonwealth; and on failure of present payment or security for the same within six months, such offender shall receive thirty-nine lashes on his or her bare back, well laid on, at the common whipping-post. And where a runaway shall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the *onus probandi* shall lie upon the party hiring such runaway.

Servants
when free
shall have cer-
tificates there-
of.Penalty for
harbouring
servants with-
out such cer-
tificate.Punishment
of servants
using forged
or stolen cer-
tificates.And of the
persons forg-
ing.

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Repealing
clause.
Provido.

XIII. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commence-
ment of this
act.

XIV. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXXXIII.

An Act reducing into one, the several Acts for punishing Persons guilty of certain Thefts and Forgeries.

[Passed the 19th of December, 1792.]

Felony with-
out benefit of
clergy to
counterfeit
current coin,
or to make or
pass base coin.

I. **B**E it enacted by the General Assembly, That if any person shall counterfeit, aid, or abet in counterfeiting any coin made current in this commonwealth, or shall make, or assist, aid, or abet in making base coin, or shall pass any such counterfeit or base coin in payment, knowing the same to be counterfeit or base, every such person shall on legal conviction, suffer death without benefit of clergy.

To forge any
deed, will,
bond, note,
receipt, &c.

II. IF any person shall falsely make, forge, or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited, or willingly act, or assist in the false making, forging, or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, or any acquittance or receipt, either for money or goods, with intention to defraud any person whatsoever, or shall utter, or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, endorsement, or assignment of any bill of exchange, or promissory note for the payment of money, acquittance or receipt, either for money or goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited, then every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

To forge any
certificate or
warrant issued
under autho-
rity of the
United States,
or of this state.

III. IF any person within this commonwealth, shall forge or counterfeit, alter or erase, any certificate or warrant, issued, or to be issued by any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, for the payment of money, or shall be aiding or assisting therein, or shall demand payment thereof, knowing the same to be forged, counterfeited, altered, or erased, or shall transfer any such certificate or warrant, knowing the same to be forged or counterfeited, altered, or erased; or shall forge or counterfeit, alter or erase, any certificate whatever, for the purpose of obtaining a settlement of money from any person or persons authorised for that purpose, either by the Congress of the United States, or the legislature of this state, or shall be aiding or assisting therein, or shall require settlement thereon, or transfer the same, knowing it to be forged, counterfeited, altered or erased, he, or she so offending, and thereof legally convicted, shall suffer death without benefit of clergy.

To forge the
stamp or re-
ceipt of any
inspector of
flour or hemp.

IV. IF any person whatsoever shall forge or counterfeit, alter or erase the stamp or receipt of any inspector of flour or hemp, or tender in payment any such forged or counterfeited, altered or erased receipt, knowing it to be such, and shall thereof be convicted, he or they shall be adjudged a felon, and suffer death as in the case of felony, without benefit of clergy.

To forge the
stamp or re-
ceipt of any
inspector of
tobacco.

V. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall forge or counterfeit, alter or erase the stamp or receipt of any inspector or inspectors of tobacco, or shall cause or procure such stamp or receipt to be forged or counterfeited, altered or erased, or shall aid or assist in forging or counterfeiting, altering or erasing, such stamp or receipt, or shall pass or tender, or shall cause or procure to be passed or tendered, any such stamp or receipt in payment or exchange, knowing the same to have been forged, or counterfeited, altered or erased, or shall have in his or her custody, or possession, any inspector's stamp or receipt, which hath been altered or erased, knowing the same to have

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been altered or erased, and shall not discover such altered or erased stamp or receipt to two justices of the peace, within five days after they or either of them shall have come to his or her possession, or shall export, or cause to be exported, any hogthead or cask of tobacco stamped with a forged or counterfeited stamp, or shall receive or demand, tobacco of an inspector upon any forged or counterfeited, altered or erased stamp or receipt, knowing such stamp or receipt to be forged or counterfeited, altered or erased.

VI. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by other means take from the possession or custody of another, any warrant from the register of the land-office of this commonwealth, to authorise a survey of waste and unappropriated lands; or who shall alter, erase, or aid, or assist in the alteration or erasing of any such warrant; or forge, or counterfeit, or aid, abet or assist, in forging or counterfeiting any written or printed paper purporting to be such warrant; or who shall transfer to the use of another, or for his or her own use present or cause to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant or paper purporting to be such warrant, knowing the same to be transferred or presented, for the exchange or the execution thereof, to be stolen, or by other means taken from the possession or custody of another, or altered or erased, or forged or counterfeited: And he or she shall be adjudged a felon, and not have the benefit of clergy, who shall falsely make or counterfeit, or aid, abet, or assist in falsely keeping or counterfeiting any instrument, stamping an impression in the figure and likeness of the seal officially used by the register of the land-office, or who shall have in his or her possession or custody, such instrument, and shall wilfully conceal the same, knowing it to be falsely made or counterfeited.

To steal or forge any land warrant.

Or to counterfeit the seal of the register of the land-office.

VII. HE or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by robbery take from the possession or custody of another, any loan-office certificate of the United States, or any of them, or any warrant of the governor, or other person exercising that function, or any certificate of the auditor for public accounts to the treasurer, authorising the payment of money, or shall present, or cause to be presented, such loan-office certificate at a loan-office of the United States, or any of them, for the discharge of the whole, or any part thereof, or such warrant or auditor's certificate at the public treasury for the payment thereof, knowing such loan-office certificate or warrant, or auditor's certificate, to have been stolen, or by robbery to have been taken from the possession or custody of another.

To steal or take by robbery any loan-office certificate of the United States, or any of them, or any warrant of the governor or auditor for payment of money.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as herein after provided) shall be, and are hereby repealed. *Provided always*, that nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Repealing clause.

Proviso.

IX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXXXIV.

An Act concerning Tithables; directing the Mode of laying and collecting the County Levy.

[Passed the 27th of December, 1792.]

I. **B**E it enacted by the General Assembly, That all male persons of the age of sixteen years and upwards, and all female slaves of the age of sixteen years and upwards, shall be, and they are hereby declared to be tithable, and chargeable for defraying the county levies and poor rates, except such only as the county courts may, by reason of age, infirmity, or other charitable reasons, exempt from the payment of public taxes.

Who shall be deemed tithables.

II. *PROVIDED*, That nothing herein contained, shall be construed to extend to the governor for the time being, or to his domestic servants, or to the president, masters, scholars, or domestic servants of the college of *William and Mary*, or to the person of any or-

Persons exempted.

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dained minister, or to the person of any constable, so long as he continues in office, so as to charge them, or either of them as tithables; within the meaning of this act.

Lists of tithables to be taken by commissioners of the taxes.

III. THE commissioners of the tax within the several counties of this commonwealth, shall, and they are hereby required and empowered, at the same period in each year in which they are collecting lists of the taxable property in their respective districts; under the act, intituled, "*An act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue,*" to demand from each person, being tithable, or having in his or her possession such as are tithable, a written list of such as are tithable persons in his or her family; which lists the said commissioners, respectively, shall arrange in an alphabetical table, and on or before the last day of *May*, annually, together with the vouchers taken by them, as aforesaid, return to the clerks of the courts.

Clerks to set up copies thereof in the courthouses.

IV. THE clerks of the several county courts, shall at their next court, after the table containing the list of tithables as aforesaid shall be returned to them, set up in the courthouse of their county, fair copies of such tables.

Masters of families, their agents or overseers, to give in lists of their tithables.

V. THE master or owner of a family, or in his or her absence, or non-residence at the plantation, his or her agent, attorney, or overseer, shall at the time appointed by this act, in a list under his or her hand, deliver or cause to be delivered, to the commissioner of the tax for that district, the names and numbers of all tithables abiding in, or belonging to his or her family, the ninth day of *March* preceding the time of delivering in such list; or the master or owner thereof, or in case of his or her absence or non-residence, the overseer shall be adjudged a concealer of such and so many tithables as shall not be listed or given in; and for every tithable person so concealed, shall forfeit and pay ten dollars; one moiety for the use of the county, towards lessening the levy thereof, and the other moiety to the use of the informer; to be recovered by action of debt or information, in any court of record. And when any overseer shall fail to list the tithables on any plantation whereon he is overseer, the master or owner shall be subject to the payment of their levies, in the same manner as he would have been, if they had been listed. And if any commissioner of the tax shall not truly list and enter the names and numbers of his own tithables in that district or county, for which he is to return a list, he shall be adjudged a concealer, and for every tithable person so by him concealed and not listed, shall forfeit and pay twenty dollars, to be applied and recovered as aforesaid.

Penalty for neglect.

Proviso.

VI. *PROVIDED* always, That if any owner or overseer shall happen by sickness or otherwise to omit delivering his or her list to the commissioner of the tax at the time the same may be required, it shall be lawful for such person to send his or her list to the house of such commissioner at any time, before he makes his return to the clerk of the county as aforesaid, which shall discharge him or her from the penalty aforesaid.

County levy when & how to be assessed.

VII. THE justices of the several counties within this commonwealth, shall, and they are hereby authorized and empowered, at their courts respectively, to be held in the month of *June* or *July*, annually, or as soon after as may be if no court should be held in either of those months, to proceed to make up in their minutes, an account of all expences incurred by the said court under authority of any law, chargeable on the county and remaining unpaid, stating therein the sums due, for what, and to whom due, and all credits owing to the said county. When the balance due from the county is thus ascertained, by deducting the sums due to the county, from those owing by the county, the said justices shall proceed to levy and assess on the tithable persons in their respective counties, the amount of that balance in equal proportions. The sums due to the county, and the sum to be assessed on the tithables being added together, shall then be appropriated by the court, so as to shew the right of each county creditor, and the amount of his demand.

List thereof to be delivered to the collector.

VIII. THE clerks of the county courts respectively, shall within ten days after the levy has been apportioned by the court as aforesaid, deliver to the sheriff or collector, a list of the persons as aforesaid chargeable with the payment of levies, and the sum to be paid by each for his county rate, and also a list of the sums due to the said county, and of the persons from whom due; as also of the persons to whom the same ought to be paid, with the amount of their respective demands; the said sheriff or collector shall immediately proceed to collect from the persons chargeable therewith, the sums due to the said county, and the county rate settled as aforesaid, with the same powers and for the same commission, as in the

His duty, powers, and commission.

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case of public taxes; and shall pay the same to the county creditors according to their respective demands.

IX. IF any sheriff or county collector shall fail to account with and satisfy the county creditors as aforesaid, the respective sums levied for them or either of them within six months after the levy shall be laid, or shall fail to adjust and settle the account of his collection with the county within the said six months, it shall and may be lawful for any county creditor who may be injured by such delinquency, to obtain judgment against such sheriff or collector, his or their heirs, executors, administrators, or securities, in the court of that county where the delinquency happened, upon giving ten days previous notice to such delinquent sheriff or collector, his or their heirs, executors, administrators, or securities. And it shall and may be lawful, where such sheriff or collector fails to account with the county as aforesaid, for the court of that county before whom he ought to account, to enter judgment against such delinquent sheriff or collector, for whatever shall appear to be due from such sheriff or collector, and award execution thereon, giving such sheriff ten days previous notice of such proceeding.

Remedy
against him for
failing to ac-
count for and
pay the money
received.

X. THE court of each county shall, and they are hereby authorized and empowered, at the time of settling their county levy as aforesaid, to appoint the sheriff of their county, or any other person, collector of their county levies, taking from the person so appointed, a bond, in the penalty at least of double the sum to be collected, payable to the justices of the county so appointing him, with two or more responsible sureties, conditioned for the faithful collection, accounting for, and paying the several sums wherewith he shall be chargeable as sheriff or collector of the county, in the manner directed by law.

County court
to appoint the
sheriff, or any
other, collect-
or, and take
bond with se-
curity of him.

XI. EACH commissioner of the tax, failing to take or return the list of tithables as directed by this act, shall forfeit and pay forty dollars; one moiety for the use of the county towards lessening the county levies, and the other moiety to the informer; to be recovered by action of debt or information in any court of record.

Penalty on a
commissioner
of the tax for
not taking the
list of tith-
ables.

XII. IF any clerk of the county courts shall fail to publish in their courthouses the list of tithables, as herein before is directed, or shall fail to deliver to the collector of the county levies, the lists hereby required to be delivered to him, at the time and in the manner required by this act, such clerk so omitting, shall for each offence, forfeit and pay the sum of thirty dollars; to be applied and recovered as aforesaid.

On the clerk
for failing to
publish the list.

XIII. EACH collector of the county levies appointed as aforesaid by the court, may appoint one or more deputies to assist him in his collections, for whose conduct he shall be answerable, which deputies shall have the same power as the collector himself; and such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities respectively, for any sums of money, which by virtue of this act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies, as the collector himself is subject to by law.

Collectors
may appoint
deputies.

XIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Repealing
clause.
Provido.

XV. THIS act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

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C H A P. CXXXV.

An Act for reducing into one, the several Acts of Assembly for the Inspection of Tobacco.

[Passed the 29th of November, 1792.]

No tobacco to
be exported,
but in casks,
and inspected.

I. **B**E it enacted by the General Assembly, That no tobacco shall be shipped or exported from this commonwealth, unless the same shall be packed in hogshheads or casks, taken from some public warehouse herein after mentioned, and received and inspected according to the directions of this act.

Warehouses
established.

II. PUBLIC warehouses for the reception of tobacco pursuant to this act, shall be kept at the several places herein after mentioned, that is to say : In the county of *Accomack*, at *Pitt's* landing, upon *Pocomoke*, at *Guilford*, and at *Pungiteague*, under one inspection ; in the county of *Caroline*, at *Roy's* ; in the county of *Dinwiddie*, at *Bolling's* point, *Bollingbrooke*, and *Cedar point* ; in the county of *Essex*, at *Flett's* Hole, at *Bowler's*, and at *Layton's* ; in the county of *Fairfax*, at *Colchester*, *Alexandria*, and the Falls of *Patowmac* ; in the county of *Gloucester*, at *Poropotank*, and at *Deacon's* neck ; in the county of *Hanover*, at *Page's*, *Crutchfield's*, and *Meriwether's* ; in the county of *Chesterfield*, at *Rocky Ridge*, *Osborne's*, at *John Bolling's*, on the lands of *Jacob Rubsaman*, in the town of *Manchester*, to be called and known by the name of *Manchester*, on the lots of *Alexander* and *Peterfield Trent*, in the town of *Manchester*, distinguished in the plan thereof by the numbers two hundred and nine, two hundred and ten, two hundred and twenty-one, and two hundred and twenty-two, to be called and known by the name of *Trent's* warehouse, and on those of *Edward Johnson*, deceased, in the said town, to be called and known by the name of *Johnson's* warehouse ; in the county of *Henrico*, at *Byrd's*, *Shoskoe*, and *Rockett's* ; in the county of *Isle of Wight*, at *Smithfield*, and at *Fulgham's*, under one inspection ; in the county of *King* and *Queen*, at *Shepherd's*, at *Mantapike*, and at *Frazer's*, in *King William*, under one inspection, and at *Todd's* in *King* and *Queen*, and at *Aylett's* in *King William*, under one inspection ; in the county of *King George*, at *Boyd's* Hole, and *Machodack*, under one inspection, and at *Gibson's*, to be called and known by the name of *Gibson's* warehouse ; in the county of *Lancaster*, at *Davis's* and *Lowry's*, under one inspection, and at *Deep creek* and *Glascock's*, under one inspection ; in the county of *Northumberland*, at *North* and *South Wicomico*, under one inspection, at *Coan's*, in the said county, and at *Indian creek* in the said county, and at *Dymer's* in the county of *Lancaster*, under one inspection ; in the county of *Middlesex*, at *Urbanna*, and at the place where *Kemp's* warehouse formerly stood up *Pianketank* river ; in the county of *Nansemond*, at *Milner's* and *Suffolk* ; in the county of *Northampton*, at *Cherrystones* and *Naswaddox*, under one inspection ; in the county of *New-Kent*, at *Littlepage's* and the *Brick-house* ; in the county of *Prince George*, at *Hood's*, *Boyd's*, *Davis's*, and *Blandford* ; in the county of *Prince William*, at *Quantico*, *Dumfries*, a place called *Recks*, on *Quantico* creek, to be called and known by the name of *McRae's* warehouse, and in the town of *Newport*, on the lots of *Cuthbert Bullitt*, to be called and known by the name of *Bullitt's* warehouse ; in the county of *Richmond*, at *Cat point*, and *Totuskee* ; in the county of *Surry*, at *Gray's* creek, and *Low point* ; in the county of *Stafford*, at *Falmouth*, at *Acquia*, and at *Dixon's* ; in the county of *Spotsylvania*, at *Fredericksburg*, and at *Royson's* ; in the county of *Westmoreland*, at *Nomony*, at *Leeds*, and *Maddox*, under one inspection ; at *Yeocomico* and *Kinsale*, under one inspection ; at the *College Landing* in the county of *James City*, and at *York town* in the county of *York* ; at *Hampton* in the county of *Elizabeth City* ; in the county of *Botetourt*, on the lands of *William Crow*, at *Crow's* ferry, to be called and known by the name of *Crow's* warehouse ; in the county of *Hampshire*, at the confluence of the north and south branches of the river *Patowmac*, on the lands of *Thomas Cresap*, to be called and known by the name of *Cresap's* warehouse ; and in the town of *Romney*, to be called and known by the name of *Romney* warehouse ; in the county of *Campbell*, at *Lynch's* ferry, to be called and known by the name of *Lynch's* warehouse ; in the county of *Fluvanna*, at the *Point of Fork*, on the lands of *David Ross*, to be called and known by the name of *Rivanna* warehouse ; in the county of *Amherst*, on the north side of *James* river, below *Swan's* creek, on the lands of *Nicholas Cabell*, to be called and known by the name of *Swan* creek warehouse ; in the county of *Berkeley*, on the lands of *Abraham Shepherd*, near the town of *Mecklenburg*, to be called and known by the name of *Mecklenburg* warehouse ; on the lands of *William Barksdale*, in the town of *Petersburg*, to

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to be called and known by the name of *Barksdale's* warehouse ; on the lands of *Robert Bolling*, junior, in the said town, adjoining his present dwelling-house, to be called and known by the name of *West-bill* warehouse ; on the lands of *Alexander G. Straghan*, in *High-street* in the said town, to be called and known by the name of *High-street* warehouse ; on the lots of *Thomas Shore* and *George Wilson*, likewise in the said town, to be called and known by the name of *Westbrook* warehouse ; and on the lands of *Elizabeth Spencer*, *Ann Swann Saunders*, and *Daniel Wooldridge* in the said town, to be called and known by the name of *Petersburg* warehouse ; in the county of *Albemarle*, on the lands of *Bennett Henderson*, at the place called the *Shallows*, on the *Rivanna* river, to be called and known by the name of *Henderson's* warehouse ; and on the lands of *Wilson Cary Nicholas*, at the mouth of *Ballenger's* creek, in the said county, to be called and known by the name of *Nicholas's* warehouse ; in the county of *Monongalia*, at *Morgan-town*, to be called and known by the name of *Morgan-town* warehouse ; in the county of *Loudoun*, at the *Great Falls* of the *Patomac*, to be called and known by the name of the *Great Falls* warehouse ; in the county of *Cumberland*, on the lands of *John Woodson*, at *Carter's* ferry, to be called and known by the name of *Woodson's* warehouse ; in the county of *Norfolk*, on the lands of *Thomas Veal*, in the town of *Portsmouth*, to be called and known by the name of *Portsmouth* warehouse ; in the county of *Fairfax*, on the lands of *William Thornton Alexander*, in the town of *Alexandria*, to be called and known by the name of *Thornton's* ; in the county of *Amherst*, on the lands of *John Lynch*, at his ferry, to be called and known by the name of *Amherst* warehouse ; in the county of *Halifax*, on the lands of *Richard Booker*, at *Booker's* ferry, on the *Staunton* river, to be called and known by the name of *Booker's* warehouse ; in the county of *Buckingham*, on the lands of *John Horfeley*, at the mouth of *Bent* creek, to be called and known by the name of *Horfeley's* warehouse.

III. THE rents of the several warehouses hereby established, shall be, and they are hereby established at the following rates : At *Pitt's* and *Guildford's*, thirty-three dollars and thirty-three cents ; at *Pungoteague*, twenty-six dollars and sixty-seven cents ; at *Cherrystones* and *Naswaddox*, twenty-six dollars, and sixty-seven cents ; at *Hampton*, thirty-three dollars and thirty-three cents ; at the *College Landing*, thirty-three dollars and thirty-three cents ; and at all the other warehouses, there shall be allowed and paid for the rents for the same, twenty-five cents for every hoghead of tobacco that already has been or shall be received, inspected and delivered out of such warehouses respectively, except as herein after excepted. And there shall be paid to the proprietors of each warehouse, for all tobacco lying therein, more than twelve months, at the rate of five cents *per* month for each hoghead, to be paid by the shipper thereof, at the time of shipping the same.

Rents of warehouses.

IV. WHERE the warehouses are already built at any of the places herein before mentioned, and appointed for keeping the same, and are now made use of for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to let the same to the inspectors during the continuance of this act, at the rent hereby established for such warehouses respectively, and if any proprietor or owner shall refuse so to do, he shall forfeit and pay fifteen hundred dollars ; and where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is, or shall be, and they are hereby required, at the next court to be held for their county after such new warehouse shall be so appointed, to order and direct so many strong, close, and substantial houses, secured with strong doors, hung on iron hinges, and with strong locks or bolts, as will contain sufficient room for two thirds of the number of hogheads, which in their opinion will be annually brought to the same, and one brick square or funnel six feet high at least, and four feet diameter, with a proper arch at the bottom of the same, for burning tobacco refused and picked, at such warehouses, and such other conveniencies as shall be necessary ; and shall cause the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or proprietor be under age, *feme covert*, or out of the country, then the guardian, husband, or known attorney, or agent (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare whether they will undertake to erect and build such houses, funnel, and other conveniencies, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same ; and in case such owner, guardian, husband, known attorney, or agent, will undertake the same,

Proprietors of warehouses to let them to the inspectors.

County courts to direct the number and kind of new warehouses.

And take bond with security of the proprietor if he declines to build and let them.

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If he refuses, the land to be paid for and the warehouses to be built at the expense of the public, and the rents to be paid to the treasurer.

Where warehouses are discontinued, the land to revert to the former proprietor, he returning the price, &c.

Inspectors annually to lay before the court an account of tobacco inspected, and condition of the houses. Court may order houses to be repaired or secured, and new houses built if necessary, by the proprietor or public.

Penalty on county courts for neglect.

then the said court shall, and they are hereby required, to take bond with sufficient security, in a reasonable penalty, payable to the governor and his successors, to the use of the commonwealth, with condition for the due performance of such undertaking. And if such owner, guardian, husband, known attorney, or agent, shall refuse to undertake the same, or give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required, to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney, or agent, the value thereof, which shall be repaid to the said justices by the public, and from thenceforth the justices of the county for the time being, shall be seized in fee of the said land in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse; and the said justices shall agree with some person or persons to erect and build thereon, such houses, funnels, and other conveniences as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful interest. And where the justices of any county court, or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices, or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of the warehouses which are or shall be built by the public, the justices, or other persons, shall hereafter be discontinued, the proprietor of the land returning the price paid for the same, with lawful interest, shall be thenceforth seized of his former estate.

V. THE inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of *September* yearly, or at the next succeeding court, produce and render into court an exact account under their hands, of the number of hogheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built, at any of the said inspections, are properly secured, and contain sufficient room for two-thirds of the number of hogheads mentioned in such account, to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses, shall within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also, before the first day of *April*, in the ensuing year, erect, build, and completely finish, such and so many other strong, close and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two-thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney, or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney, or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governor for the time being, and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proportion shall be settled by the court, and by them certified to the treasurer.

VI. IF any county court shall fail or refuse to do their duty in directing such houses, funnels, and other necessary conveniences, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay one hundred dollars, to be re-

covered in the district court, with costs, by action of debt, or information, against the justices jointly.

VII. *PROVIDED* always, That nothing herein contained, shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conveniences of any proprietors of lands, for the purposes aforesaid, nor to the said inspectors to keep any horses, cattle or hogs, at any public warehouses, except their riding horses, upon the land appointed for such warehouses; and if any swine belonging to the said inspectors, or any of them shall be found at large upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands, to kill, or cause to be killed or destroyed, all such swine.

Houses and other conveniences, not to be taken from proprietors. Inspectors not to keep any horses, cattle, or hogs on the land.

VIII. *PROVIDED* also, That where any houses have been, or shall be built by the justices or other persons, as aforesaid, and the first proprietor of the land shall desire to have the same again, such proprietor, upon payment of so much money as shall be sufficient to reimburse the said justices, or other person, the principal money expended for the purchase of the land and the building such warehouses, with lawful interest, deducting the rents received by the said justices or other person, shall be restored to his former estate in the land whereon such warehouses are built, and shall receive the rents aforesaid growing due for such warehouses: *Provided* also, That if any proprietor so as aforesaid restored to his estate, shall neglect or refuse to build and repair such houses, as the court shall think necessary, the justices shall again be seized of the fee-simple estate in such land during the time such place shall be made use of for a public warehouse, and such proprietor shall not have any benefit of the rents that shall hereafter become due.

How proprietor may be restored to his former estate.

But if he again fails to build or repair to be re-vested in the public.

IX. ON complaint being made by the owner or owners of any of the warehouses aforesaid, to any justice of the peace in the county where such warehouse shall lie, against any person or persons, for breaking, tearing, or committing any waste or destruction of, or in such warehouse or warehouses, it shall be lawful for such justice, and he is hereby empowered and required to give judgment and award execution against the body or estate of such offender, if found guilty, for all damages occasioned by such breaking, tearing, or waste, or destruction, provided such damages do not exceed the sum of five dollars in his opinion; and if such damages shall exceed that sum, then it shall be lawful for such owner or owners to commence and prosecute his or their action at law, against any such offender in any court of record within this state, in which the plaintiff shall recover costs, although the damage shall be under seven dollars.

Waste or destruction of warehouses, how to be punished.

X. *THERE* shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales with weights to weigh fifteen hundred pounds at the least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county; and where such scales and weights are not already provided, or now are or shall hereafter be worn out, or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are or shall be, are hereby directed and required to provide the same, with all convenient speed; and the treasurer for the time being is hereby empowered and required to pay the purchase money out of the public money in his hands arising from the inspection of tobacco, and moreover the said justices are hereby required and directed, twice in every year at least, to appoint one or more of their number to view the said scales, and examine and try the weights at the several warehouses by the standard weights of the county; and if the said scales and weights shall want repairing, or the weights be found deficient, or differing from the lawful standard, the said justices shall cause the same to be repaired and mended, and the weights made conformable to the standard; and if the justice or justices so appointed, shall refuse or neglect to do the same, the justice or justices so refusing, shall forfeit and pay the sum of one hundred and fifty dollars; and the charge of repairing and mending the said scales and weights, and also for removing the standard to the several warehouses for trying the same, shall be paid by the inspectors respectively, and be again allowed to them in their accounts with the treasurer.

Scales and weights to be provided.

And tried and repaired twice a year.

XI. ALL tobacco which shall be brought to any of the public warehouses shall be viewed, inspected and examined by two persons to be thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the following manner, that is to say: The courts of the several counties within this state, wherein any of the public

Tobacco to be viewed by the inspectors.

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Manner of ap-
pointing in-
spectors.

warehouses appointed by this act are established, shall, and they are hereby required, once in every year and no oftener, at their respective county courts held in the months of *August* or *September*, to nominate and recommend to the governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the council; and out of the said four persons nominated and recommended for each inspection, the governor, with advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in default of such nomination or recommendation by the county courts as aforesaid, the governor, with the like advice and consent shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the governor shall, and may appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recommendation, will not accept the said office, in that case, the governor, with the advice and consent of the council, may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the governor, for the time being, with the advice of the council, shall appoint one of the persons recommended with such inspectors, to be additional inspector at the warehouse for which he shall be recommended; which additional inspector shall officiate as such, only in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

Additional in-
spectors to be
appointed.
When to act.

No inspector
to take a re-
ward for re-
signing.
Penalty on
giver and re-
ceiver.

XII. IF any inspector shall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of six hundred dollars, to be recovered with costs by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be forever disabled from holding the office of inspector within this state.

No justice of
the peace re-
commended as
an inspector
to vote in re-
commendation
Inspector in
office, recom-
mended, to
continue
without new
commission,
but shall an-
nually renew
his bond for
the due dis-
charge of his
duty.
Inspectors to
give bond
with security
and take an
oath.

XIII. *PROVIDED* always, That no justice of the peace recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be again recommended the succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year, without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid. *Provided nevertheless*, that each inspector shall annually renew his bond, and give security for the faithful discharge of his duty.

XIV. EVERY person appointed, or to be appointed inspector by virtue of this act, shall before he enters upon the execution of the said office, enter into bond with good security in the penalty of four thousand dollars, payable to the governor for the time being, and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer, under the penalty of three hundred dollars, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of three hundred dollars; and every such inspector shall also take the following oath, at the time he gives bond, that is to say:

The oath.

YOU shall swear that you will diligently and carefully view and examine all tobacco brought to the public warehouse or warehouses where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; and that you will not receive or pass any

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tobacco that is not in your judgment sound, well conditioned, merchantable, and clear of trash, nor receive, pass or stamp any tobacco hogsheds or casks of tobacco contrary to the true intent and meaning of this act, nor refuse any tobacco that in your judgment is sound, well conditioned, merchantable, and clear of trash, and that you will not change, alter, or give out any tobacco, other than such hogsheds or casks, for which the receipt to be taken, was given, but that you will in all things well and faithfully discharge your duty in the office of inspector, according to the best of your skill and judgment, and according to the directions of this act, without fear, favor, affection, malice or partiality. So help you GOD.

Which oath shall be taken before the governor of this state for the time being, before the district court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be appointed inspector shall stand; but before any inspector shall enter upon the execution of his office, he shall produce a certificate, if sworn before the governor or district court, (as the case may be) of his having taken such oath, which certificate shall be lodged with the clerk of the county where such inspector shall be; and if any person shall presume to execute the office of inspector before he shall have given such bond, and taken such oath as aforesaid, he shall forfeit and pay two thousand dollars.

Penalty for acting without qualifying.

XV. ALL inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of October, to the tenth day of August, yearly, except Sundays, and the holy days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness; and afterwards they or one of them shall constantly attend at the same, except on Sundays, to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of August shall be delivered: But no inspector shall be obliged to view any tobacco between the said tenth day of August, and the first day of October, except such as remained in the warehouse on the said tenth day of August; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved, one dollar for every neglect, or shall be liable to an action upon the case, at the suit of the party grieved, to recover all such damages as he or they shall have sustained by occasion of any such neglect, together with his or their full costs, at the election of such party.

Time inspectors are to attend.

Penalty for not attending.

XVI. AND that all persons having tobacco at the public warehouses, may have equal justice, the inspectors shall enter in a book to be kept for that purpose, the marks and owners names of all tobacco brought to their respective warehouses for inspection as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in such book, without favor or partiality; and shall uncase and break every hoghead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hoghead or cask shall be stamped in the presence of the said inspectors, or one of them, with the name of the warehouse at which inspected, and also the tare of the hoghead or cask, and quantity of nett tobacco therein contained; and the inspectors at such warehouses shall issue a receipt for each hoghead of tobacco they shall pass, if required by the owner; which receipt shall be in the form following, to wit:

Tobacco to be entered as brought in and viewed in due turn.

Each hoghead to be uncased and viewed, &c if found good, stamped, and receipt given.

				River,					Warehouse	Received of _____, Form of the receipt for crop tobacco.					
the		day of		, 17											
Sweet scented.								Oronoko.				hogheads of crop tobacco, marks, numbers, weights, and species as per margin; to be delivered by us to the said _____, or his order, for exportation, when demanded. Witness our hands.			
Leaf.				Stemmed.				Leaf.							
Marks.	No.	Gross.	Tare.	Nett.	Gross.	Tare.	Nett.	Gross.	Tare.	Nett.					

AND no inspector or inspectors, shall under any pretence whatsoever, issue a receipt for any tobacco other than such as shall be printed, in which the date shall be inserted at full length. And if any inspector or inspectors, shall presume to issue a receipt in any other manner than is hereby expressed, he or they, for every such offence, shall forfeit and pay the sum of three hundred dollars; to be recovered with costs, by any person who may sue for the same, in any court of record within this state: Which receipts as aforesaid, shall be furnished by the public printer, and at the public expence: But if the said two inspectors

Which is to be printed.

Where the

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inspectors disagree concerning the quality of tobacco.

What hands the inspectors shall keep.

Inspectors or their servants not to be concerned in picking tobacco.

shall at any time disagree concerning the quality of any tobacco brought for their inspection to any warehouse under their charge, they shall as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors, opposite the mark, number, and weight of the hoghead by him passed, together with the name of the inspector at such warehouse who shall officiate with him. And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses as the courts of the several counties wherein they lie, shall from time to time judge necessary, and direct, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped. And no inspector shall by himself, his servant, or any other person, either directly or indirectly, be concerned in picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

Owner may pick refused tobacco, but if he refuses, the pickers shall do it.

Penalty on picker refusing to pick tobacco.

XVII. WHEN any tobacco shall be refused by the inspectors, the proprietor thereof shall be at liberty to separate the good from the bad, but if he refuses or neglects so to do within two months of such refusal, the inspectors shall direct one or more of the pickers attending the warehouse, to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one twelfth part of the quantity saved; and the inspectors shall cause the tobacco which shall by them be judged unfit to pass, to be burned in the brick funnel, erected, or to be erected at such warehouse, under the penalty of seven dollars for every failure, to the informer; recoverable with costs, before any justice of the county wherein such warehouse shall be. *Provided always*, That any picker refusing to pick and separate refused tobacco, when directed by an inspector, shall forfeit and pay five dollars, to the use of the owner of such tobacco; recoverable with costs, before any justice of the county or corporation.

Pickers how to be appointed.

Their oath.

Allowance.

Duty.

How punished for misbehaviour.

Penalty for picking without being so appointed, except by the proprietor, his hands or others.

XVIII. THE courts of the several counties wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required to nominate and appoint from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to turn up, sort, separate and pick such tobacco as shall be refused by the inspectors. And every person so appointed a picker, shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will carefully and diligently, without fraud or embezzlement, sort and separate all such tobacco, as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors, shall employ him to pick; and every picker of tobacco shall be allowed to demand and receive from the respective proprietors, twenty-one cents per hoghead for opening, and one twelfth part of all the tobacco saved out of any refused hoghead by him picked, for his services in opening, sorting, and picking the same, and no more. And no picker of tobacco shall keep or employ any negro or mulatto slave at any public warehouse, on any pretence whatever; nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors, from the free use of the picking-house and prize, for the convenience of picking or prizing the same. And if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made, to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary; and every picker so removed, shall for ever after be rendered incapable of serving as picker at any public warehouse; *Provided* such picker hath ten days previous notice of such motion; and any person who shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace, who is hereby empowered and directed to take depositions therein, provided such picker have notice thereof, and to transmit the same to the next court to be held for the county, where the offence shall be committed, to be there given in evidence on the examination into such misbehaviour. And if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, sorting, picking, or separating any such tobacco for hire or reward, every person so offending shall forfeit and pay four dollars for every such offence; to be recovered by the informer, to his own use, before any justice of the peace. *Provided*, That any proprietor of tobacco, who may choose to open, pick and prize his own tobacco, may employ

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his own servants or slaves, or any other person or persons, other than the hands kept by the inspectors, to assist him in opening, picking or prizing the same, and the person or persons so employed, shall not incur or be subject to the last mentioned, or any other penalty or forfeiture for so doing; and the inspectors shall issue receipts for all tobacco saved by picking, to the proprietors only of such tobacco, and not to the pickers of the same. And the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking, for his own use. And if any tobacco picked in any hoghead or cask by an overseer, or the hands under his care, shall be burnt by the inspectors, by reason of its being bad, unsound, or not in good condition, the overseer, who had the care of making and packing the same, shall be at the loss of the tobacco so burnt, and make satisfaction for the same out of his share of the crop, or otherwise; and the inspectors shall be obliged to keep an account of all tobacco so burnt.

Pickers not to prize up their tobacco saved by picking. Overseers liable for tobacco refused and burnt.

XIX. IF any inspector of tobacco shall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inspector herein offending, on conviction, before any court of record, shall forfeit and pay two thousand dollars to the prosecutor, to be recovered by action of debt with costs; and shall moreover be rendered incapable of serving as an inspector. Every picker who shall be concerned as above with an inspector, or who shall demand, take or receive any greater fee or reward for his services, other than by law allowed, shall forfeit and pay, on conviction, to the person prosecuting, three hundred dollars, to be recovered in like manner, and shall forever after be incapable of acting in any character at a public warehouse.

Penalty on inspector for being concerned with a picker as a partner, or receiving any thing from him. On a picker for the same, or for receiving more than the legal fee.

XX. WHERE any tobacco shall be brought to any of the said warehouses for the discharge of any public or private debt or contract, the said inspectors, or one of them, after they have viewed, examined and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many receipts under the hands of the said inspectors as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco so received, be sweet scented, or Oronoko, stemmed or leaf; which receipt shall be in the form following, to wit:

R I V E R, No. 17

warehouse, the day of

RECEIVED of *_____*, *pounds of transfer tobacco, to be delivered*

on demand to him, or to his order, according to the directions of the act, intituled, "An act for mending the staple of tobacco, and preventing fraud." Witness our hands.

Form of transfer receipts.

And shall bear date the day the tobacco for which the same is given shall be received and passed, and shall be current in all tobacco payments, according to the species expressed in the receipt, within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not separate therefrom by any of the great rivers or bay herein after mentioned, that is to say; James river below the mouth of Appamattox; York below West-point; Rappahannock below Taliaferro's Mount; or by the bay of Chesapeake; and shall be transferrable from one to another in all such payments, except as herein is excepted, and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand. And for every hoghead of tobacco brought to any public warehouse and transferred, there shall be allowed by the inspectors thereof to the person bringing the same after the rate of four pounds of tobacco, for every hundred pounds of tobacco the said hoghead shall contain, for the cask, so as such allowance do not exceed thirty pounds of tobacco, provided the cask or hoghead is good, and of such dimensions as is herein after expressed; and the said inspectors shall, and they are hereby obliged to make every hoghead by them paid away in discharge of any receipt by them given as aforesaid, to contain one thousand pounds of nett tobacco at the least; and for every hoghead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person shipping such hoghead, one dollar for inspection, and fifty-eight cents for prizing, and nails; which said sum of fifty-eight cents, the inspectors may retain in their hands for their own use, to reimburse them the expense and trouble of providing nails and prizing. And the person demanding or receiving tobacco in discharge of receipts as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hoghead so received, for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such receipts, and so in proportion for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same, and one pound

Their date & currency.

Allowance for cask.

Weight of tobacco prized in discharge of receipts.

One dollar for inspection and fifty-eight cents for prizing and nails. Allowance for cask & shrinkage.

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Remedy
against inspec-
tors.

of tobacco for every hundred, for every month the same shall be unpaid after the said allowance; so as such allowance for shrinkage and wasting do not exceed in the whole six pounds of tobacco for every hundred. And if any inspector or inspectors, by whom any such receipts for tobacco as aforesaid shall be signed, shall refuse or delay to pay and satisfy the same when demanded, every inspector so refusing or delaying, shall forfeit and pay to the party injured, double the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state, if the receipt or receipts so refused or delayed to be paid, exceed two hundred pounds of tobacco; and if the said receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforesaid shall and may be recovered before any justice of the peace of the county wherein the warehouse shall be, at which the receipt or receipts ought to be paid.

How receipts
are to be given
for crop tobac-
co.Inspection tax
of one dollar
to be paid by
the exporter.Penalty on in-
spectors
changing to-
bacco,or failing to
deliver it when
demanded.To transfer
crop tobacco.Pickers to be
paid before the
receipts are
delivered.Stemmed to-
bacco to be
laid straight.Size of tobac-
co hogheads.

XXI. ALL tobacco brought to any of the said warehouses in hogheads to be exported, on account, and for the use of the owner thereof, after the same shall have been received, examined, found to be good, and weighed, shall be stamped as herein before directed; and the said inspectors, or one of them, shall deliver to the person bringing the same, as many receipts, signed as aforesaid, as shall be required for the number of hogheads so brought and stamped, in which shall be expressed, whether the tobacco so received, be sweet scented or Oronoko, stemmed or leaf, and whether the same be tied up in bundles or not; and where any hoghead hath part leaf and part stemmed, shall signify the same at the bottom of the receipt; and they shall not mix stemmed and leaf tobacco in any hoghead which they shall prize, and pay away in discharge of their transfer receipts; and for every hoghead brought to any of the said warehouses, to be exported by land or by water out of this state, there shall be paid to the inspectors attending at such warehouses, by the exporter, at the time of demanding the same for exportation, the sum of one dollar, and the owners of the tobacco shall find and provide nails sufficient for securing and nailing thereof; and where they shall fail so to do, the inspectors at such warehouse, shall furnish nails for the purpose aforesaid, and shall be allowed and paid by the owner, thirteen cents for each hoghead so secured. And if any inspector or inspectors, shall alter, change or deliver out any hoghead of tobacco, other than the hoghead for which the receipt for crop tobacco to be taken in, was by him or them given; or shall alter or change any such tobacco, although no such receipt shall have been given, such inspector or inspectors shall forfeit and pay one hundred and fifty dollars for every hoghead so altered, changed or delivered out. And if any inspector shall fail or refuse to deliver any hoghead of tobacco, when the same shall be demanded for exportation, such inspectors shall forfeit and pay to the owner thereof, double the value of the tobacco, which they shall so refuse or fail to deliver. And all inspectors shall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed such tobacco, to give transfer receipts for the same, with an allowance of four *per centum* for the cask; so as such allowance do not exceed thirty pounds of tobacco for every cask. *Provided*, that such hoghead shall contain, at least, one thousand pounds of nett tobacco, and not mixed leaf and stemmed. *Provided nevertheless*, that no inspectors shall give their receipt or receipts for any transfer or crop tobacco, which shall be opened or picked by any picker legally appointed, until the proprietor of such tobacco, or his or her agent, shall have first paid or tendered to such picker, his lawful charges for opening or picking the same. And in the absence of any such picker, a payment, or tender to any of the inspectors there attending, for the use of the picker, shall be as effectual as if made to such picker in person. And if any inspectors shall deliver their receipt or receipts for any such tobacco, so opened or picked, before such payment or tender be made, they shall be liable to such picker for the amount of the same.

XXII. AND for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing of tobacco in unsizable casks: *Be it enacted*, that all stemmed tobacco not laid straight, whether the same be packed loose, or in bundles, shall be accounted unlawful tobacco; and that no tobacco packed in hogheads, which exceed fifty inches in the length of the stave, or thirty-two inches at the head, within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the gauge, in the prizing head, shall be passed or received; but the owner of such tobacco, packed in casks of greater dimensions than before expressed, shall be obliged to repack the same in sizable casks, at his own charge, before the same shall be received or stamped by the inspectors.

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XXIII. AND whereas many and great inconveniences have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietors of the same: *Be it enacted*, That if any inspector shall presume to deliver any tobacco in his warehouse, without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of serving forever after as an inspector in this state, and moreover shall be liable to the penalty of one hundred and fifty dollars for every hoghead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof; to be recovered by such owner or proprietor thereof, if he or she shall prosecute within four months after the offence committed; or if he or she decline the prosecution, then after that time, by any person who shall inform or sue for the same, by action of debt or information, in any court of record within this commonwealth. And if any inspector shall deliver any transfer receipts or notes of credit for tobacco, to any person or persons, unless at the time of delivering the same, he shall have actually and *bona fide* received and passed tobacco, the property of him, her, or them, in whose name or names such receipts or notes shall be made out, to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit twenty dollars for every hundred weight of tobacco such fictitious notes shall express, to any person who will sue for the same; recoverable by action of debt, in any court of record.

Penalty for delivering tobacco without an order from the proprietor.

And for issuing fictitious notes.

XXIV. THE owners of any transfer receipts, may, at any time before the sale of the tobacco contained in such transfer receipts, as hereinafter is directed, receive and mark hogheads of tobacco to satisfy such receipts; and the inspectors shall take in their former receipts, and deliver crop receipts for such hogheads, and shall be answerable for the safe keeping thereof, in the same manner as they are for crop tobacco; but the persons receiving such hogheads shall pay to the inspectors one dollar and fifty-eight cents, for the inspection and nails for every hoghead, that is to say, fifty-eight cents down to the inspectors for their own use for nails and their trouble in prizing, and one dollar as inspection, when the tobacco is delivered. And the inspectors shall at the court held for their county in the month of *September* yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned: And after such account exhibited and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage and wasting, at public auction, at the door of the courthouse, between the hours of twelve and two; and the inspectors shall pay the money arising by such sale, in satisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the same penalty as is inflicted for not paying inspectors receipts. And all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage, and for transfer tobacco, or otherwise; and if any tobacco shall be so gained or saved, shall exhibit an account thereof, and shall also sell the tobacco so gained and saved, in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being, in their next account with him; and the said treasurer shall account for the same to the General Assembly; and no inspector shall convert any tobacco so gained to his own use.

Inspector to give crop notes in exchange for transfer.

And at *September* court yearly give an account of, & sell tobacco for notes outstanding.

Also tobacco gained by allowance for cask and shrinkage.

XXV. ALL inspectors shall before the tenth day of *October*, in every year, account with the treasurer of this state upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which shall be relanded at their inspections, for every hoghead of transfer tobacco; in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act. And in order to ease the inspectors giving their personal attendance at the treasury, they are hereby required, after stating their accounts with the treasurer, as above directed, to take the following oath before some one justice of the peace of the county where they officiate, to wit:

To account with the treasurer upon oath, when and how.

WE A. B. and C. D. do swear, that the account now produced, contains an exact state of all the tobacco shipped the preceding year from warehouse, all taxes received, or due for the same, also all tobacco gained at the said inspection by any means whatsoever. So help us GOD.

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And the justice of the peace before whom they are sworn, shall, and he is hereby required, to certify on the said account, that they have taken this oath.

To return an account annually of tobacco shipped.

XXVI. THE several inspectors of tobacco in this state, shall annually, at the time of settling their accounts with the treasurer, deliver to him an account, upon oath, of all the tobacco shipped from their respective warehouses within the year preceding, containing the number of hogheads or casks sent on board each ship or vessel respectively; and every inspector failing therein, shall forfeit and pay the sum of one hundred and fifty dollars.

Proceedings where uninspected tobacco is about to be exported by water.

XXVII. AND any justice of the peace of any county near the place where any ship or other vessel shall ride, upon information made to him upon oath, by any free man, that there is good cause to suspect any tobacco uninspected, in cask, bulk, or parcels, to be on board such ship or other vessel, shall, and he is hereby empowered and required to issue his warrant, directed to the sheriff or any constable of his county; and the sheriff or constable shall have full power and authority, and he is hereby required to enter and go on board of such ship or other vessel, to search for, and seize such tobacco, and the same being seized, shall be brought on shore and carried before the same, or any other justice, who shall cause the said tobacco to be carried to the nearest warehouse, and there inspected, and if passed, restored to the owner, in case he shall be innocent of the fraud; but if he shall appear to have been concerned in such fraud, or if no owner shall claim within three months, the said tobacco shall be sold by the inspectors, and the money arising from such sale be paid into the public treasury, and accounted for to the General Assembly. And the commanding officer or skipper of any ship or vessel, on board which such tobacco is found, shall forfeit to the informer twenty dollars for every hundred weight, and so in proportion for a less quantity; to be recovered with costs in any court of record, if it be five dollars or more. And if any master or commanding officer, or skipper, of any ship or vessel, or any other person whatsoever, shall resist the officer in the execution of any such warrant, every such master, commanding officer or skipper, shall forfeit and pay six hundred dollars; and every sailor or other person so resisting, shall forfeit and pay eighty dollars. And if any action shall be brought against any justice of the peace, sheriff or constable, for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence; and if the plaintiff shall be non-suited, or a verdict pass against him, or a judgment on demurrer, the defendant shall recover double costs.

Old tobacco to be sold.

XXVIII. WHERE any tobacco hath remained, or shall hereafter remain undemand- ed in a public warehouse two years after the same hath been, or shall be inspected, the inspectors shall advertise in the *Virginia* gazette for three weeks successively, a list of the marks, numbers, and weights of such tobacco, with the names of the persons for whom it was inspected; and if no owner appears to claim the same within three months, they shall at the next court to be held for the county in which such warehouse shall be, after the expiration thereof, and advertising as aforesaid, deliver to the court the like list, which court is hereby empowered and required, to order the same to be publicly sold at the courthouse door, on a court day, to the highest bidder; the clerk of such court shall transmit within three months to the auditor of public accounts, a list of such tobacco so directed by the court to be sold; and the money arising from the sale thereof, shall be paid by the inspectors to the treasurer of this state for the time being, who shall account for the same, from time to time, to the General Assembly. And if any person, having a right to any tobacco so sold, shall prove his property therein, the said treasurer shall repay to such person the money for which such tobacco was sold.

Inspectors incapacitated for other offices.

XXIX. NO person taking upon himself the office of inspector, shall during his continuance in that office, or until he hath obtained a *quietus* from the treasury, be capable of being elected a member of either house of assembly, or shall presume to intermeddle, or concern himself with an election of a member or members of either of the said houses, otherwise than by giving his vote, or shall endeavour to influence any person or persons in giving his or their vote, under the penalty of one hundred and fifty dollars for every offence; nor shall any inspector by himself, or any person for him, be allowed to keep an ordinary, or house of entertainment, at or near the warehouse where he is an inspector; and every inspector herein offending, shall be incapable of serving in that office; neither shall any inspector during his continuance, be, or undertake to be a sheriff, justice of the peace, collector of any public tax, other than what relates to any such office, county le-

vies, or poor rates, or any officers fees ; nor shall directly or indirectly for himself, or for any other person, buy, or receive by way of barter, loan or exchange, any tobacco whatsoever, under the penalty of ten dollars, for every hundred weight of tobacco so bought or received. *Provided*, That nothing herein contained, shall be construed to hinder any inspector from receiving his rents in tobacco, which shall be first viewed, examined and stamped according to the directions of this act.

XXX. AND for the further and better direction of the inspectors aforesaid in their duty, *Be it enacted*, That no inspector shall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in pursuance of this act, other than his salary and the other payments and allowances herein before mentioned and expressed ; and if any inspector shall take, accept, or receive any such gratuity, fee or reward, such inspector being thereof convicted, shall forfeit and pay the sum of three hundred dollars ; to be recovered with costs, by any person or persons who shall inform and sue for the same, by action of debt or information, in any court of record within this commonwealth, and moreover shall be disabled from holding the office of inspector during the continuance of this act. And if any person shall offer any bribe, reward or gratuity, to any inspector for any thing by him to be done in pursuance of this act, other than the fees and allowances herein before directed, every person so offending, and being thereof convicted, shall for every such offence, forfeit and pay the sum of sixty dollars ; to be recovered in any court of record within this state ; one half of which forfeiture shall be to and for the use of such inspector refusing such bribe or reward, and the other half to the person who will inform and sue for the same. And there shall be paid to each of the inspectors appointed to attend, and attending the said several warehouses, the salaries hereinafter mentioned, that is to say :---At *Pitt's*, *Guildford*, and *Pungoteague*, under one inspection, one hundred and sixteen dollars and sixty-seven cents ; at *Roy's*, two hundred dollars ; at *Bolling's Point*, two hundred and sixty-six dollars and sixty-seven cents ; at *Bollingbrook's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Cedar-point*, two hundred and sixty-six dollars and sixty-seven cents ; at *Hobb's-hole*, one hundred and sixteen dollars and sixty-seven cents ; at *Bowler's*, one hundred dollars ; at *Layton's*, one hundred dollars ; at *Colchester*, one hundred and sixty-six dollars and sixty-seven cents ; at *Alexandria*, two hundred dollars ; at the falls of *Patowmack*, one hundred and thirty-three dollars and thirty-three cents ; at *Poropotank*, one hundred dollars ; at *Deacon's Neck*, one hundred dollars ; at *Page's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Crutchfield's*, two hundred dollars ; at *Meriwether's*, two hundred dollars ; at *Rocky-Ridge*, two hundred and sixty-six dollars and sixty-seven cents ; at *Osborne's*, two hundred dollars ; at *John Bolling's*, two hundred and thirty-three dollars and thirty-three cents ; at *Mancheffer* warehouse, two hundred and sixty-six dollars and sixty-seven cents ; at *Trent's* warehouse, two hundred and sixty-six dollars and sixty-seven cents ; at *Johnson's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Byrd's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Shockæ*, two hundred and sixty-six dollars and sixty-seven cents ; at *Rockett's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Smithfield* and *Fulgham's*, under one inspection, one hundred and thirty-three dollars and thirty-three cents ; at *Shepherd's*, one hundred dollars ; at *Mantapike* and *Frazer's*, under one inspection, one hundred and fifty dollars ; at *Todd's* and *Aylett's*, under one inspection, one hundred and fifty dollars ; at *Boyd's-hole* and *Machodack*, under one inspection, one hundred and fifty dollars ; at *Gibson's*, one hundred dollars ; at *Davis's* and *Lowry's*, under one inspection, one hundred dollars ; at *Deep creek* and *Glascock's*, under one inspection, one hundred and sixteen dollars and sixty-seven cents ; at *North and South Wicomico*, under one inspection, one hundred and thirty-three dollars and thirty-three cents ; at *Coan's*, one hundred and sixteen dollars and sixty-seven cents ; at *Indian creek* and *Dymer's*, under one inspection, one hundred dollars ; at *Urbanna*, one hundred dollars ; at *Kemp's* warehouse on *Pianketank*, fifty dollars ; at *Milner's*, one hundred and thirty-three dollars and thirty-three cents ; at *Suffolk*, one hundred and thirty-three dollars, and thirty-three cents ; at *Cherrystone's* and *Naswaddox*, under one inspection, one hundred and sixteen dollars and sixty-seven cents ; at *Littlepage's*, one hundred and sixteen dollars and sixty-seven cents ; at the *Brick-house*, one hundred dollars ; at *Hood's*, one hundred dollars ; at *Boyd's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Davis's*, two hundred and sixty-six dollars and sixty-seven cents ; at *Blandford*, two hundred and sixty-six dollars and sixty-seven cents ; at *Quantico*, two hundred and thirty-three dollars and thirty-three cents ; at *Dumfries*, two hundred and thirty-three dollars and thirty-three cents ; at *M'Rae's*, two hundred dollars ; at

Penalty on inspectors receiving other gratuity than their salaries and other legal allowances,

And on the person offering a bribe.

Inspectors salaries.

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Bullitt's, one hundred and sixty-six dollars and sixty-seven cents ; at *Cat point*, one hundred dollars ; at *Totuskee*, one hundred dollars ; at *Gray's creek*, one hundred and sixteen dollars and sixty-seven cents ; at *Low point*, one hundred and thirty-three dollars and thirty-three cents ; at *Falmouth*, two hundred dollars ; at *Acquia*, one hundred and sixty-six dollars and sixty-seven cents ; at *Dixon's*, two hundred dollars ; at *Fredericksburg*, two hundred and thirty-three dollars and thirty-three cents ; at *Roxston's*, two hundred and thirty-three dollars and thirty-three cents ; at *Nomony*, one hundred dollars ; at *Leed's and Mattox*, under one inspection, one hundred and sixty-six dollars and sixty-seven cents ; at *Yeccomico* and *Kinsale*, under one inspection, one hundred and thirty-three dollars and thirty-three cents ; at the *College Landing*, eighty-three dollars and thirty-three cents ; at *York-town*, eighty-three dollars and thirty-three cents ; at *Hampton*, fifty dollars ; at *Crow's warehouse* and at *Cresap's*, the inspectors shall receive for each hoghead by them inspected, the sum of sixty-seven cents, seventeen cents whereof shall be paid to the proprietor for the rent of the warehouse, and the residue for their own use ; at *Romney*, fifty dollars ; at *Lynch's*, two hundred and twenty dollars ; at *Rivanna*, one hundred and thirty-three dollars and thirty-three cents ; at *Swan creek*, one hundred and thirty-three dollars, and thirty-three cents ; at *Mecklenburg*, one hundred dollars ; at *Barksdale's*, two hundred and sixty-six dollars and sixty-seven cents ; at *West-hill*, two hundred and sixty-six dollars and sixty-seven cents ; at *Highb-street*, two hundred and sixty dollars and sixty-seven cents ; at *West-brook*, two hundred and sixty-six dollars, and sixty-seven cents ; at *Petersburg*, two hundred and sixty-six dollars and sixty-seven cents ; at *Henderson's*, one hundred and thirty-three dollars and thirty-three cents ; at *Nicholas's*, one hundred and thirty-three dollars and thirty-three cents ; at *Morgan-town*, fifty dollars ; at *Great Falls*, one hundred and thirty-three dollars and thirty-three cents ; at *Woodson's*, one hundred and sixty-six dollars and sixty-seven cents ; at *Portsmouth*, one hundred dollars ; at *Thornton's*, one hundred and sixty-six dollars and sixty-seven cents ; at *Amberst*, one hundred dollars ; at *Booker's*, one hundred and thirty-three dollars and thirty-three cents ; at *Horsley's*, one hundred dollars.

If the warehouse does not pay the inspectors salaries, the deficiency not to be made good by the public. Inspectors above the falls of James river to deliver printed manifests with the tobacco.

XXXI. *PROVIDED* always, That if the quantity of tobacco, which shall be received at any warehouse already established, or hereafter to be established, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

XXXII. THE inspectors at the several warehouses, established above the falls of James river, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest, descriptive of the owner's name, the name of the skipper of the batteau or canoe, if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered ; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hoghead shall be stamped with the name of the warehouse at which it was inspected ; which manifest shall, by the skipper or waggoner, (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same, and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco with such manifests, as by law are required for other tobacco lodged in their warehouses for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected. *Provided* always, that nothing in this act contained, shall be construed to prevent any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store it in any warehouse heretofore established.

Copies thereof and of certificates of payment of duties to be sent to the auditor. Owner may have his tobacco reinspected and weighed.

XXXIII. THE owners of such tobacco, previous to the delivery thereof, shall procure a duplicate of the manifest, with a certificate from the inspectors, that the duties imposed by law have been paid ; which certificate, with all others granted in similar cases, shall be lodged with the clerk of the court of that county where the tobacco was inspected, to be by him transmitted to the auditor of public accounts, on or before the twenty-fifth day of October, annually, to be by him compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be

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lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to reinspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

XXXIV. THE appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as are provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner, and under the like penalties, as are directed and prescribed for other warehouses heretofore established. And the inspectors at each of the said warehouses, may demand and receive for each hoghead by them inspected, the sum of sixty-seven cents, seventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouse, and the residue for their own use. *Provided nevertheless*, that no person shall be obliged to receive any notes passed at any of the said warehouses, in discharge of any tobacco contracts heretofore entered into.

The warehouses to be under the same regulations as others.

Allowance to the inspectors and for warehouse rent. Tobacco inspected there, shall not be a tender in certain contracts.

XXXV. THE inspectors of the several warehouses within this commonwealth, shall deliver any inspected tobacco to any person or persons who shall duly demand the same, by delivery of the notes or otherwise, for the purpose of manufacturing it, and grant him or them a manifest therefor, upon such persons paying the usual duties, and lodging with them a certificate of his or their having, before some court of record within this commonwealth, entered into a bond with sufficient security, in the penalty of fifteen hundred dollars, payable to the governor and his successors, for the use of the commonwealth, with condition that he or they will not export, or cause, or suffer to be exported, either by land or water, any tobacco received by him or them, for the purpose of manufacturing, until it has been manufactured.

Inspectors to deliver tobacco to be manufactured.

XXXVI. AND for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them; *Be it enacted*, that any two justices of the peace shall have power to hear all complaints against any inspector within their county, and to take the depositions of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the governor and council, for their determination. And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fees as are or shall be by law established for attending the examination of witnesses upon a *dedimus potestatem*. And moreover any two justices shall have power to visit all or any of the public warehouses within their county, and if they shall discover any negligence in the inspectors, either in securing the tobacco, or stowing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the justices shall certify the governor and council thereof. And if any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office, and be forever after incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expences in such prosecution, in which the prosecutor shall recover his full costs of suit; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the action of such inspector or inspectors, for the recovery of all damages and expences which he or they shall have sustained or been put to by such prosecution and costs, unless the governor and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector; in which action the plaintiff shall recover his full costs, although the damage do not exceed seven dollars.

Method of detecting inspectors who do not do their duty.

XXXVII. IF any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaid to the several persons injured, by the General Assembly; and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the

When warehouses are burnt the public to pay for the tobacco and inspectors indemnified

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Exception.

said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts; any thing herein before contained to the contrary, notwithstanding. *Provided always*, that if the receipts for tobacco so burnt or destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Warehouses not to be used for private purposes.

XXXVIII. THE inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, or by the negligence or voluntary act or permission of such inspectors, then the estates of such inspectors shall be subjected to pay to the treasurer for the time being, all such sum or sums of money as shall have been paid to the person or persons so injured, to be recovered by such treasurer, by action of debt in any court of record within this commonwealth.

No fire to be kindled in or near a warehouse.

XXXIX. IF any person hereafter shall make any fire within any public warehouse, or without doors, within one hundred yards of such warehouse, other than in the inspectors' counting-room, squares, or funnels, such person, if a freeman, shall, for every such offence, forfeit and pay thirty dollars; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she shall, by order of any justice of the peace, receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required, to cause such chimney or chimnies to be pulled down and demolished.

Nor wooden chimnies built near them.

Death, to issue double notes for the same tobacco, or notes for tobacco not received.

XL. IF any inspector or inspectors shall give, deliver, or issue to any person whatsoever, his or their receipt expressed to be for any hoghead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hoghead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorised by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy.

Method to be taken where receipts are lost.

XLI. IF any inspector's receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given, and that such receipt is lost, mislaid, or destroyed, and that he, she or they, at the time such receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give bond with sufficient security to the inspectors in double the amount of the tobacco so claimed, to indemnify the person who may thereafter produce the original receipt within twelve months after notice given of the loss of such receipt, the value by him paid for the same, when a duplicate of the said receipt shall be granted by the inspectors to the person or persons entitled to receive the tobacco by virtue of such original receipt, and not otherwise. The bond so taken shall be assignable by the inspectors taking the same to the person producing the original receipt, who may maintain an action of debt thereupon, and such assignment shall exonerate the inspectors from any claim or demand against them by virtue of the original receipt. *Provided nevertheless*, That if the principal and security should at the time of taking such bond be insufficient, that in that case the inspectors shall be responsible for the value of the tobacco to the person producing such original receipt. And if any person shall be convicted of making a false oath, or producing a forged certificate in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury.

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XLII. WHEN any new inspectors shall be appointed at any of the said warehouses, such inspectors shall, and they are hereby required, to give to the person or persons whom they shall succeed, a receipt with his or their hands subscribed, containing the numbers, marks, gross, tare, and nett weight, of all and every hoghead or cask of tobacco which shall be then remaining at the warehouse or warehouses, at which they are appointed inspectors, with the delivery and payment of which said hogheads or casks of tobacco so remaining, he or they shall from thenceforth be chargeable and liable; but he or they shall in no wise be accountable or answerable for the loss of weight, or for quality of tobacco contained in any hoghead or cask, for which receipt was by him or them so as aforesaid given. And if any hoghead or cask of tobacco shall hereafter be received by any person or persons whatsoever, and delivered out of any of the said warehouses for exportation by the inspector or inspectors attending the same, such inspector or inspectors from the time of such delivery, shall be for ever discharged and acquitted from all actions, costs, and charges, for, or by reason of the tobacco contained in any such hoghead or cask being unsound and unmerchantable, or of less quantity than the receipts given for the same shall specify; any thing herein before contained to the contrary, notwithstanding.

New inspectors to give their predecessors a receipt for the tobacco in the warehouses.

Inspectors discharged on the delivery of tobacco.

XLIII. AND when any prized tobacco shall be brought to any public warehouse, in order to be shipped on freight or otherwise, and the inspectors there attending shall refuse to pass such tobacco, such as shall be bad and unmerchantable, shall be picked and separated from the rest; or where any light crop tobacco shall hereafter be brought to any of the said warehouses, in either case, the said inspectors, if required, shall permit the owner or other person bringing such tobacco, to make use of one or more of their prizes, for the repacking, prizing, or making heavier such tobacco, without fee or reward; and if there shall be several hogheads of tobacco belonging to several owners, to be picked, repacked, or prized at any public warehouse, the owner or other person bringing the same, whose tobacco shall be first viewed and refused, or found light, shall be first permitted and allowed to make use of such prize or prizes for the purposes aforesaid; and no inspector shall take or convert to his own use, or otherwise dispose of, any draughts or samples of transfer or crop tobacco, but the same, if fit to pass, shall be put into the hoghead or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught so taken away, and not returned as aforesaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own use, and the other moiety to the use of the proprietor of such tobacco, before any justice of the peace of the county wherein such offence shall be committed. And all inspectors, if required, shall alter the mark and number of any hoghead of reprized tobacco for which they have before given a receipt; and for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the marks and numbers of all hogheads of tobacco received by them, and another book in which shall be entered the marks, numbers, and weights thereof, when the same shall be delivered out by them; and all inspectors, when required, shall be obliged to prize any light hoghead of tobacco under one thousand pounds, so as to make it up the weight one thousand pounds nett, but shall receive the same fee upon such hoghead, as for transfer tobacco. And when any tobacco shall be brought to the warehouse by the overseer of the owner thereof, the inspectors shall give receipts in the name of the owner, and not of the overseer.

Prizes to be used in turn for prizing tobacco picked or light hogheads.

Penalty for taking and using draughts.

Inspectors to prize light crop tobacco on request.

To give notes in the name of the owner.

XLIV. THE inspectors of tobacco at the several warehouses within this state, shall immediately on the delivery of every hoghead of tobacco at the warehouse whereof they are inspectors, give a receipt for such tobacco, if required by the proprietor or person bringing the same to the said warehouses, expressing therein that the same is for uninspected tobacco; every inspector refusing so to do, shall forfeit and pay to the owner of such tobacco, the sum of four dollars.

To give receipts for tobacco when brought.

XLV. EVERY master, mate, or boatswain of any ship or other vessel, which shall arrive in this state in order to load tobacco, shall, before the said ship or other vessel be permitted to take on board any tobacco whatsoever, make oath before the collector of the port wherein such ship or other vessel shall arrive (which oath the said collector is hereby empowered and required to administer) that they will not permit any tobacco whatsoever to be taken on board their respective ships or vessels, except the same be packed in hogheads or casks, stamped by some inspector legally thereunto appointed; which oath they shall subscribe in a book to be kept by the said collector for that purpose; and if any master shall

The oaths of masters of vessels intending to load with tobacco.

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No tobacco to
be taken on
board any ves-
sel in bulk or
parcels.
Penalties.

Proviso's for
fundry purpo-
ses.

cause any person who is not really and *bona fide* mate or boatwain, to come on shore and take such oath, he shall, for the said offence, forfeit and pay fifteen hundred dollars.

XLVI. IF any person not being a servant or slave, taking upon himself to carry any tobacco to or from any of the said warehouses in his boat or other vessel for hire, shall take on board, or permit, or suffer to be taken on board, any tobacco whatsoever, in bulk or parcels, such tobacco shall not only be forfeited, and may be seized by any person or persons whatsoever, but the master or skipper offending herein, shall forfeit and pay fifty cents for every pound weight of such tobacco; and the master or commander of any ship or vessel, wherein any tobacco in bulk or parcels shall be found, shall over and above the forfeiture thereof, be subject and liable to the same penalty; to be recovered, if it doth not exceed twenty dollars, before any two justices of the peace of any county near the place where such ship, boat, or other vessel shall lie; and if it exceeds twenty dollars, in any court of record by action of debt, wherein the plaintiff shall recover his costs. And if any servant, or other person employed in navigating any such boat, or other vessel, shall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforesaid, he shall pay the sum of twenty dollars, to be recovered as aforesaid; and if such servant or other person, shall be unable to pay the said sum, he or they shall, by order of such justice, receive on his bare back, thirty-nine lashes well laid on; and if such boat or other vessel be under the care and management of a servant who cannot pay and satisfy the penalty so to be inflicted on the master or skipper offending as aforesaid, then such servant, and every other person employed under him, unable to pay the said penalty, who shall be guilty of conniving at, or concealing the taking on board tobacco in bulk or parcels, as aforesaid, shall, upon every complaint, and proof thereof made to a justice of the peace, have and receive, by order of the said justice, thirty-nine lashes well laid on; and if any servant shall again be entrusted with the care and management of any boat or other vessel, and shall be convicted a second time of taking or receiving on board the same, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of such servant shall forfeit and pay the like sum of fifty cents *per* pound for every pound weight of such tobacco so taken or received on board in bulk or parcel, and shall also forfeit and pay two dollars for every day such servant shall thereafter be employed as skipper or master of any boat or vessel to him belonging; to be recovered and applied as aforesaid. *Provided nevertheless,* That it shall be lawful for the proprietor or proprietors to break any hoghead of tobacco after it shall be passed and stamped, and to repack and prize the same into small casks for the convenience of stowing, provided it be done at the warehouse where the same was inspected and weighed, marked, and stamped; and the inspectors shall particularize all such casks in their manifests to be given to the masters or skippers of the vessel in which such tobacco be laden. *Provided always* that nothing herein before contained, shall be construed to prohibit any person from carrying, or causing to be carried to the said warehouses in any boat or other vessel, any tobacco in bulk or parcels, for the payment of his or her levies, debts or other duties, or to prohibit any person to put or take on board any boat or other vessel, any hogheads or casks of tobacco, to be water-borne to any warehouse appointed by this act, so as the same be not carried out of the collectors or other officers of the customs district wherein the said tobacco shall be made, nor to prohibit the owner of any tobacco to transport his crops, or any part thereof, in hogheads or casks, from one plantation to another, for the better handling and managing thereof, nor any purchaser of tobacco from bringing the same by water, to be repacked, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogheads or casks; but no tobacco on any pretence whatsoever, shall be carried or transported by water, to be inspected out of the district limited and appointed for the several collectors or other officers of the customs of this state, wherein the same shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, ten dollars for every hoghead, to the informer. *Provided nevertheless,* That it shall and may be lawful for the inhabitants of *Fleet's Bay*, on the south side of *Indian creek*, in the county of *Lancaster*, to carry their tobacco by water to the public warehouse at *Indian creek*, and the inhabitants at *Warrawasqueake Bay*, and the parts adjacent, to carry their tobacco to be passed at any warehouse in the upper district of *James river*.

Reloaded to-
bacco must be
delivered at

XLVII. IF the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on shore any hoghead, cask,

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or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses; without fraud or embezzlement; or shall open any hoghead or cask of tobacco so as aforesaid water-borne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hoghead or cask, and take thereout any tobacco; every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore, any hoghead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse or ship (as the case may be) to which it was designed, without embezzlement. *Provided also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board, every hoghead or cask of tobacco so damaged, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed, and stamped with the weight by the inspector attending such warehouse, without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner two dollars for their trouble and nails.

some public warehouse.

Penalty for landing it elsewhere, or for opening hogheads and taking out tobacco.

Exception as to tobacco landed in distress of weather.

Provision as to damaged tobacco.

XLVIII. AND to the intent that the just quantity of tobacco exported may be more exactly known, and evil practices to defraud the public of the duty prevented; *Be it enacted*, that all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare of every hoghead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogheads or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons re-landing such tobacco, twenty-five cents for every hoghead so re-landed, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

Inspectors to keep books, &c.

And deliver manifests with each load of tobacco.

Tobacco may be re-landed or put on board other ships.

XLIX. EVERY master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hoghead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, and that the same is a just and true

Masters of vessels to give in upon oath manifests of their tobacco when clearing out.

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account of the marks, numbers, tare and nett weight of each respective hoghead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty-fifth day of October, annually, to the treasurer of this commonwealth for the time being; and every collector failing herein, shall forfeit and pay the sum of three hundred dollars for every such failure.

Penalties how
to be recover-
ed.

L. ALL the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be, one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same; and shall be recovered with costs by action of debt or information in any court of record within this commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

When ware-
houses shall be
discontinued.

LI. IN case any warehouses heretofore or hereafter established shall not for the space of three succeeding years receive a sufficient quantity of tobacco to pay the inspectors salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expence. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

Public printer
to furnish in-
spectors with
copies of this
act.
Inspectors ex-
empted from
militia duty.

LII. THE public printer shall furnish one copy of this act to the inspectors of each of the warehouses herein mentioned.

LIII. THE acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

Former acts
repealed.
Provide.

LIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Commence-
ment of this act

LV. THIS act shall commence and be in force from and after the passing thereof.

C H A P. CXXXVI.

An Act declaring what shall be Treason; for punishing certain Offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same.

[Passed the 26th of December, 1792.]

Preamble.
What shall be
deemed trea-
son.

I. **W**HEREAS divers opinions may be what case shall be adjudged treason, and what not: *Be it enacted by the General Assembly*, That if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed, shall be judged treason, which extendeth to the commonwealth; and the person so convicted, shall suffer death without benefit of clergy.

Proof.

at.

II. ALSO every person or persons who shall erect or establish, or cause or procure to be erected or established, any government separate from, or independent of the government of Virginia, within the limits thereof, unless by act of the legislature of this commonwealth

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for that purpose first obtained; or who shall in any such usurped government hold or execute any office, legislative, executive, judiciary or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from, or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth, shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force.

III. EVERY person who shall attempt to establish such government by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons, in any overt act for promoting such attempts, or who shall by writing or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government without such assent as aforesaid, shall be adjudged guilty of a high crime and misdemeanor, and on conviction, shall be subject to such pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge.

Attempt to establish a separate government within the limits of this state to be deemed a high crime and misdemeanor; Punishment.

IV. IF any citizen or inhabitant of this commonwealth, shall go beyond the limits of the United States, within the acknowledged jurisdiction of any civilized nation, in amity with the United States, and shall within the same commit any crime, for which in the judgment of the United States in Congress assembled, the law of nations or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in Congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was committed, and the United States in Congress assembled, shall thereupon notify such demand to the executive of this state, and call for the surrender of such offender, the governor with the advice of the council of state, is hereby authorized to cause him to be apprehended, conveyed and delivered to such person or persons, as the United States in Congress assembled, shall prescribe.

Citizens of this commonwealth committing certain crimes in foreign nations and fleeing to this state may be apprehended and surrendered to such nation.

V. IF any citizen of this Commonwealth shall go out of the same into the territory of any christian nation or *Indian* tribe, in amity with the United States, and shall there commit murder, house burning, robbery, theft, trespass, or other crime, which if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant directed to all sheriffs, under sheriffs and constables within this commonwealth, commanding them and each of them within their respective counties and precincts, to apprehend such offender or offenders, and him, her, or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be apprehended; and such offender or offenders shall be subject to the same punishment, and shall be dealt with in the same manner as if the offence with which he, she, or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of bystanders, qualified by law to serve on juries in capital cases: *Provided also*, That it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner.

Citizens of this commonwealth committing certain crimes in any country in amity with the United States may be tried and punished as if the crime had been committed within this commonwealth.

Proviso as to the time of holding the examining court.

VI. WHERE sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall, in the opinion of the court require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable.

Where the proof is not sufficient to convict the offender, he may be bound to his good behaviour.

VII. ALL high treasons, misprisions, and concealments of high treasons and other offences against this commonwealth (except piracies and felonies on the high seas) committed by any citizen of this commonwealth, in any place out of the jurisdiction of the courts of

Certain offences committed by citizens against the

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common-wealth or its citizens out of the jurisdiction thereof may be enquired into & tried in general court.

common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convicted of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county.

Repealing clause.

Proviso.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act (except as herein after provided) shall be, and are hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Commencement of this act.

IX. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXXVII.

An Act for preventing Trespasses; declaring what shall be deemed a lawful Inclosure; for preventing Infection of Horned Cattle, and Losses from Drivers thereof passing through the Commonwealth.

[Passed the 26th of December, 1792.]

What shall be a lawful fence.

Penalty on the owners of beasts breaking such inclosures. Where the party injured, may sue for damages or destroy the beasts

I. **B**E it enacted by the General Assembly, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge, a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence, the owner of such horses, mares, cattle, hogs, sheep, or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured, for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, That for a third offence, for any one of the beasts aforesaid breaking into such inclosures, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing, without being answerable for the same.

How the fence shall be viewed.

II. AND that the condition of the fence at the time the trespass committed may be proved to a Jury upon trial, *Be it enacted*, That upon complaint made by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required to issue his order without delay, to three honest housekeepers of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and to take memorandums of the same, and their testimony in such case, shall be good evidence to the jury touching the lawfulness of the fence.

Penalty for hurting beasts in grounds not sufficiently fenced.

III. IF any person damnified for want of such sufficient fence, shall hurt, wound, lame, kill, or destroy, or cause to be hurt, wounded, lamed, killed, or destroyed, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, sheep, hogs, or goats, he, she, or they so offending, shall pay and satisfy to the owner of the creature so hurt, wounded, lamed, killed, or destroyed, double damages, with costs; recoverable as aforesaid.

Reward for taking up beasts known to have barked fruit trees.

IV. ALL owners of horses, mares, cattle, and other beasts, which they know to have barked fruit trees, shall keep the same within their own fenced ground; and if any person shall take up any horse, mare, kine, or other beast, known by the owner to have barked fruit trees, and shall deliver the same to such owner, he or she shall pay the taker up, two dollars for every such beast so taken up and delivered; recoverable with costs, before any justice of the peace of the county wherein such beast was taken up, or the owner lives:

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Provided always, That the taker up, shall, if required, make oath before the same justice, that he took up such horse, mare, or other beast, and that no means were used by himself or any other person to his knowledge, to set the same at large, otherwise he shall lose the said reward.

V. EVERY person who without leave of the owner shall take away any boat or other vessel, shall, for every such offence, pay ten dollars to the owner thereof, over and above the damage such boat or other vessel shall sustain, and over and above the charge of bringing back such boat or other vessel; to be recovered with costs, in any court of record, as aforesaid. And if the person so trespassing shall be a servant, he or she shall make the like satisfaction, by his or her service, when the time due to his or her master, or owner, shall be expired. And where there shall be several offenders in one trespass, every person shall be liable for the whole penalty.

Penalty for taking boats or other vessels.

VI. *AND be it further enacted*, That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the same owner, or to be used at his house, shall be deemed a nuisance, unless the driver shall produce to any freeholder of a county wherein the drove is passing, who shall require it, a bill of health, signed by some justice of the commonwealth, containing the number of the drove, with descriptions of the cattle, by their sexes, flesh marks, and ear marks or brands, and certifying them to be free from distemper; or notwithstanding he may produce such bill of health, unless he shall forthwith obtain another, at the like requisition, if any freeholder shall make affidavit before a justice, that he hath cause to suspect some of the cattle to be distempered. Such bill of health shall not be given in either case, before two disinterested freeholders appointed by warrant of a justice, shall have viewed the cattle, and reported them to be free from distemper. A freeholder refusing to obey such warrant, shall be amerced by the justice granting such warrant, in any sum not exceeding five dollars. If the cattle appear by the report to be distempered, the owner may impound them, and if he refuse to do so, or if he suffer them to escape from the pound, before a justice shall have certified that they may be removed without annoying others, the same justice, or some other to whom information shall be given of the fact, shall, by his order cause them to be slaughtered, and the carcases with the hides on, but so cut or mangled, that none may be tempted to take them up and flay them, to be buried four feet deep. Those who shall be employed in executing such orders, shall receive eighty-three cents for every head so buried, to be paid by the county wherein it shall happen. And every person appointed by the order, who shall refuse or neglect to execute it, shall be amerced in the sum of eighty-three cents for every head so directed to be buried. Every person shall so restrain his distempered cattle, or such as are under his care, as that they may not go at large off the land to which they belong, and when they die, shall bury them with their hides, in manner aforesaid; and knowingly offending in either of those instances, shall be amerced in the sum of four dollars for every head they shall neglect so to bury.

Bills of health to be produced by persons driving cattle into or through the commonwealth.

How they are to be obtained.

Proceedings where the cattle are found to be distempered.

Owners of distempered cattle to confine them, and bury them when dead.

VII. *AND be it further enacted*, That from and after the passing of this act, every driver of nett cattle, shall, immediately after their coming into this commonwealth, go before the next justice of the county, and produce to him a true and perfect manifest, certified under the hand of a magistrate in the state from whence they last came, wherein shall be distinguished the sexes, ages, marks and colours of all and every such cattle, and also, at the same time, produce bills of sale for them, and particularize the place of abode and name of the feller, and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifest and bill of sale, which oath the justice shall administer, and certify on the manifest, and shall enter in a book, by him to be kept for that purpose, a copy of the said manifest and certificate; and if any nett cattle shall be bought in this commonwealth in order to be driven into any neighbouring state, the driver shall produce his bill of sale to the next justice of the county where they shall be bought, and shall make oath that the said bill is true, and that he knows of no more cattle in his drove, than what are mentioned in the said bill and manifest, in case there be any, which the justice shall enter and certify in manner aforesaid, and also shall add a description of the cattle so bought, to the manifest, if any; and the like method shall be used by the drivers and justices in all the other counties of this commonwealth, through which they pass, upon their arrival therein. And if any driver shall fail herein, he, she, or they, shall forfeit and lose his,

Drivers of cattle to produce manifests of their droves & make oath thereto.

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Proceedings
against them
for failure of
the duties
hereby en-
joined.

her, or their whole drove of cattle: And any justice of the peace, upon complaint to him thereof made, is hereby empowered to issue his warrant to the sheriff, or any constable of his county, forthwith to raise sufficient force, and to seize the cattle, and cause the driver or drivers to come before him, or any other justice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he shall judge them forfeited, to be sold by the sheriff in the same manner as goods taken in execution; and the sheriff shall be allowed the same fee for the service, and shall also be allowed for keeping and providing for the said cattle, until they are sold, after the rate of three cents *per* head for every twenty-four hours, out of the money arising from the sale. But in case any person other than the driver or drivers so convicted, or their employers, shall appear before the justice before whom the judgment was obtained, before the cattle are sold, and shall make his, her, or their property in any of them appear, the sheriff shall, by order of such justice, restore the same to such owner or owners, upon payment of the charge of their keeping; or if any owner or owners shall within three months after the sale, make their property appear as aforesaid, the sheriff shall pay him, her, or them, by order of the justice, for their cattle, according to the sale, after deducting a proportionable part of the charges: And at the expiration of the said three months, the money arising from the sale shall be appropriated, one moiety to the overseers of the poor of the district where the driver shall be convicted, for the use of the district, and the other moiety to him, her, or them, who did inform or prosecute, and shall be paid them by the sheriff accordingly; and the sheriff shall return an account of the sales to the clerk's office, to be lodged among the records of the county.

Proviso as to
driving cattle
in certain ca-
ses.

VIII. *PROVIDED always*, That nothing herein contained, shall be construed to extend to any of the inhabitants of this commonwealth who shall buy any nett cattle and be driving them home, or to any persons coming with their families and stocks to settle in this commonwealth.

Repealing
clause.
Proviso.]

IX. ALL and every act or acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures or penalties which have accrued, been vested, or incurred, prior to the commencement of this act.

Commence-
ment of this
act.

X. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXXXVIII.

An Act for the effectual Suppression of Vice, and punishing the Disturbers of Religious Worship and Sabbath Breakers.

[Passed the 26th of December, 1792.]

Punishment
for profane
swearing, cur-
sing, or drunk-
enness.

I. **B**E it enacted by the General Assembly, That if any person or persons shall profanely swear or curse, or shall be drunk, he, she, or they so offending, for every such offence, being thereof convicted by the oath of one or more witnesses (which oath any justice of the peace is hereby empowered and required to administer) or by confession before one or more justice or justices of the peace in the county or corporation, where such offence shall be committed, shall forfeit and pay the sum of eighty-three cents for every such offence; or if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this commonwealth, the same shall be a sufficient conviction without any other evidence, and the said offender shall upon such conviction forfeit and pay the sum of eighty-three cents for every such offence; and if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same in a reasonable time, not exceeding six months, then the said fines and penalties shall be levied upon the goods of such person or persons by warrant or precept from any justice of the peace, before whom such conviction shall be, which warrant may be directed to the sheriff of the county, or to the constable in his respective precinct, or to the sergeant of a corporation, to be appraised and valued as in other distresses; and if the offender or offenders be not able to pay the said sum or sums, then he, she, or they, shall have and receive ten lashes upon his or her bare back, well laid on, for every such offence.

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II. *PROVIDED* always, That every prosecution by virtue of this act for swearing, cursing, or for being drunk, shall be made within two months after the offence committed and not afterwards.

Prosecution in two months.

III. NO officer for any civil cause shall arrest any minister of religion licensed according to the rules of his sect, and who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship, in any church, meeting-house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested.

No licensed minister to be arrested while performing divine service.

IV. AND if any person shall on purpose, maliciously or contemptuously, disquiet or disturb any congregation assembled in any church, meeting-house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint during religious worship by any justice present, which justice being present, or if none be present, then any justice before whom proof of the offence shall be made, may cause the offender to find two securities to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county or corporation, and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury.

Any person disturbing a congregation, shall be arrested and bound to good behaviour.

And may be punished by fine and imprisonment.

V. IF any person on a sabbath day shall himself be found labouring at his own, or any other trade, or calling, or shall employ his apprentices, servants, or slaves in labour, or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of one dollar and sixty-seven cents for every such offence, deeming every apprentice, servant, or slave, so employed, and every day he shall be so employed, as constituting a distinct offence.

Penalty for labouring on Sunday.

VI. EVERY person not being a servant or slave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witnesses, or confession of the party, shall for every offence of adultery, forfeit and pay twenty dollars, and for every offence of fornication ten dollars, to be recovered by the suit or prosecution of the overseers of the poor of the county or corporation, wherein such offence shall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no essoin, protection, or wager of law shall be allowed; which said fines and penalties shall accrue to the overseers of the poor for the use of the poor of the county or corporation, wherein the said offence shall be committed.

Punishment for adultery or fornication.

VII. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as is herein after provided) shall be, and the same are hereby repealed. *Provided* always, that nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Repealing clause.

Proviso.

VIII. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXXXIX.

An Act concerning Waste.

[Passed the 26th of December 1792.]

I. **B**E it enacted by the General Assembly, That if any tenant by the curtesy, tenant in dower, or otherwise for term of life or years, shall commit waste during their several estates or terms, of the houses, woods, or any other thing belonging to the tenants so held without special license in writing so to do, they shall be subject respectively to an action of waste, and shall moreover lose the thing wasted, and recompence the party injured in three times the amount at which the waste shall be assessed.

Forfeitures incurred by tenant for life or years committing waste.

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II. IN case any of the said tenants shall aliene their estate, and notwithstanding retain possession of the same and commit waste, he in the reversion shall be entitled to his action of waste, and likewise recover against them the place wasted, and treble damages.

Action of
waste by te-
nant in com-
mon.

III. IF one tenant in common shall commit waste of the estate held in common, he shall be subject to an action of waste at the suit of the other tenant or tenants in common.

By heirs.

IV. AN action of waste shall be maintainable by the heir, whether within or of full age, for waste done in the time of his ancestor, as well as in his own time.

V. IF tenant for life commit waste, and he in the reversion brings his action of waste and dieth before judgment, his heir may bring an action of waste for the same.

By wards a-
gainst their
guardians.

VI. IF a guardian shall commit waste of the estate of his ward, such ward when he attains his full age shall have his action to recompense him for the injury.

Process in ac-
tions of waste.

VII. THE process in an action of waste, shall be summons, attachment, and distress, and if the defendant appear not upon the distress, the waste shall nevertheless be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act.

Tenant not to
commit waste
pending the
action.

VIII. AFTER the commencement of any suit in any court of this commonwealth, the tenant shall have no power to commit waste or estrepement of the land in demand, whilst such suit is depending; and if he do the sheriff shall be commanded to keep the same at the suit of the plaintiff.

Commence-
ment of this act

IX. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXL.

An Act concerning Weights and Measures.

[Passed the 26th of December, 1792.]

Preamble.

I. **W**HEREAS the General Assembly of *Virginia*, at their session in the year one thousand seven hundred and thirty-four, did pass an act, intituled, "*An act for more effectually obliging persons to buy and sell by weights and measures, according to the English standard.*"

Act of 1734 to
be in force
until Congress
makes some
provision on
the subject.
Provide as to
appropriation
of the penal-
ties.

II. *BE it therefore enacted by the General Assembly*, That the said act shall continue and remain in force, until the Congress of the United States shall have made provision on that subject.

III. *PROVIDED always*, That all fines, forfeitures and penalties in the said act mentioned, shall be and enure, one moiety to the commonwealth, and the other to the use of the informer.

Commence-
ment of this act

IV. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXLI.

An Act concerning Witnesses, and prescribing the Manner of obtaining and executing Commissions for taking their Depositions in certain Cases.

[Passed the 29th of November, 1792.]

Who shall not
be admitted as
witnesses.

I. **B**E it enacted by the General Assembly, That no person convicted of treason, murder, or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

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II. NO person convicted of perjury, although he be pardoned or punished for the same, shall be capable of being a witness in any case.

III. NO negro, mulatto or *Indian*, shall be admitted to give evidence, but against or between negroes, mulattoes or *Indians*.

IV. IF any person summoned as a witness to attend any court within this commonwealth, or to appear before commissioners, referees, or other persons appointed by or under the authority of such court, to take or receive his deposition, or testimony, or upon any order of survey shall fail to attend accordingly, not having a reasonable excuse for such failure, such person shall be fined by the court from whence the *subpæna* issued, sixteen dollars, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness, but if sufficient cause of his or her inability to attend, be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

Witnesses failing to attend, may be fined, and liable to action of the party.

V. IF any person so summoned and attending in any of the causes abovementioned, shall refuse to give evidence upon oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court, commissioners, referees, or other persons authorised to take or receive his or her deposition or testimony, there to remain without bail or mainprize, until he or she shall give such evidence.

Refusing to testify, how to be dealt with.

VI. WITNESSES shall be privileged from arrests in all cases except treason, felony, and breaches of the peace, during their attendance at any court, or other place where their attendance shall by *subpæna* first duly executed by a sworn officer, or by some indifferent person, who shall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode. *Provided always*, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court in virtue of any *subpæna*, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such *subpæna* expressed.

Their privilege.

Proviso.

VII. IN all cases where witnesses are required to attend any court, commissioners or referees, or on any order of survey, a summons shall be issued by the clerk, at the request of either party, or of the commissioners, referees, or surveyor, interested in, or acting under the order of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Any *subpæna* or process to require or compel the attendance of any witness, may be served or executed in the district, county or corporation wherein the said witness shall be found.

How to be summoned.

VIII. EVERY witness so summoned to appear at any county court, or to attend commissioners, referees, or other persons for the purpose of giving testimony, or upon any survey of lands, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, fifty-three cents for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of fifty-three cents *per* day for attendance, and be paid for travelling and ferriages to and from court, as witnesses in the superior courts.

Allowance for attending county courts, referees, surveys, &c.

IX. EVERY witness so summoned and attending the court of appeals, high court of chancery, general court, or any district court, shall be paid by the party at whose suit the summons issued, four cents *per* mile for travelling to the places of attendance, and the same for returning, besides ferriages, and one dollar and four cents *per* day for his attendance, which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court. Witnesses in all cases, as well civil as criminal, shall be sworn as to their travelling, ferriages and attendance, for which purpose the clerk or some of his assistants specially empowered by the court, or the commissioners, referees, or surveyor, as the case may be, shall administer the oaths.

For attending the superior courts.

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For attending
in several suits
at the same
time.

X. NO witness shall be permitted to charge his attendance in more than one suit at the same time, but if he be summoned to attend in several suits, he may charge his attendance to either of the parties by whom he shall be summoned at his election.

Charge al-
lowed of only
three witness-
es to one fact.

XI. THERE shall not be allowed in the bill of costs the charge of more than three witnesses for the proof of any one particular fact.

Commissions
for their exa-
mination how
to be obtained,
when a wit-
ness is about
to leave the
country, or is
unable to at-
tend.

XII. WHEN any witness shall be about to depart the country, or by age, sickness or otherwise shall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any justice of the peace, the clerk of the court in which any suit is or shall be depending, may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness should be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party, of the time and place of taking the deposition, otherwise the same shall be void.

When a wit-
ness resides
beyond sea, or
in any foreign
country.

XIII. UPON affidavit that any witness resides beyond sea, or in any foreign country, or in any other of the United States, the court wherein the suit is depending, may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant; for which purpose the party applying for a commission in such cases, shall give the adverse party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commission shall issue, and if the adverse party, his attorney or agent shall not attend for the purpose, in that case, the party praying the commission may nominate the commissioners himself, any three of whom in either case may proceed to execute the said commission. *Provided nevertheless*, That in either case, reasonable notice shall be given to the adverse party, of the time and place of taking such deposition, and the costs of giving notice as aforesaid, as well as of taking any deposition or depositions in any or either of the United States, or beyond sea, or in any foreign country, may be taxed by the court against the party, who in their opinion, ought in justice to pay the same.

When a claim
or defence de-
pends on a
single witness.

XIV. IF any party in any suit at common law or in chancery, shall make oath, that he verily believes his claim or defence (as the case may be) or a material point thereof depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case, giving reasonable notice of the time and place of taking such deposition to the adverse party.

Where a wit-
ness to a will
resides out of
the state.

XV. WHEN any will shall be produced to any court having jurisdiction in the case of such will, for probat, and any witness or witnesses attesting the same shall reside out of this commonwealth, it shall be lawful for such court to issue a commission or commissions annexed to such will, and directed to the presiding judge of any court of law, to any notary public, mayor, or other chief magistrate of any city, town, corporation, or county, or to such other person or persons as by laws of such country, where such witness or witnesses may be found, are duly authorised to administer an oath, empowering him or them to take and certify their attestations. If the person to whom such commission shall be directed, shall certify in the manner such acts are usually authenticated by him or them, that the witness or witnesses personally appeared before him or them, and made oath, or affirmed, as the case may require, that the testator signed and published the writing annexed to such commission, as his last will and testament, or that some other person signed it by his direction; that he was of disposing mind and memory, and that he or they subscribed their names thereto in his presence, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.

XVI. AND whereas great inconvenience may arise to the suitors in the several courts of this commonwealth, who are litigant with persons residing without this commonwealth, and have not agents or attorneys within the same, by the death or removal of witnesses, whose depositions cannot legally be taken for want of notice to such absent persons:

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How notice is to be given where one of the parties lives out of the state and has no agent therein.

XVII. *BE it therefore enacted*, That when any commission shall be obtained, to take the deposition of a witness in a suit depending in any of the courts of this commonwealth, where the plaintiff or defendant in such suit doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and place of taking such deposition can be given, then the person obtaining such commission, having published in the *Virginia Gazette*, or in any other public newspaper printed within this commonwealth, four weeks successively, the time and place, when and where, the witness is to be examined, and the name of the witness, together with the names of the parties to the suit in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorized by the commission issuing from the court agreeable to law, where the suit depends as aforesaid; and such deposition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commission issued, shall there be filed and allowed to be read in evidence in the same manner, and under the like restrictions as if notice had been duly given to the opposite party; any law, usage, or custom, to the contrary in any wise notwithstanding; and the printer may demand and receive the sum of two dollars for publishing such advertisement four weeks, which shall be taxed in the bill of costs, if the party chargeable therewith shall prevail in the suit.

XVIII. ALL and every act and acts, clauses and parts of acts, for, or concerning any matter or thing within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

XIX. THIS act shall commence in force, from and after the passing thereof.

Commencement of this act.

C H A P CXLII.

An Act concerning stealing Tobacco on the Highways.

[Passed the 15th of December, 1792.]

I. *BE it enacted by the General Assembly*, That all and every person and persons, that shall at any time after the commencement of this act, either in the night or day, take, steal and carry away, any hoghead or cask of tobacco, which shall be lying on or near any public highway, or any part of the tobacco contained in the same hoghead or cask, although the said hoghead or cask may not be in the possession of the owner thereof, shall be adjudged a felon, and be punished as in other cases of felony.

Felony to steal tobacco on the highway.

II. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P CXLIII.

An Act declaring what Remedy the Commonwealth shall have in certain Cases.

[Passed the 25th of December, 1792.]

I. *BE it enacted*, That whensoever any person or persons heretofore have, or hereafter may receive, any sum or sums of money or tobacco, or any kind of public securities whatsoever, which of right do or shall appertain to this commonwealth, and such person or persons shall refuse or neglect to pay such money, tobacco, or public securities, or any part thereof, to such officer of this commonwealth, to whom by law the same ought to be paid; then and in that case it shall and may be lawful for the governor, with the advice of the council of state, to institute an action upon the case against such person or persons, their executors or administrators, for money, tobacco, or public securities; (as the case may be) had and received to the use of the commonwealth; which action shall be instituted in the name of the governor for the time being, and his successors, for the use of the commonwealth, and shall not abate by the death, resignation, or removal from office of the Governor, in whose name it shall be brought.

Actions on the case may be brought against public debtors for recovery of money, &c. due to the commonwealth.

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No official
bond to be
pleaded in
abatement or
bar thereof.

Commence-
ment of this act

II. WHERE such suit shall be brought against any public officer, such officer shall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

III. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CXLIV.

An Act for appointing Public Notaries.

[Passed the 27th of December, 1792.]

Preamble.

I. **W**HEREAS it will be for the ease and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries should be appointed :

Public nota-
ries, how to
be appointed.

II. *BE it therefore enacted*, That the governor, with advice of council for the time being, is hereby empowered and required to nominate and appoint so many notaries public as to him shall seem necessary ; and upon the death, resignation, or removal of any such notaries public, to appoint others in his or their room ; which said notaries public shall hold their respective offices during good behaviour, and shall use and exercise the said office of notary public for such places, and within such limits and precincts as the governor and council shall direct, to whose protestations, attestations and other instruments of publication due credence is hereby given. *Provided nevertheless*, That every notary public shall previous to his executing the said office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due discharge of his said office ; and shall in the high court of chancery, the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and also an oath that he will without favour or partiality, honestly, diligently and faithfully discharge the duties of a notary public.

To give bond
and security,
and take oaths
of fidelity and
of office.

Their fees.

III. *AND be it further enacted*, That every public notary shall and may demand and receive for recording in a book to be kept for that purpose, each attestation, protestation, and all other instruments of publication, the sum of eighty-three cents and no more.

Commence-
ment of this
act.

IV. THIS act shall commence in force, from and after the passing thereof.

C H A P. CXLV.

An Act to empower Securities to recover Damages in a Summary Way.

[Passed the 27th of December, 1792.]

Summary re-
medy for se-
curities in
notes or obli-
gations against
their princi-
pals.

I. **B**E it enacted, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons as security or securities, their heirs, executors, or administrators, upon any note, bill, bond, or obligation, and the amount of such judgment, or any part thereof hath been paid or discharged by such security or securities, his, her, or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her, or their executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her, or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her, or their executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her, or their heirs, executors or administrators.

For one secu-
rity against
another joint-
ly bound with
him.

II. *AND be it further enacted*, That where the principal obligor or obligors, have or hereafter shall become insolvent, and there have been, or shall be two or more securities jointly bound with the said principal obligor or obligors in any bond, bill, note, or other

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obligation, for the payment of money or other thing, and judgment hath been or hereafter shall be obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties against whom judgment hath been entered up as securities aforesaid, to grant judgment, and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt.

III. *AND be it further enacted*, That no security or securities, his, her, or their executors or administrators, shall be suffered to confess judgment, or suffer judgment to go by default, so as to distress his, her, or their principal, or principals, if such principal or principals will enter him, her, or themselves, a defendant or defendants to the suit, and tender to the said security or securities, his, her, or their executors or administrators, other good and sufficient collateral security, to be approved of by the court before whom the suit shall be depending.

Securities not to suffer judgments to go against them by confession or default to the injury of the principals.

IV. *AND be it further enacted*, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record in this commonwealth, against any person as common bail for the appearance of another, to defend any suit depending in such court, and the amount of such judgment or any part thereof hath been paid or discharged by such common bail, his, her, or their heirs, executors, or administrators, it shall and may be lawful for such common bail, his, her, or their heirs, executors, or administrators, to obtain judgment by motion against the person or persons for whose appearance they were bound, his, her, or their heirs, executors, or administrators, for the full amount of what shall have been paid by the said common bail, his, or her heirs, executors, or administrators, in any court where judgment may have been entered up against such common bail. *Provided always*, that no judgment shall be obtained by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice thereof.

Summary remedy of common bail against the defendant.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CXLVI.

An Act for regulating the Militia of this Commonwealth.

[Passed the 22d of December, 1792.]

I. **W**HEREAS the Congress of the United States, did at their last session pass an act, intituled “ *An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States,*” and it is expedient for this legislature to carry the same into effect so far as it respects this state:

Preamble.

II. *BE it therefore enacted*, That the counties of Accomack, Northampton, Princess Anne and Norfolk, shall compose one brigade; the counties of Nansemond, Isle of Wight, Southampton, Surry, Sussex and Prince George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New-Kent, Henrico and Hanover, one brigade; the counties of Gloucester, Mathews, Middlesex, Essex, King William, King and Queen, Lancaster, Northumberland, Richmond and Westmoreland, one brigade; and the said brigades shall compose one division. That the counties of Loudoun and Fairfax shall compose one brigade; the counties of Fauquier, Prince William, Stafford and King George, one brigade; the counties of Culpeper, Orange, Spotsylvania and Caroline, one brigade; the counties of Louisa, Goochland, Fluvanna, Albemarle and Amherst, one brigade; and the said brigades shall compose another division. The counties of Frederick and Berkeley shall compose one brigade; the counties of Rockingham, Augusta and Shenandoah, one brigade; the counties of Wythe, Russell, Washington, Lee, Grayson and Montgomery, one brigade; the counties of Botetourt, Rockbridge, Greenbrier, Bath and Kanawha, one brigade; the counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia and Ohio, one brigade; and the said brigades shall compose another division. The counties of Henry, Patrick, Franklin, Campbell and Bedford, shall compose one brigade; the counties of Pittsylvania, Halifax, Charlotte and Prince Edward, one brigade; the counties of Dinwiddie, Greenville,

Arrangement of the militia in brigades and divisions:

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Brunswick, Lunenburg and Mecklenburg, one brigade; the counties of *Chesterfield, Amelia, Nottoway, Powhatan, Cumberland and Buckingham*, one brigade; and the said brigades shall compose another division.

In regiments
and battalions.

III. *AND be it further enacted*, That the counties of *Berkeley, Culpeper, Loudoun and Frederick*, shall compose two regiments and four battalions each; that the counties of *Middlesex and Essex* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *King and Queen and King William*, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Northumberland and Lancaster* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Richmond and Westmoreland* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Powhatan and Cumberland* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Harrison and Randolph* shall each compose one battalion, which two battalions shall compose one regiment; that the counties of *Russell and Lee* shall each compose one battalion, which two battalions shall compose one regiment; and the counties of *Charles City and New Kent* shall compose each one battalion, which two battalions shall constitute one regiment; the counties of *Elizabeth City and Warwick* one battalion, and the counties of *York and James City* one battalion; which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of *Richmond* and borough of *Norfolk*, shall compose each one regiment and two battalions.

Officers, how
to be appoint-
ed.

IV. *AND be it further enacted*, That the General Assembly shall by joint ballot of both houses, appoint an adjutant-general for the militia of this state, and also a major-general to each division, and a brigadier-general to each brigade; which major-generals and brigadiers shall reside within the limits of their respective commands. Each major-general shall appoint his own aids-de-camp, and each brigadier-general his own brigade inspector, who shall also reside within the limits of their respective divisions and brigades.

V. *AND be it enacted*, That the courts of the several counties and corporations shall from the field and other officers who at present hold commissions in the militia of the respective counties and corporations, proceed to recommend to the Executive the officers necessary to complete the regiments and battalions and companies pursuant to this act, by grades and seniority, and the persons so recommended, shall be commissioned by the governor, agreeable to the constitution of this state.

Officers not
recommended
by the coun-
ty courts to
become su-
pernumera-
ries.

VI. ALL persons holding commissions under the late militia laws of this state, and who shall not be recommended by their respective courts, shall be considered as supernumerary officers, and may be recommended by the respective county and corporation courts to supply vacancies hereafter happening in the officers of the militia.

Commissioned
Officers to
meet twice in
every year to
be trained.

VII. *AND* whereas it will be productive of considerable advantages to the disciplining the militia, to have frequent meetings of the commissioned officers of the several regiments and battalions; *Be it enacted*, That the commissioned officers of the several regiments and battalions shall meet twice in every year, for the purpose of being trained and instructed by the brigade inspector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus assembled, shall each continue two days and no longer, for every time they shall be called out. Every officer failing to attend such meeting, on being summoned (not having a reasonable excuse to be adjudged of by a court martial) shall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Divisions,
brigades, and
regiments to
be numbered
and registered
in the adju-
tant general's
office.

VIII. IT shall be the duty of the executive to number by ballot the several divisions, brigades, and regiments, and cause the same to be registered in the office of the adjutant-general; and every commission hereafter issued by the executive, shall express the number of the division, brigade, or regiment, respectively, to which the person to whom the same is directed shall belong.

Counties to
be divided in-

IX. *AND be it further enacted*, That the commanding officers of regiments, battalions, and companies, to be appointed and commissioned by virtue of this act, shall meet at their

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respective courthouses on some day in the month of *March* or *April* next, to be appointed by the commanding officers of regiments, then and there to divide their respective counties into districts, for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off, shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively, herein after to be appointed.

to districts for forming regiments, battalions, and companies.

X. *AND be it further enacted*, That it shall be the duty of the commanding officer of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular routine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Companies to be divided into divisions.

XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors, and students at the college of *William and Mary*, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

Persons exempted from militia duty.

XII. *AND* whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result:

XIII. *BE it enacted*, That the governor with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each battalion, out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry, or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

A company of grenadiers, light infantry, or rifle-men, to be annexed to each battalion.

XIV. *AND be it further enacted*, That the governor with the advice of council, shall, and he is hereby empowered to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorized and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same pro-

A company of cavalry, and a company of artillery, to be annexed to each division.

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Proviso.

portions to their respective ranks, enlist a company, to be denominated the company of cavalry. *Provided*, That the number of companies of artillery and of cavalry, shall not exceed one for each brigade.

XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:—

Oaths of officers.

I do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a in the regiment of the militia of Virginia, according to the best of my skill and judgment: So help me GOD."

Adjutant general may convene brigade majors and inspectors.

XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act.

Musters of the companies.

Of the battalions; Of the regiments;

Notice of them, by whom, and how to be given.

XVII. THERE shall be a private muster of each company of grenadiers, light infantry, riflemen, artillery and cavalry once in every two months, except in the months of *December, January and February* in every year, and every other company, formed by virtue of this act once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at, or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of *May*, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion; and a muster of each regiment in the month of *October*, in every year, to be appointed by the brigadier general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters, the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of the companies shall give notice of the regimental, battalion, and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments, at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies, at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing, shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and foldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster, to the

Penalties on officers, and serjeants failing to give notices.

Rolls to be called, and delinquencies noted.

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commanding officer of his battalion, including those which may occur on that day. And every commanding officer of a battalion, shall at their regimental or battalion musters, (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; *Provided*, That the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit :

I , do certify that the returns hereunto annexed, contain all the delinquencies which have occurred in my company since my last return, having examined the same as the law directs.

Form of return of delinquencies.

And to the battalion returns shall be added, " and that the reports which accompany them, are all which have been made by the commanding officers of battalions."

XVIII. EVERY captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments, in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Returns of companies.

Of battalions;
Of regiments.

XIX. EACH captain or commanding officer of a company, shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion; and all vacancies which may thereafter happen, shall be filled up by appointments in like manner.

Serjeants, corporals, drummers and fifers to be appointed to each company.

XX. IN all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

The officer next in rank to take command in the absence of his superior.

XXI. IT shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline prescribed by Congress, under pain of being arrested and tried for breach of their duty; and for this purpose the said officers are hereby authorized to order the most expert and fit officer in their respective commands, to perform that duty.

Militia to be exercised.

XXII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of *March*, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorized and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one, and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expence thereof, the executive shall draw on the contingent fund.

Officers to be furnished with printed copies of the rules of discipline.

XXIII. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under an arrest by his commanding officer, and tried as hereafter shall be directed.

Officers may be arrested for misbehaviour.

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Non-commissioned officers and soldiers may be confined, or bound neck and heels for disobedience or mutiny.

Bystanders may be confined for molesting any officer or soldier on duty.

Colours to be procured.

Drums and fifes, or bugle-horns.

Militia to be called forth in case of invasion or insurrection.

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

Articles impressed to be valued.

And the owners paid therefor if lost.

Officers answerable to the public, if lost through neglect.

Executive to appoint officers when necessary.

Commanding officer in a county, may order out militia in invasions or insurrections.

XXIV. IF any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board, directed by this act to be held, the commanding officer, court, or board, may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

XXV. IF any by-stander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

XXVI. THE commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

XXVII. *AND be it further enacted,* That the governor, with the advice of council, be authorized and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

XXVIII. THE lieutenant colonel commandant, or commanding officers of regiments from which detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein after appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorized and required to prosecute a suit against such officer for the recovery of damages for the use of the commonwealth.

XXIX. IF it shall appear to the executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor with the advice of council, is hereby authorized to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

XXX. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorized and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same; and for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them as is directed in the case of musters.

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XXXI. WHENEVER any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war which govern the troops of the United States. And courts-martial shall be held as are therein directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary; and when any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by the Congress of the United States to the troops in the service of the United States.

Militia in service to be governed by the articles of war of the United States.

Their pay & rations.

XXXII. *AND be it further enacted*, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, appoint an officer, and so many men of the militia as to him shall seem necessary, not exceeding four, once in every month, or oftener if thereto required by such officer, to patrol and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner, and carry them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrol, the officer of every party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings of such patrol; and such captain shall once in every month deliver such patrol returns to the commanding officer of his battalion, by whom they shall be certified and laid before the next court-martial, and if they shall adjudge the patrollers to have performed their duty according to law, the said court shall certify the same to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrol; and every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay thirty dollars; and every person appointed to patrol, failing to do his duty, shall forfeit and pay three dollars for every such failure; which fines shall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the several fines and penalties by this act directed.

Patrollers to be appointed.

Their duty.

Their pay.

Penalty for failing to do their duty.

XXXIII. *AND* whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon: *Be it therefore enacted*, That the governor shall have power to arrest the major-generals, and all other officers for any misconduct whatever, and upon trial and conviction, may censure or cashier them; a lieutenant-colonel commandant may arrest any officer under his command, and report him to the governor for trial, or at the option of such lieutenant-colonel commandant, a general court-martial, to consist of thirteen officers, may by his order be held within the limits of his regimental district, for trial of such as shall be under the rank of a field officer. The president of the said court shall be a field officer, and six at least of the members shall be captains, and where there is not a sufficient number of officers in any regiment to constitute a court where the arrest is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from such regiment as will be sufficient to make a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive, if he shall think proper; in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer or soldier offending, shall be tried by a like general court-martial, and may, on conviction, be censured or fined at the discretion of the court. For obtaining the necessary evidence for the trials aforesaid, the governor, or the commanding officer of the regiment (as the case may be) shall issue his summons, and any person so summoned, failing to attend, shall forfeit and pay, upon a summons from the governor, thirty dollars, and upon a summons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongst other delinquencies, to the court aforesaid.

Courts martial to be held for the trial of officers.

Officers by whom to be arrested.

Appeals may be made from the sentence of a court-martial to the executive. Evidence, how to be procured.

XXXIV. *AND be it further enacted*, That the commanding officers of regiments shall, on some day in the months of *May* and *October*, not exceeding fifteen, nor less than ten

Courts for settlement

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finer, when
and where to
be held.

days after their regimental and battalion musters, order the commanding officers of battalions and companies, to meet at the places where their last battalion musters respectively were held, a majority of whom shall form a court of enquiry and assessment of fines, and it shall be the duty of the lieutenant colonel commandant to preside at such boards, and in case of his absence by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board to him, to wit:

I do swear, that I will truly and faithfully, enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without favor, partiality, or affection: So help me GOD."

The lieutenant colonel commandant shall then lay before the said court all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Fines to be
collected by
the sheriffs;

XXXV. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the clerk of the said court, and delivered to the sheriff, on or before the first day of *January*, in every year, who shall give his receipt therefor, and account for the same to the lieutenant colonel commandant, or his successor, and be allowed the same commissions as for other public monies, on or before the first day of *November*, in the same year; and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county or corporation court with costs; and should any person so charged with fines, fail to make payment on or before the first day of *May*, in any year, the sheriff is hereby authorized to make distress and sale therefor, in the same manner as is directed in the collection of taxes.

by distress,
when necessary.

Officers to
render ac-
counts of fines
received.

XXXVI. The commanding officer of every regiment shall on or before the thirty-first day of *December*, in every year, render to the executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury in aid of the contingent fund.

Fines to be
paid for delin-
quencies; by
a commanding
officer of a re-
giment.

XXXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, *viz.* By a lieutenant colonel commandant, or commanding officer of a regiment, for failing to take any oath, to summon any court or board, to attend any court or board; to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a regimental or battalion muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay seventy dollars; failing to send into actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, thirty dollars; failing to call forth from his battalion with due dispatch, any detachment of men and officers, as shall be required from time to time by the commanding officer, or any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he shall forfeit and pay for each and every such offence and neglect, twenty dollars: failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay forty dollars. By a subaltern officer, for failing to take any oath, to attend any court, or muster armed as directed, for each and every such offence, he shall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay twenty dollars. And moreover the said officers, for any

By a major.

By a captain.

By a subaltern.

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of the said offences, shall be liable to be arrested and tried for the same as military offenders. By a non-commissioned officer or soldier, for failing to attend at any muster, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

By a non-commissioned officer or private.

XXXVIII. ALL arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

Arms, &c. of militia exempted from executions, distresses, &c. and their persons from arrests at musters and in service.

XXXIX. THE commanding officers of regiments, shall on the day of his regimental muster, first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards herein before directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular routine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

XI. THE militia of the city of *Williamsburg*, city of *Richmond*, and borough of *Norfolk*, shall have their officers appointed, and be under the same rules and regulations as the different counties.

Richmond, Williamsburg, and Norfolk militia to be under the like regulations as the militia of the counties.

XLI. THE commanding officers of regiments, are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

XLII. ANY court-martial may for good cause shewn, remit any fines imposed by a former court-martial, provided that not more than two courts-martial shall have intervened between such imposition and application for remission.

Courts martial may remit fines;

XLIII. COURTS-MARTIAL may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

And exempt persons from militia duty for bodily infirmities. Courts martial for the trial of general officers.

XLIV. FOR the trial and punishment of the adjutant-general, major-generals, and brigadier-generals, *Be it enacted*, That any major-general, or brigadier-general offending under this act, shall be arrested and tried in the following manner, *viz.* A major-general shall be arrested by the commander in chief of the state upon any misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court-martial, to consist if convenient of the remaining major-generals, the brigadier-generals of the division, over which such major general is appointed, or as many of them as can conveniently attend, and as many lieutenant colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court-martial for the trial of such offenders. Any brigadier general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major general of the division to which he belongs, and tried by a court-martial, to consist of one major general, and not more than four brigadiers, and as many lieutenant colonel commandants, majors and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

XLV. *AND be it further enacted*, That the adjutant general shall be allowed four hundred dollars *per* year; and that each brigade inspector shall be allowed one hundred and fifty dollars *per* year, for the duties herein required of them, to be paid by the treasurer; on warrant from the auditor, who is hereby authorized and required to grant the same quarter yearly, on proper application being made.

Salaries of the adjutant general and brigade inspectors.

XLVI. THIS act shall commence and be in force, from and after the passing thereof.

D d d d

Commencement of this act.

1792.

C H A P. CXLVII.

An Act repealing under certain Restrictions, all Statutes or Acts of the Parliament of Great-Britain, heretofore in Force within this Commonwealth.

[Passed the 27th of December, 1792.]

Preamble.

I. **W**HEREAS by an ordinance of convention, passed in the month of *May*, in the year of our Lord, one thousand seven hundred and seventy six, intituled, "*An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, till the same can be more amply provided for,*" it is among other things ordained, "That the common law of *England*, all statutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of King *James* the first, and which are of a general nature, not local to that kingdom, together with the several acts of the General Assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations and resolutions of the general convention, shall be the rule of decision, and shall be considered in full force, until the same shall be altered by the legislative power of this colony."

II. AND whereas the good people of this commonwealth may be ensnared by an ignorance of acts of parliament, which have never been published in any collection of the laws, and it hath been thought adviseable by the General Assembly, during their present session, specially to enact such of the said statutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of *Virginia*.

No statute or act of the parliament of Great Britain to have any force within this state.

III. *BE it therefore enacted by the General Assembly*, That so much of the above recited ordinance as relates to any statute or act of parliament, shall be, and is hereby repealed; and that no such statute or act of parliament shall have any force or authority within this commonwealth.

Proviso as to rights arising under, and crimes committed against them before the commencement of this act. Saving the right to writs remedial and judicial, and the proceedings thereon.

IV. *PROVIDED always*, That all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects, as if this act had never been made.

V. SAVING moreover to this commonwealth, and to all and every person and persons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from or sued out of any court or jurisdiction of this commonwealth, or the office of the clerk of any such court or jurisdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, constructions and purposes, as if this act had never been made; any thing herein contained, to the contrary, or seeming to the contrary, notwithstanding.

Commencement of this act.

VI. THIS act shall commence and be in force, from the passing thereof.

C H A P. CXLVIII.

An Act for supplying the defect of repealing Clauses, to certain Acts therein mentioned.

[Passed the 28th of December, 1792.]

Preamble.

I. **W**HEREAS the General Assembly, at their present session, have directed a republication of the laws of this commonwealth, which are of a general concern, among which certain acts subsequent in their date to other acts on the same subject, have no repealing clauses; and inconveniencies may arise from the omission thereof:

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All acts antecedent to certain enumerated acts on the same subjects, repealed

II. *BE it therefore enacted*, That all and every act and acts, clause and clauses, part and parts of acts, antecedent to, and within the purview of an act passed by the General Assembly of this commonwealth, at their session in October, one thousand seven hundred and eighty-five, intituled, "*An act to prevent the circulation of private Bank Notes*," one other act passed at the same session, intituled, "*An act concerning Estrays*," one other act of the same session, intituled, "*An act concerning Public Roads*," and one act passed at their session in the year one thousand seven hundred and eighty-six, intituled, "*An act against Usury*," one other act of the same session, intituled, "*An act prescribing a method of protesting inland Bills of Exchange, and allowing assignees of obligations to bring actions thereupon in their own names*," and one other act passed in their session of one thousand seven hundred and eighty-seven, intituled, "*An act for the relief of persons who have been or may be injured by the destruction of the Records of County Courts*," for so much of every such act, clause or part of act as relates to any subject, matter, or thing, within all or any of the provisions in the said recited acts, or either of them contained, shall be, and the same are hereby as fully repealed, as if the said recited acts had severally contained a clause repealing former acts on the same subject.

III. THIS act shall commence and be in force, from the passing thereof.

Commencement of this act.

C H A P. CXLIX.

An Act providing for the republication of the Laws of this Commonwealth.

[Passed the 28th of December, 1792.]

I. **B**E it enacted by the General Assembly, That the declaration of rights, made by the representatives of the good people of Virginia, assembled in full and free convention, which rights do pertain to them and their posterity as the basis and foundation of government; and the constitution or form of government agreed to, and resolved upon by the delegates and representatives of the several counties and corporations of Virginia, shall be prefixed to the code of laws as revised and enacted by the present session of the General Assembly; and that the following acts of Assembly shall be published from the inrolled bills in the same code, to wit: "*An act for confirming and better securing the titles to land in the Northern Neck, held under the Right Honorable Thomas Lord Fairfax, Baron of Cameron, in that part of Great Britain called Scotland*," "*An act for confirming the grants made by his Majesty within the bounds of the Northern Neck*," "*An act to empower the freeholders of the several towns not incorporated to supply the vacancies of the trustees and directors thereof*," "*An act concerning wrecks*," "*An act to authorize the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the right of this commonwealth to the territory North-westward of the river Ohio*," "*An act for securing to authors of literary works, an exclusive property therein for a limited time*," "*An act to approve, confirm, and ratify the compact made by certain commissioners appointed by the General Assembly, of the State of Maryland, and commissioners appointed by this commonwealth*," "*An act for establishing religious freedom*," "*An act to prevent frauds and perjuries*," "*An act providing that wrongful alienations of land, shall be void so far as they be wrongful*," "*An act to prevent the circulation of private bank notes*," "*An act concerning aliens*," "*An act directing that none shall be condemned without trial, and that justice shall not be sold or deferred*," "*An act forbidding and punishing affrays*," "*An act against conspirators*," "*An act against conveying or taking pretended titles*," "*An act prescribing the punishment of those who sell unwholesome meat or drink*," "*An act for reforming the method of proceeding in writs of right*," "*An act concerning partitions and joint rights and obligations*," "*An act providing that actions popular prosecuted by collusion, shall be no bar to those which be prosecuted with good faith*," "*An act declaring when the death of persons absenting themselves shall be presumed*," "*An act for the relief of persons who have been or may be injured by the destruction of the records of county courts*," "*An act to supply the defect of evidence of the royal assent to certain acts of assembly under the former government*," "*An act to authorize the establishment of fire companies*," "*An act for the appointment of harbour-masters and declaring their duty*," "*An act concerning estrays*," "*An act concerning public roads*," "*An act directing what persons shall be let to bail*," "*An act for the suppression and punishment of riots, routs, and unlawful assemblies*," "*An act against usury*," "*An act prescribing the method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions*

Bill of rights and the constitution to be prefixed to the code of laws.

Acts to be published in the code with those which have been revised.

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thereupon in their own names," *An act to prevent the importation of convicts into this commonwealth,*" "*An act concerning the credentials of the Senators of this commonwealth, in Congress,*" "*An act allowing travelling expences to the judges of the general court,*" "*An act against such as shall procure or commit wilful perjury, and against embracery,*" "*An act to regulate the inspection of hemp,*" "*An act to disable certain officers under the continental government, from holding offices under the authority of this commonwealth,*" "*An act concerning the territory ceded by this Commonwealth to the United States,*" "*An act for safe keeping prisoners committed under the authority of the United States, into any of the jails of this commonwealth,*" *An act authorising the Governor of this commonwealth, to convey certain lands to the United States for the purpose of building a light house,*" "*An act concerning homicide by misfortune,*" "*An act allowing a bill of exception to be sealed,*" "*An act concerning election of members of General Assembly,*" "*An act concerning the election of members of the General Assembly,*" "*An act concerning the erection of the district of Kentuckey into an independant state,*" "*An act against those who counterfeited letters, or privy tokens to receive money or goods in other men's names,*" "*An act against the embezzling of records,*" "*An act concerning the benefit of clergy,*" "*An act to provide against the appropriation of money by resolution of the two houses of assembly,*" "*An act for the cession of ten miles square, or any lesser quantity, of territory within this state to the United States, in Congress assembled, for the permanent seat of the general government,*" "*An act for the relief of creditors against fraudulent devises,*" "*An act concerning awards,*" "*An act concerning the southern boundaries of this state,*" and "*An act for regulating the navigation of James river, above the falls of the said river.*"

To be published in order as enacted, & the day of passing prefixed.

Sums of money and quantities of tobacco in the laws to be converted into dollars and cents, in all process entries &c.

Executive to cause the code to be printed, with an index and marginal notes. Copies, how to be disposed of.

How to be bound.

Commencement of this act.

II. THE said laws shall be published in order, as they were enacted, and the day upon which they respectively passed, shall be prefixed to each act.

III. WHERE any of the laws of this commonwealth express any sum or sums of money, in pounds, shillings and pence, the clerks of the several courts within this commonwealth, in all process, entries, and orders respecting the same, shall reduce such sum or sums of money into dollars and cents; and where any quantity or quantities of tobacco shall be expressed in the said laws, the clerk shall in like manner reduce the same into dollars and cents, at the rate of two dollars *per* hundred weight.

IV. *AND be it further enacted,* That the executive shall cause a sufficient number of copies of the laws of this commonwealth, as revised and enacted by the present session of assembly, to be printed with a complete index and marginal notes, ten copies of which shall be delivered to the executive department, four copies to the clerk of each house of assembly, and one copy to each member of the present general assembly, to each of the judges of the superior courts, to every justice of the peace, and the clerk of every court within this commonwealth; the cost of which shall be paid out of the contingent fund. Those copies which shall be delivered to the executive, to the clerks of the two houses of assembly, to the clerks of courts, and to the judges of the superior courts, shall be well bound in calf skin, and the other copies shall be bound in boards.

V. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CL.

An Act declaring what Acts of the present Session shall be immediately in Force, and to suspend the Operation of all other Acts of the present Session, which are of a public and permanent Nature.

[Passed the 28th of December, 1792.]

Operation of all public and permanent acts of this session, suspended until 1st October, 1793.

I. **B**E it enacted by the General Assembly, That the operation of all the acts passed during the present session of Assembly, which are of a public and permanent nature, shall be and the same are hereby suspended until the first day of October, one thousand seven hundred and ninety-three.

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Certain acts
excepted.

II. *PROVIDED* nevertheless, That nothing herein contained shall be construed so as to suspend the operation of the following acts, viz. “ *An act for appointing electors to choose a President, and Vice-President of the United States,*” “ *An act giving further time to the owners of entries on the western waters to survey the same,*” “ *An act for reducing into one act, the several acts concerning the court of appeals and special court of appeals,*” “ *An act for regulating the militia of this commonwealth,*” “ *An act for arranging the counties of this commonwealth into districts, to choose representatives to congress,*” “ *An act for appropriating the public revenue*” “ *An act remitting certain militia fines,*” “ *An act giving further time to the owners of surveys to return the same into the land-office,*” “ *An act for ascertaining the salaries to the officers of civil government,*” “ *An act for establishing a bank in the town of Alexandria,*” “ *An act empowering the executive to advance to the public printer a sum of money for the purposes therein mentioned,*” “ *An act to amend the act, intituled, an act authorising the executive to direct the sheriffs to sell lands the property of this commonwealth,*” “ *An act for reducing into one, the several acts of assembly for the inspection of tobacco,*” “ *An act to reduce into one, the several acts concerning the recovery of debts due to the public, and the sale of lands for judgments on behalf of the commonwealth against public officers,*” “ *An act to reduce into one, the several acts concerning the county and other inferior courts of this commonwealth,*” “ *An act repealing the act, intituled, an act providing a sinking fund for the gradual redemption of the public debt,*” “ *An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of district courts,*” “ *An act to authorise the executive to remit damages in certain cases,*” “ *An act reducing into one, the several acts concerning the high court of chancery,*” “ *An act for imposing a public tax for the year one thousand seven hundred and ninety-two,*” “ *An act reducing into one, the several acts concerning the general court, and prescribing the manner of proceeding therein in certain cases,*” “ *An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors,*” “ *An act authorising the general court to appoint a clerk pro tempore,*” “ *An act concerning coin,*” “ *An act reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies,*” “ *An act reducing into one, the several acts for regulating the inspection of flour and bread,*” “ *An act for establishing a bank in the city of Richmond,*” “ *An act to provide more effectually for the collection of the public taxes in certain cases,*” and, “ *An act declaring, what remedy the commonwealth shall have in certain cases.*”

III. THIS act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

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General Assembly, begun and held at the Capitol, in the City of Richmond, on Monday, the 21st Day of October, in the Year of our Lord, 1793.

C H A P. CLI.

An Act for further continuing and amending the Act, intituled, An Act for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 10th of December, 1793.]

Writs of execution.

How to be issued and returned. Fifteen days at least between teste & return.

From the general and district courts, when returnable.

I. **B**E it enacted by the General Assembly, That all persons who have, or shall hereafter recover any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fieri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, That executions may be issued from the general court, returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof. *And provided also*, That if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis, mutandis*, to wit:

A FIERI FACIAS IN DEBT.

Forms of the writs. Against goods and chattels. Debt.

THE commonwealth of Virginia, to the sheriff of _____ county, greeting: We command you, that of the goods and chattels of A. B. late in your bailiwick, you cause to be made the sum of _____, which C. D. lately in our _____ court hath recovered against him for debt; also the sum of _____, which to the said C. D. in the same court were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record, and that you have the said _____ before the judges or justices (as the case may be) of our said court, the _____ day of _____, to render to the said C. D. of the debt and damages aforesaid. And have then there this writ. Witness, &c."

THE SAME IN CASE, UPON A PROMISE:

Case, assumpsit.

AS before unto "for his damages, which he sustained, as well by reason of his not performing a certain promise and assumption to the said C. D. by the said A. B. lately made, as for his costs by him about his suit in this behalf expended, &c."

IN TRESPASS.

Trespass.

AS before unto "for damages, as well by occasion of a certain trespass by the said A. B. to the said C. D. offered as for his costs, &c."

IF FOR THE DEFENDANT, SAY,

For the defendant.

"FOR his costs about his defence in a certain action at the suit of the said, &c."

IN COVENANT.

AS before unto *“ for damages, &c. by occasion of a breach of a certain covenant between the said A. B. and C. D. lately made, &c.”* Covenant.

THE FORM OF A WRIT OF ELEGIT.

“ THE commonwealth, &c. greeting: Whereas A. B. at our judges (or justices) held, hath recovered against C. D. the sum of was adjudged for a certain debt or damages, “ as before” hath chosen to have delivered to him all the goods and chattels of the said C. D. saving only the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, to have and to hold the goods and chattels aforesaid as his own proper goods, and the said moiety as his freehold to him and his assigns, until he shall have levied thereof the debt and damages aforesaid: Therefore we command you that you cause to be delivered, all the goods and chattels of the said C. D. saving the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, whereof he at the day of obtaining the said judgment was seized, or at any time afterwards, by reasonable price and extent, to have and to hold the said goods and chattels, to him the said A. B. as his own proper goods and chattels, and the said moiety as his freehold, to him and his assigns, until he shall have levied thereof the debt and damages aforesaid, and that you certify our said judges (or justices) under your own seal, and the seals of those by whose oath you shall make this extent and appraisement, how you execute this writ, the day of . And have then there this writ, &c.” court, &c. before our , which to the said plaintiff ;” and the said A. B. Against lands and tenements

A CAPIAS AD SATISFACIENDUM.

“ THE commonwealth, &c. greeting: We command you, that you take A. B. late of be found within your bailiwick, and him safely keep, so that you have his body before our judges (or justices) of our court, &c. the day of to satisfy C. D. the sum of which the said C. D. hath recovered against him for debt, also, &c.” as before. Against the body.

IN CASE, TRESPASS, OR COVENANT, AS IN THE FIERI FACIAS.

WHICH said writs so issued, shall be executed by the sheriff or other officer to whom the same shall be directed, and shall be returned according to the respective forms hereafter mentioned, to wit: Forms of the returns.

THE RETURN OF A FIERI FACIAS.

“ BY virtue of this writ to me directed, I have caused to be made the within mentioned sum of of the goods and chattels of the within named A. B. which said sum of before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires.” Fieri facias executed.

O R,

“ THE within named A. B. hath no goods or chattels within my bailiwick, whereof I can make the sum within mentioned.” Where no goods.

O R,

“ BY virtue, &c. I have caused to be made of the goods and chattels of the within named A. B. the sum of , which I have ready to render to the within named C. D. in part of the debt and damages within mentioned: And I do further certify, that the said A. B. hath no more goods and chattels within my bailiwick, whereof at present I can make the residue of the said debt and damages, as by the said writ is required.” Where part levied.

RETURN OF A WRIT OF “ ELEGIT.”

“ INQUISITION indented, taken at , in the county aforesaid, the day of , in the year of our Lord , before me E. F. sheriff in the county aforesaid, by virtue of a writ to me directed, and to this inquisition annexed, and by the oath of A. B. C. &c. good and lawful men of my bailiwick, who being charged and sworn upon their oath do say, that A. B. in the said writ to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit, of the price of which I, the said sheriff, have caused to be delivered to the same C. D. to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned: and further the said jurors upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seized in his own demesne, as of fee, of and in [here name the houses and lands] with the appurtenances of the annual value in all the issues beyond reprises of pounds, acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said A. B. which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ named, at a reasonable extent, have delivered to hold to him and his assigns, as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires; and further the said jurors upon their oath Elegit executed.

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do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have severally put our seals, the day, year, and place above mentioned."

RETURN OF A CAPIAS AD SATISFACIENDUM.

Capias executed.

"BY virtue of this writ to me directed, I have taken the within named A. B. whose body before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy C. D. of the debt and damages within mentioned, as within to me is commanded."

O R,

Not executed.

"THE within named A. B. is not found within my bailiwick."

In what manner another execution may be issued where the first has not been served, or has not been satisfied.

II. WHEN any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a *capias ad satisfaciendum* the sheriff shall return that the defendant is not found, the clerk may issue a *feri facias*; and if upon a *feri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment; and where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned upon any writ of *elegit*, a *capias ad satisfaciendum*, or *feri facias* may issue, and so *vice versa*; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant, and not otherwise.

Tenant by elegit, if evicted may have a scire facias against his debtor, and another execution for his debt, &c.

III. IF a tenant, by *elegit* be evicted of his title in the lands, tenements or hereditaments which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt, or damages, and costs, he shall and may have a writ of *scire facias* against the debtor, his heirs, executors, or administrators; and may thereafter sue out such other writ of execution for the residue of his debt or damages, and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

No extent to be avoided for omission of part of the lands extendible.

IV. WHEN any judgment or recognizance shall be extended, the same shall not be avoided or delayed by occasion that any part of the lands or tenements extendible are or shall be omitted out of such extent.

Saving remedy of contribution.

V. SAVING always to the party and parties whose lands shall be extended, his and their heirs, executors, and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time.

Infants lands excepted.

VI. PROVIDED nevertheless, That this act or any thing therein contained, shall not be construed to give any extent or contribution against any heir or devisee within the age of twenty-one years, during such minority of such heir or devisee, for or in respect of any lands to such heir or devisee descended or devised, further or otherwise than might have been made before the making of this act.

If a debtor dies in prison, creditors may have new executions against his estate.

VII. IF any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution, for any debt or damages recovered, his or their executors or administrators may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

Except his lands bona fide sold for the payment of his debts.

VIII. PROVIDED always, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution, against any the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in *bona fide*, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

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IX. IF any person taken in execution be delivered by privilege of either house of assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape:

Persons in execution delivered by privilege of General Assembly to return in execution when that ceaseth. Executions from a county court may be served in any other county.

X. WHERE judgment shall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the person against whom such judgment shall be obtained, shall remove himself or his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court, where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of *feri facias*, or *capias ad satisfaciendum*, or any other legal or proper writ of execution or attachment for the non performance of a decree in chancery (as the case may require) in the form and under the teste herein before prescribed, and to direct the same to the sheriff of any county, or serjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods shall be found; which said sheriff or other officer to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

XI. NO writ of *feri facias*, or other writ of execution, shall bind the property of the goods against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year when he received the same; and if two or more writs shall be delivered against the same person in the same day, that which was first delivered shall be first satisfied. If any sheriff, coroner, or other officer, to whom any execution shall be delivered, shall fail or neglect to endorse thereon the day of the month and year when he received the same, every such person; for every such failure, shall be liable on a motion to be made before the court from whence the execution issued, to a penalty not exceeding fifteen *per centum* upon the amount of the said execution if it be for money or tobacco, and if it be for a specific thing, one hundred dollars, to the use of the party injured, upon giving ten days previous notice of such motion; and shall moreover be liable to the action of the party grieved for all damages arising from such failure.

Property in goods bound from delivery of execution to the officer.

Time of delivery to be endorsed by the officer.

XII. ON all executions which have heretofore issued, or shall hereafter be issued, the sheriff or other officer having published notice of the time and place of sale, at the door of the court-house of his county on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction the goods or chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same:

Goods taken by execution when and how to be sold.

XIII. *PROVIDED* always, That if the owner of such goods and chattels shall give sufficient security to such sheriff or officer, to have the same goods and chattels forthcoming at the day of sale, it shall be lawful for the sheriff or officer to take a bond from such debtor and securities, payable to the creditor, reciting the service of such execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forthcoming at the day of sale appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor until that time; and if the owner of such goods and chattels, shall fail to deliver up the same, according to the condition of the bond, or pay the money or tobacco mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond, till payment and costs, provided the obligors, their executors or administrators, or such of them against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, or on any execution awarded on any bond, which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security either to have the goods forth-

Officer may accept security for goods until the day of sale.

Proceedings on the bonds where the goods are not delivered.

No security to be taken on executions thereon, or on replevy bonds.

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coming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco mentioned in the execution, or the same be otherwise satisfied.

XIV. AND for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

Forthcoming
bonds when to
be returned.

XV. IF any sheriff or other officer shall fail to deliver or return any bond taken for the forth-coming of property, by virtue of this act, within sixty days after the date thereof, to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

No security to
be taken on
executions a-
gainst sheriffs,
coroners, or
constables.

XVI. WHEN execution shall issue against the estate of any sheriff, under sheriff, serjeant of a corporation, coroner or constable, or their securities, or the heirs, executors or administrators of either of them, upon a judgment obtained against such sheriff, under sheriff, serjeant of a corporation, coroner, or constable, or securities, or the heirs, executors or administrators of either of them, for money or tobacco received by such sheriff, under sheriff, serjeant of a corporation, coroner or constable, by virtue of any execution or process, levied or executed by him, or them, or for any money collected or received by them in any manner, as sheriffs, serjeants, coroners, or constables, no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered; and for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "that no security of any kind is to be taken." In like manner on all executions which may issue against any collector of the poor rates, his heirs, executors or administrators, or against any overseer or overseers of the poor, his, or their heirs, executors or administrators, on any judgment obtained, or which may hereafter be obtained against him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse "no security to be taken."

Collectors of
the poor rates.
Overseers of
the poor.

In what cases
slaves may not
be seized.

XVII. NO sheriff or other officer, to whom any writ of *feri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *feri facias* shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco; provided there be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods or chattels of such defendant, within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *feri facias*.

Names of
slaves taken in
execution to be
endorsed there
on.

XVIII. WHERE any slave or slaves shall be taken in execution, and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue.

When a writ
of *venditioni
exponas* shall
be issued.

XIX. IF the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following:

Form of the
writ.

THE commonwealth, &c. greeting: We command you that you expose to sale, those goods and chattels of A. B. to the value of , which, according to our command, you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices) of our court, to satisfy C. D. the sum of , whereof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court; and that you have, &c."

Slaves and live
stock taken in
execution to

XX. WHEN any sheriff or other officer shall serve any writ of execution on slaves, horses, or any live stock, and the same shall not be immediately replevied or restored to the

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be supported
by the officer.Expence there
of to be paid
out of the pro-
ceeds of the
sales.When the of-
ficer may de-
mand of the
plaintiff bond
of indemnity
for selling.Where goods
cannot be sold
for three-
fourths of
their value,
the debtor
may give bond
and security to
pay the debt
within twelve
months.Or they may
be sold on 12
months credit.Tenor of the
bonds.Proceedings
thereon.Where the
obligors or
obligees die.Executions
thereon, issued
after payment
of the money
may be quasi-
ed.

debtor, it shall and may be lawful for such officers, and they are hereby required, to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock be sold, or otherwise legally discharged from such execution, and upon the return of any execution, the court may and shall upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expences incurred by supporting such slaves or stock; and the said officers shall and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock.

XXI. IF any sheriff shall levy an execution on property, and a doubt shall arise, whether the right of such property is in the debtor or not, such sheriff may apply to the plaintiff, his attorney, or agent, for his bond with good security, for indemnification for the sale of the property seized, which, if the plaintiff, his attorney, or agent refuses or fails to do within a reasonable time after such application, the sheriff or other officer shall be justified in delivering up such property to the party from whose possession the property was taken.

XXII. IF the goods or other estate taken in execution, cannot be sold for three-fourths of their value at least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond with sufficient security, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same to such creditor, within twelve months: And on such bond being given, the sheriff or other officer shall restore to such debtor, the goods or estate so taken; and where no such bond and security shall be offered, by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three-fourths of their value at least, the sheriff or other officer, shall set up and sell the same for money or tobacco, (as the case may be) to be paid at the end of twelve months, and shall take bond of the buyer or buyers, with one or more sufficient securities to pay the same accordingly, with interest, to such creditor.

XXIII. ALL and every bond or bonds so taken in pursuance of this act, shall mention that the same was or were entered into, for goods or other estate taken in execution, and returned to the debtor, or sold to the obligor (as the case may be) and shall have the force of judgments, and shall also be assignable; and such sheriff or other officer taking such bond, shall deliver the same to the creditor, or his attorney, or return it to the office of the clerk of the court, from whence such execution issued, there to be safely kept, until demanded by the creditor, or his attorney. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee, or the attorney of such creditor or assignee, to lodge the same, with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued; and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution, the sheriff or other officer shall not take any security, for the payment of the money or tobacco at a future day, but shall levy the same immediately, and sell the property on which the execution shall be so levied, for the best price that can be had for the same.

XXIV. IF any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or assignee of any such obligee, (as the case may be) shall die before such bond shall be fully paid, it shall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to endorse thereon "no security is to be taken." Any law to the contrary notwithstanding.

XXV. *PROVIDED*, That if on return of such execution, the debtor can prove the payment of the money for which such execution was levied, either to the assignee or original obligee, before notice of such assignment (as the case may be) it shall and may be lawful for the court to quash such execution, or give such other judgment therein as to them shall seem right, and the person in whose names such execution issued, shall moreover

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In what cases
such bonds
shall not be
taken.

be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon such execution, that "no security shall be taken:" *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forth-coming at the day of sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of five dollars; or to any execution against a sheriff, coroner, public collector, or other person legally authorized to receive any part of the public revenue, or their securities; or to any execution against any such officer or his securities, for money received by him under an execution or other process; or for any money or tobacco collected or received by him or them, in any manner as sheriffs or public collectors; nor to attorneys receiving the money of their clients; nor to securities under an act, intituled, "*An act to empower securities to recover damages in a summary way.*"

Separate
bonds for the
surplus to be
taken to the
debtor.

XXVI. WHERESOEVER on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or coroner (as the case may be) shall take a separate bond with sufficient security, from the buyer or buyers, for the payment of such excess or surplus to the debtor, with legal interest at the end of twelve months, from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid; and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office; and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed, in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

Commission-
ers to be ap-
pointed in each
county to val-
ue property
under execu-
tion and to
judge of the
sufficiency of
securities.

XXVII. THE court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made, but in the presence of at least three of the said persons, except in the cases herein after mentioned. *Provided always*, That in any case where the creditor, his agent, or attorney shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the court to be held for the county or corporation within three months after the return day of the said execution, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion, that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or tender of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each days attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned with the execution by the sheriff, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "that he will truly and impartially execute the trust reposed in him by this act."

Assignors of
bonds given in
pursuance of

XXVIII. WHERE any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such

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execution there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due, on which execution there shall be similar proceedings to those on an execution against the original obligors.

this act, responsible if the obligors are insufficient.

XXIX. WHERE any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs, for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed, in the case of goods taken in execution upon a writ of *feri facias*; and shall thereupon discharge such debtor out of custody. *Provided always*, that if such property so tendered, shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum*, or *feri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall upon the return of the sheriff of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum*, or *feri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *feri facias* issued in consequence of such return, to avail himself of the privileges of this act.

Debtors in execution may tender goods to the officer.

XXX. NOTHING in this act contained shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due upon any demise, lease or contract, whatsoever.

Nothing in this act to extend to distresses for rents.

XXXI. THE valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts may be deprived of their office, for neglect of duty or malfeasance therein; and upon the death, resignation, or removal from office of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

Commissioners to be amenable to the county courts. Vacancies how to be supplied.

XXXII. WHEN the sheriff shall under any execution have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the property, and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said commissioners attend, they shall after the hour of two o'clock, choose one of the bystanders to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall together, choose a third to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts. *Provided always*, that the said commissioners shall not be summoned upon any *feri facias*, where the debt, or damages and costs, shall not exceed thirty-three dollars, unless the defendant, his agent, attorney, or other legal representative, shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation, as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation.

To be summoned to attend sales.

Method of proceeding when they do not attend.

In what cases they shall not be summoned, unless the defendants require it.

XXXIII. THE valuers shall make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution; the sheriff or coroner, (as the case may be) shall be allowed for taking the bonds to the creditor, sixty-two cents, and no more; for proceeding to sell, if the property be actually sold or the debt paid, the commission of five *per centum* on the first three hundred dollars, or ten thousand pounds of tobacco, and two *per centum* upon all sums above

Valuation of property to be made known to any person desiring it. Sheriff's fee for taking the bond; commissions.

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that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expence of removing and keeping the property taken.

No principal
to be received
as security.

XXXIV. UPON actual sale of any property under this act, no principal debtor shall become the security.

Surplus mo-
ney to be paid
to the debtor.

XXXV. WHERESOEVER on a sale for cash or tobacco, made under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security, or securities, his or their executors or administrators, shall each and every of them, be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interest and costs, levied on an execution.

Money levied
by execution
to be restored
to the defend-
ant obtaining
an injunction
to the judg-
ment.

XXXVI. WHEN any sheriff, or other officer under any execution, shall receive the whole, or any part of the money or tobacco for which the said execution was issued, and the person against whom such execution may have issued, his executors or administrators shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators; in every such case, the sheriff or other officer, his executors or administrators, shall repay the person or persons against whom such execution issued, his or their executors, administrators or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff, or other officer, his or their executors, or administrators, shall fail or refuse when required, to pay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer, and their securities, his, and their executors and administrators, and every of them, shall be liable to the like penalty and judgment, in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law, in favor of the plaintiff against the sheriff, for not paying money or tobacco levied on an execution.

When prison-
ers may have
liberty of the
rules.

XXXVII. IF any person or persons taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart, or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose custody such prisoner shall be, to permit him or them to go out of the prison, and return at their pleasure.

Method of in-
solvent debtors
discharge.

XXXVIII. AND for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be of no benefit, but rather a disadvantage to their creditors: *Be it further enacted*, that if any person shall hereafter be taken, or charged in execution, in any suit commenced, or prosecuted in any court of record within this commonwealth; it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before the said court if sitting, or if not sitting, in case it be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such prisoner or prisoners shall be in execution. And every such prisoner coming before the said court, judges or justices, as the case shall be, shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say:

Prisoners oath.

I, A. B. do in the presence of Almighty God, solemnly swear or affirm, (as the case may be) that the schedule now delivered, and by me subscribed, doth contain to the best of my know-

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ledge and remembrance, a full, just, true and perfect account and discovery of all the estate, goods and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me, and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened, or otherwise disposed of in trust, or concealed all, or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, or to receive or expect any profit or advantage therefrom; or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise howsoever. So help me GOD.

XXXIX. WHICH schedule being so subscribed in open court, if taken in court, and if not, in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices, (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall, or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence. *Provided always*, that notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered.

Prisoners discharged. But creditors may afterwards have executions against his estate. No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath, unless a *capias* be issued by order of the court.

XL. ALL the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein, as such prisoner hath, and may lawfully depart withal, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found; and such sheriff is hereby authorised, empowered and required, within sixty days after the taking the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel and utensils of trade. And if any sheriff or other officer shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner, and by the same persons, as if the said money had been levied by a *fieri facias*.

Debtors estate how to be disposed of.

XLI. WHEN any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain articles of money or tobacco, due to such prisoner, or of goods, chattels, or estates belonging to him, and in the possession of any other, in that case the clerk of the court, with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money, or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath, whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels or estate be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person, for the money, tobacco, goods, chattels or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels or estates, as he

His debts and effects how to be recovered.

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or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions, as in other cases, and to dispose of the money, tobacco, goods, chattels or estates so recovered, in the same manner as the estate contained in the schedule, is hereby directed to be disposed of.

XLII. *PROVIDED always*, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels or estates mentioned in the schedule, to be of the property of the prisoner, and in his possession, the sheriff or such prisoner, at any time after, unless barred by any of the acts, limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels and estates as the garnishee is thereby ordered to pay or deliver.

Sheriff to retain his expenses out of the debtor's estate.

XLIII. EVERY sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expences in recovering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court, and if such effects be not sufficient, he shall be reimbursed such expences by the creditor or creditors, if more than one, in proportion to their demands.

Insolvent debtors prison fees to be paid by the creditor.

XLIV. WHERE such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties, at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney, or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison.

But may afterwards be recovered of the debtors.

XLV. *PROVIDED nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees, and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards, sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any.

Prison fees to be paid by the creditor, whose execution is first served.

XLVI. WHEN any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor, at whose suit such debtor was first taken.

Execution duly served, valid, although not directed to any sheriff. Distringas in detinue may be superseded as to the specific thing.

XLVII. AN execution appearing to be duly served in other respects shall be deemed good, although it be not directed to any sheriff.

XLVIII. IF a *distringas* issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of inquiry.

Sheriff liable when a replevy or forthcoming bond is quashed, as faulty. Penalty on sheriff for failing to return an execution.

XLIX. IF a replevy or forthcoming bond be quashed as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representative.

L. AND whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof; *Be it enacted*, that where any writ of execution, or attachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it was issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner, or serjeant of

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a corporation at their discretion, in any sum not exceeding five dollars *per* month, for every hundred dollars contained in the judgment or decree, on which the execution or attachment, so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine.

LI. IF any sheriff, under sheriff, or other officer, shall make return upon any writ of *feri facias* or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party, to whom the same is payable, or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment, for not performing a decree in chancery for payment of any sum of money, or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her or them to escape, with the consent of such sheriff, under sheriff, or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *feri facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *feri facias*, or *venditioni exponas*, with interest thereon, at the rate of fifteen *per centum per annum*, from the return day of the execution, until the judgment shall be discharged; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion.

Method of proceeding against sheriff failing to pay money levied by execution.

LII. AND whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it therefore enacted*, that where any execution shall be delivered to the sheriff of any other county, than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her, or their agent, for the particular purpose of receiving the money on such execution, and for giving to, and receiving from the sheriff, any notices which may be necessary relating thereto, and payments made, and notices given to such agent, shall be as effectual, as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him: Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor. But such prisoner shall be discharged in those cases respectively, without any notice to be given to the creditor so failing.

Creditors to appoint agents in the counties in which executions are served.

LIII. AFTER obtaining a final decree for lands, slaves, or money, or things of a specific nature in any court having chancery jurisdiction, the clerk of such court shall upon the request of the party obtaining such decree, issue any writ of execution, either a *feri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste and be signed by the clerk of the court; and all process so issued, shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process, issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers, as if the said process had issued upon a judgment obtained at common law. But nothing herein

Executions may be issued on decrees in chancery.

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contained, shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner, in which he might avail himself before the passing of this act.

Goods on leased premises not liable to execution until the rent in arrear is paid or tendered.

Provido.

LIV. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretense whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution. *Provided nevertheless*, that such rent arrears do not amount to more than one year's rent, and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment; and the sheriff or officer serving the same, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco so paid for rent as the execution money.

Repealing clause.

LV. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

LVI. *PROVIDED also*, That all executions issued under any former act, shall go on to be satisfied, or replevied as such former act directs; and all twelve months or replevy bonds taken, or which shall be taken under any former act, shall have executions issued thereon, in like manner as is directed in cases of twelve months, or replevy bonds to be taken under this act.

Commencement and duration of this act.

LVII. THIS act shall commence and be in force from and after the passing thereof, until the first day of *January*, one thousand seven hundred and ninety-five.

C H A P. CLII.

An Act to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 2d of December, 1793.]

Preamble.

I. **W**HEREAS it is represented to this present General Assembly, that many county and corporation courts in this commonwealth, have failed to recommend proper persons for officering the militia of the several regiments, battalions and companies within their respective jurisdictions, according to the directions of the act, intituled, "*An act for regulating the militia of this commonwealth*," and it is expedient that the said act should be carried into full effect:

County and corporation courts to recommend officers.

II. *BE it therefore enacted*, That the several county and corporation courts, shall, and they are hereby required, on or before their respective courts, to be held in the month of *May* next, recommend to the governor and council the officers necessary to compleat the regiments, battalions and companies within their respective jurisdictions, pursuant to the directions of the above recited act, recommending the said officers according to their grades and seniority within their respective companies; and in case of failure herein, each and every justice so failing, shall forfeit and pay ten dollars, to be recovered as other penalties incurred by law, for failing to discharge the duties of their respective offices; one moiety whereof shall be applied to the use of the commonwealth, in aid of the contingent fund, and the other to the use of the informant or person suing for the same.

Penalties for neglect.

Vacancies, how to be supplied.

III. *AND be it further enacted*, That all vacancies hereafter happening in the officers of the militia of this commonwealth, shall be supplied by appointment of the governor, with the advice of the privy council, on recommendation from the respective county and corporation courts. Any thing in the said recited act to the contrary, notwithstanding.

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Part of the act of 1792 repealed.

IV. SO much of the said act as authorises the adjutant-general to convene the inspectors of brigades for the purpose of receiving instructions, shall be, and the same is hereby repealed.

Commissioned officers to be trained and instructed.

V. *AND be it further enacted*, That the commissioned officers of the several regiments shall meet twice in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors. The days and places of meeting to be fixed on by the commanding officers of the brigades to which the regiments belong. The officers thus assembled, shall each continue two days, and no longer, every time they shall be called out. Every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by a court martial, shall forfeit and pay five dollars, to be appropriated as the other fines are by the said act.

Part of the act of 1792 repealed.

VI. *AND be it further enacted*, That the seventh section of the said recited act, shall be, and is hereby repealed.

Fines on non-commissioned officers and soldiers for not attending musters.

VII. *AND be it further enacted*, That instead of a fine of fifty cents upon any non-commissioned officer or soldier, for failing to appear at muster, according to the directions of the above recited act, a fine of seventy-five cents shall be imposed. If any non-commissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may, if it appear reasonable, from the indigent circumstances of the delinquent, remit the fine incurred by him; provided every such delinquent, who hath a firelock of any kind, shall make it appear, that he brought the same to the muster.

On infants and apprentices.

VIII. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian or master.

Musters of companies.

IX. THERE shall be a muster of each company of militia once in every two months, except the months of *December, January, February, and March*, in every year.

Training the militia in frontier counties may be dispensed with.

X. *AND* whereas it is improper that the militia in the frontier counties, should be drawn from their dwellings in times of danger, merely for the purpose of training; *Be it enacted*, That the commanding officers of the brigades on the frontiers of this state, may dispense with the execution of this law, so far as relates to training the militia in such companies, battalions or regiments within their commands, as they shall judge expedient; and they shall instruct their brigade inspectors accordingly.

Lists of fines, when to be delivered to the collectors.

XI. LISTS of fines shall be delivered to the sheriffs on or before the thirty-first day of *December*, instead of the first day of *January* in every year.

Exemption of millers from militia duty;

XII. THE exemption of millers from militia duty, under the above recited act, shall be construed only to extend to such persons as are actually and necessarily employed in the management of water grist mills, legally established.

Of ferrymen;

XIII. ALL ferrymen, actually and necessarily employed as such, shall be, and they are hereby exempted from militia duty.

Of Quakers & Menonists.

XIV. *AND* all Quakers and Menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from actual service in the militia; provided they shall furnish a substitute for such services, to be approved of by the commanding officer of the company.

XV. *AND be it further enacted*, That so much of the above recited act, as relates to the exemption of Quakers and Menonists from militia duty, is hereby repealed.

Division of the militia into regiments and battalions.

XVI. *AND be it further enacted*, That the county of *Loudoun* shall compose two regiments and four battalions; that the counties of *Berkeley, Culpeper, Spotsylvania, Fauquier, Accomack, Amherst, Norfolk, Halifax, Pittsylvania, Dinwiddie, Mecklenburg, Bedford, Al-*

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bemarle, Brunswick, Montgomery, Wylbe, Prince William, Hanover, and Frederick, shall compose two regiments and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Richmond and Westmoreland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Powhatan and Cumberland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Charles City and New Kent, shall compose each one battalion, which two battalions shall constitute one regiment; the counties of Elizabeth City and Warwick, one battalion; and the counties of York and James City, one battalion, which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of Richmond and borough of Norfolk, shall compose each one regiment, and two battalions:

Number of
men in each
company.

XVII. A COMPANY of militia established by virtue of the above recited act, shall not exceed one hundred, nor less than fifty rank and file. Whensoever any company district shall contain more than one hundred persons, subject to be inrolled in the militia, by the captain or commanding officer thereof, the same shall be divided into two districts, to be established in the same manner, as other districts are established by the said act; which new district thus formed, shall constitute an additional company, to the battalion of which it is a part.

Further time
allowed for
forming batta-
lion and com-
pany districts.

XVIII. AND whereas the officers of the militia in several counties of this commonwealth, have failed to arrange their respective counties into districts for the formation of the several battalions and companies, established by the "*Act for regulating the militia of this commonwealth*:" *Be it enacted*, that a further time of eight months, from the passing of this act, shall be allowed the said officers for arranging the proper districts, pursuant to the directions of the above recited act. The several battalions and companies established by this act, shall be arranged into districts in the same manner as the battalions and companies established by the above recited act.

Part of the act
of 1792 ref-
pecting light
companies, re-
pealed.

XIX. *AND be it further enacted*, That so much of the above recited act, as declares that the light companies of grenadiers, light infantry and riflemen, shall be composed of men from eighteen to twenty-five years of age, be, and the same is hereby repealed.

Rules respect-
ing ages of
persons to be
inrolled.

XX. *AND be it further enacted*, That in all cases of doubts respecting the age of any person inrolled, or intended to be inrolled in any company of militia, the party questioning, shall prove his age to the satisfaction of the officers of the company, within whose bounds he may reside, or a majority of them.

Respecting
inrolling mili-
tiamen remov-
ing out of the
bounds of their
companies.

XXI. *AND be it further enacted*, That every militia-man removing out of the bounds of one company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia-man shall produce to the captain or commanding officer of the company, in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to inroll him in the numerical class, specified in the said certificate. And if the militia-man shall fail to produce the certificate as above directed, he shall be inrolled in the class destined to perform the next tour of duty, and the commanding officer of the company refusing to grant a certificate upon application to him made, shall incur a penalty of thirty dollars, one half to the informer, the other half to be collected and applied as the other fines imposed by this act.

Money aris-
ing under the
militia law,
how to be ap-
propriated.

XXII. *AND be it further enacted*, That all monies passing into the treasury of this commonwealth, by virtue of this act, and the act "*For regulating the militia of this commonwealth*," shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state; the surplus, if any, to be subject to such other appropriations as the General Assembly may from time to time appoint and direct; and the treasurer of the commonwealth shall keep all the monies arising from fines under the militia law, separate from all other monies, and keep a separate

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book of the same, and the expenditures thereof; any thing in any former law to the contrary hereof notwithstanding.

XXIII. *AND be it further enacted*; That the governor shall cause a sufficient number of copies of this law, together with the act "*For regulating the militia of this commonwealth*," and the act "*More effectually to provide for the national defence, by establishing an uniform militia throughout the United States*," to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy.

Copies of the laws respecting the militia to be furnished to the officers.

XXIV. *AND* whereas it sometimes happens that the arsenal and other public property is protected by militia, enlisted for a fixed period, in preference to draughts therefrom: And whereas doubts have arisen, whether guards of the above description are comprehended in the thirty-first section of the militia law; *Be it enacted*, that the said section does comprehend the militia, when called into service; by enlistment for fixed periods, in like manner, as if they were employed in the usual manner.

Pay, &c. of the militia enlisted for fixed periods.

XXV. *AND be it enacted*, That whenever the public service shall require the employment of militia by water; that the said service shall be performed for the same pay and under the same regulations, as is given and established with respect to service by land.

When employed by water.

XXVI. *AND be it further enacted*, That the commanding officer of every battalion of militia, or the oldest captain in the county where no commanding officer of a battalion shall reside, shall from time to time, as he shall deem it necessary, appoint an officer and so many men of the militia, as to him shall seem necessary, once in every month, or oftener, if thereto required by such officer; to patrol and visit all negro quarters; and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner; and take them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrol, the officer of every party shall, once in every month at least, return a report in writing upon oath; to the court of the county, in which he shall reside; and if the said court shall adjudge the said patrollers to have performed their duty according to law, they are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrol; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure, which fines shall be laid, collected and accounted for, and appropriated as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed.

Patrollers, how to be appointed;

their duty;

pay.

XXVII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

XXVIII. THIS act shall commence and be in force; from and after the passing thereof.

Commencement of this act.

C H A P. CLIII.

An Act supplementary to the Act, to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 10th of December, 1793.]

I. *BE it enacted by the General Assembly*, That the governor with the advice of council, shall be, and he is hereby authorized and required, to commission the several major-generals, brigadier-generals and adjutant-general appointed, or who may be hereafter appointed, pursuant to the act "*For regulating the militia of this commonwealth*."

General officers, how to be commissioned.

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How qualified.

II. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which they respectively reside) to wit:

I, do swear, that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of the militia of Virginia, according to the best of my skill and judgment: So help me GOD."

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CLIV.

An Act to amend the Act, intituled, "An Act for reducing into one, the several Acts for regulating the Inspection of Tobacco."

[Passed the 6th of December, 1793.]

Tobacco brought from upper to lower warehouses for storage, when to be sold by the inspectors.

I. **B**E it enacted by the General Assembly, That where any inspected tobacco shall be brought from an upper to a lower warehouse for the purpose of storage, and shall remain undemanded in the same for eighteen months from the time of its reception therein, the inspectors at such lower warehouse shall advertise, sell and account for the same in like manner, and under the like regulations as is prescribed by the twenty-eighth section of the act, intituled, "*An act for reducing into one, the several acts of Assembly for the inspection of tobacco.*"

Tobacco burnt in the public warehouses to be paid for by the public.

Proviso.

II. *AND be it further enacted*, That where any warehouse established by the former or present session of Assembly, or which shall be established by any future session of Assembly, shall happen to be burnt, the loss sustained thereby shall be made good and repaid to the several persons injured, by the General Assembly; and no inspector or inspectors shall be held accountable for the same, in consequence of any receipt by him or them given. *Provided always*, That if the receipt for tobacco so burnt and destroyed shall be of an older date than twelve months, and in case of inspected tobacco brought to a lower warehouse for storage, shall be of an older date than six months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Inspectors to receive the full amount of their salaries when the tobacco inspected, if shipped would have produced a sufficiency.

III. *AND be it further enacted*, That it shall and may be lawful for the inspectors annually to present to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouses are respectively situated, ascertaining the quantity of tobacco received into such warehouse or warehouses, and also the quantity shipped in each year; and thereupon, if it shall appear to the auditor that provided all the tobacco so received within the space of the year, had been shipped by the owners, that there would have been a sufficient sum received to have discharged their respective salaries as established by law, then and in such case it shall and may be lawful for the auditor to issue his warrant for the amount of their respective salaries, to be paid out of any money in the public treasury, arising from the surplus on tobacco; any law to the contrary notwithstanding.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

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C H A P. CLV.

An act to amend the Act, intituled, "An Act reducing into one, the several Acts for regulating the Inspection of Flour and Bread."

[Passed the 4th of December, 1793.]

I. **B**E it enacted, That all casks wherein flour shall be packed, shall be weighed, and the tare marked thereon. And if any person shall put a false or wrong tare on any cask of flour, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents, and the inspector, or his deputy, or assistant, upon suspicion, or at the request of the purchaser, shall and is hereby required to unpack any cask of flour, and if the cask wherein flour is packed, be falsely tared, the miller or bolter shall pay the charges of unpacking and repacking, over and above the penalties imposed by this act, and by the act, intituled, "*An act reducing into one, the several acts for regulating the inspection of flour and bread,*" but otherwise the said charges shall be paid by the inspector or the purchaser, if the trial be made at his request. The penalty hereby imposed, shall and may be recovered, and shall be payable as in the said recited act is directed, of, and concerning the penalties therein imposed.

Casks to be weighed and tare marked thereon. Penalty for a false tare.

How recoverable.

II. THAT part of the penalties which is to go to the use of the commonwealth, shall be paid to the inspector at the place where the offence shall be discovered, who shall annually to the court of his county, held in the month of *September*, render a fair and just account thereof, upon oath, a copy whereof shall be certified by the said court, and being so certified, shall be transmitted to the auditor of public accounts, by their clerk, who shall debit the said inspector therewith, and the said inspector shall annually pay the amount thereof, after deducting a commission after the rate of *six per centum*, into the public treasury, on or before the first day of *January* in each year; and in case of failure to make such payment, the balance due, may be recovered in like manner, as the public taxes are now recoverable from delinquent sheriffs. An account in like manner, shall be rendered by each inspector, at the next *September* court held in his county, of all the penalties heretofore paid to him, to be certified and transmitted as aforesaid, and he shall thereafter pay the part belonging to the commonwealth, in like manner, and he shall be entitled to the same commission, and be liable in case of failure of payment, to the same proceedings, as is herein before directed and prescribed in other cases.

That part of the penalties payable to the commonwealth how to be collected and accounted for.

III. EVERY inspector failing to render the account herein before required, at the time, and in the manner herein before mentioned, shall be incapable of being reappointed to the said office of inspector of flour, by his said county court.

Penalty on inspectors failing to render accounts of penalties received.

C H A P. CLVI.

An Act for amending the Act, intituled, "An Act for reducing into one, the several Acts concerning the Fees of certain Officers, and declaring the Mode of discharging the said Fees and County Levies."

[Passed the 4th of December, 1793.]

I. **W**HEREAS that part of the sixteenth section of the act of last session of Assembly, intituled, "*An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies,*" which empowers the judges of the superior courts (the general court excepted) to make such allowances from time to time to their respective officers as they shall think reasonable, taking into account the time past for which no allowance hath been made by the General Assembly, hath been construed to empower the judges of the district courts to make the said allowances:

Preamble.

II. *BE it therefore enacted*, That the said part of the sixteenth section shall be, and is hereby repealed; except so far as it may relate to the high court of appeals and high court of chancery.

Part of the act of 1792 repealed.

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Fees allowed
to the clerk of
the high court
of chancery.

III. AND whereas it appears that sundry services of the clerk of the high court of chancery, formerly provided for, are not noticed in the said recited act of the last session of Assembly; *Be it further enacted*, that it shall and may be lawful for the clerk of the said high court of chancery, in addition to the fees allowed him by the said recited act, to demand, receive, and take the several fees hereinafter mentioned and allowed for any business by him done since the passage of the said recited act, or hereafter to be done by virtue of his said office, that is to say:

	Dols.	Cts.
For every writ of <i>supersedeas</i> or <i>scire facias</i> ,	0	43
For taking bond on issuing a writ of <i>supersedeas</i> , <i>certiorari</i> , or for an appeal, or any other bond,	0	43
For every other writ whatsoever,	0	35
For entering the sheriff's return in the rule book,	0	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering security for costs for persons out of the country,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court,	0	18
For a copy of the same,	0	18
For filing papers for each party,	0	26
For docketing every cause on the docket (to be charged but once)	0	18
For entering every continuance on the docket,	0	18
For the filing a declaration and every plea or demurrer in any cause to the making up of an issue, directed by the high court of chancery, to be tried at the bar of the said court,	0	35
For every trial, swearing the jury and witnesses, and recording a general verdict,	0	87
For administering an oath or affirmation in court, except witnesses to a jury,	0	18

To public no-
taries.

IV. AND whereas it also appears that some of the fees to public notaries, formerly provided for by law, have been omitted in the act of last session, intituled, "*An act for appointing public notaries*;" *Be it therefore further enacted*, that it shall and may be lawful for every public notary, in addition to the fees allowed him by the said last recited act, to demand, receive, and take the following fees, to wit; for every attestation, protestation, and all other instruments of publication, under his seal of office, the sum of eighty-seven cents, and no more.

Commence-
ment of this
act.

V. THIS act shall commence and be in force, from and after the passing thereof.

C H A P. CLVII.

An Act to amend the Act, intituled, "An Act concerning Coin, and for other Purposes;"

[Passed the 6th of December, 1793.]

Part of the act
of 1792 res-
pecting Ger-
man gold &
cut silver re-
pealed.
Commence-
ment of this
act.

I. **B**E it enacted by the General Assembly, That so much of the act, intituled, "*An act concerning coin, and for other purposes*," as relates to German gold and cut silver coin, shall be, and is hereby repealed.

II. THIS act shall commence in force, from and after the first day of *March* next.

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C H A P. CLVIII.

An Act to amend the Act, "Concerning Grand-Juries, Petit-Juries, and Venire-Men."

[Passed the 9th of December, 1793.]

I. **W**HEREAS, under the existing law, concerning grand-juries, petit-juries, and venire-men, the grand-juries of the district, county, and corporation courts, are not in positive and explicit terms directed to be citizens of this state, whereby it hath sometimes happened, that persons not citizens of this commonwealth, have been summoned and impannelled as grand-jurors in the said courts: For remedy whereof,

Preamble,

II. *BE it enacted*, That hereafter every grand-juror, summoned to attend any district, county, or corporation court, or impannelled to serve in the same, shall, in addition to the other requisites prescribed by the said act, "*Concerning grand-juries, petit-juries, and venire-men*," be also a citizen of this commonwealth.

Grand-Jurors must be citizens.

III. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CLIX.

An Act to amend an Act, reducing into one, the several Acts to oblige Vessels coming from Foreign Parts to perform Quarantine.

[Passed the 5th of December, 1793.]

I. **W**HEREAS by the act, intituled, "*An act reducing into one, the several acts to oblige vessels coming from foreign parts to perform quarantine*," no provision is made to compel persons coming into this commonwealth by land, from places infected with contagious diseases, to perform quarantine: For remedy whereof,

Preamble,

II. *BE it enacted*, That the governor, with advice of the council, shall appoint persons to superintend the performance of quarantine, in such places, and from time to time, as he shall judge necessary; the person so appointed, shall examine all persons coming into this commonwealth by land, from places infected with any contagious diseases, and compel them to perform a quarantine of so many days, and under such regulations, as shall be directed and prescribed by the governor, with advice of council, for the preservation of the health of the citizens of this commonwealth.

Superintendants of quarantine to be appointed for persons coming by land into the state from infected places.

III. AND whereas by the said act, the master or owner of a vessel is compelled to defray the expences attending their vessel, after quarantine is performed, which in some cases is unreasonable: *Be it therefore enacted*, that the governor, with advice of council, be, and is hereby empowered to exempt the owner from the payment of such expences, whenever he shall think it right and just so to do.

Executive may exempt owners of vessels from payment of expences of quarantine.

IV. *AND be it further enacted*, That the vessels which have lately performed quarantine, be, and they are hereby released from the payment of the charges which accrued thereon.

Vessels which have lately performed it, exempted from expences.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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C H A P. CLX.

An Act to amend the Act, intituled, "An Act for ascertaining the Salaries to the Officers of Civil Government."

[Passed the 6th of December, 1793.]

Part of the act
of 1792 re-
pealed.

I. **B**E it enacted, That so much of the act of the last session of the General Assembly, intituled, "*An act for ascertaining the salaries of the officers of the civil government*," as relates to the salary of the clerk of the general court, shall be, and the same is hereby repealed.

Salary of the
clerk of the
general court
for ex-officio
services.
Vacancy dur-
ing vacation,
how to be sup-
plied.
Present clerk
to continue in
office till the
next court.

II. *AND be it further enacted*, That the clerk of the said court shall receive for his ex-officio services, the sum of two hundred and fifty dollars *per annum*.

III. IN case of a vacancy in the office of clerk of the general court, during vacation, any three judges of the said court (of whom the senior justice shall be one) shall appoint a clerk, who upon taking the oath required by law, before any justice of the peace, shall continue in office, until a clerk shall be appointed by the said court. *Provided nevertheless*, That the clerk of the general court now in office, may continue to hold the same until the next meeting of the general court; any thing in any law to the contrary thereof, notwithstanding.

Allowance to
the chance for
employing a
clerk.

IV. *AND be it further enacted*, That the present judge of the high court of chancery, shall during his continuance in office, be allowed a sum, not exceeding two hundred and fifty dollars *per annum*, for the purpose of employing a clerk.

Commence-
ment of this
act.

V. THIS act shall commence in force, from and after the first day of *January* next.

C H A P. CLXI.

An Act to amend an Act, intituled, "An Act to empower the High Sheriffs to proceed in a summary Way, against their Deputies."

[Passed the 11th of December, 1793.]

Preamble.

I. **W**HEREAS the laws heretofore passed, have in many instances been found inadequate to indemnify the sheriffs of this commonwealth against the conduct and default of their deputies, and in most cases they have been obliged to submit to a recovery first had and obtained against them before they could legally proceed against their deputies, whereby much injury and injustice has arisen to the sheriffs: *Be it therefore enacted*, that where any fine, amercement, penalty or judgment, has been assessed or rendered, or which may be assessed or rendered against any sheriff heretofore or now in office, or which may hereafter come into office, his heirs, executors or administrators, for or on account of any default or misconduct of any deputy of such sheriff, it shall and may be lawful for the court of the county, whereof such sheriff hath been, now is, or shall be sheriff, or for the district court including such county, upon motion to them made by such sheriff, his heirs, executors or administrators, to give judgment against such deputy, and his securities, their heirs, executors or administrators, for the full amount of all such fines, amercements, penalties or judgments, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators have ten days previous notice of such motion.

Sheriff's re-
medy against
his deputy, &
his executors
and securities
after judg-
ment against
such sheriff.

When he may
obtain judg-
ment against
his deputy,
&c. before
judgment is
rendered a-
gainst himself.

II. *AND be it further enacted*, That where any deputy sheriff heretofore or now in office, or which may hereafter come into office, hath been or shall be found in arrears, for any money, tobacco or other thing received, or which ought to be received by such deputy, by virtue of his office, and for which the principal of such deputy, his heirs, executors or administrators, is or may be chargeable, and shall not immediately pay or deliver the same to the person or persons entitled thereto, it shall and may be lawful for either of the said courts, upon motion to them made by such sheriff, his heirs, executors or administrators, to give the same judgment against such deputy, and his securities, their heirs, execu-

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tors or administrators, as such sheriff, his heirs, executors or administrators, might by motion against him or them, on account of such arrears, misconduct or default, be liable to, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators, have ten days previous notice of such motion. *Provided nevertheless*, that no deputy sheriff, his heirs, executors or administrators, shall be subject to a motion made by the principal of such deputy, his heirs, executors or administrators, where a recovery has been had, or may be obtained against such deputy sheriff, his heirs, executors or administrators, by any person or persons whatsoever, before such motion.

Proviso.

Proviso.

III. *AND be it further enacted*, That on all executions issuing on judgments obtained by any sheriff heretofore, or now in office, or which may hereafter come into office, his heirs, executors or administrators, against any deputy heretofore or now in office, or which may hereafter come into office, and his securities, their heirs, executors or administrators, or either of them, the clerk issuing such execution, shall, for the direction of the officer, to whom the same is directed, endorse, that "no security is to be taken," and such officer on levying the same, shall govern himself accordingly.

No security to be taken on judgments obtained by sheriffs against their deputies, &c.

IV. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause.

V. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

C H A P. CLXII.

An Act to fix the Time of Meeting of the General Assembly.

[Passed the 6th of December, 1793.]

BE it enacted, That the meeting of the General Assembly, shall hereafter be on the second Tuesday in November, in every year; any law to the contrary thereof, notwithstanding.

C H A P. CLXIII.

An Act for regulating the Police of Towns in this Commonwealth, and to restrain the Practice of Negroes going at Large.

[Passed the 10th of December, 1793.]

I. **W**HEREAS great inconveniencies have arisen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to freedom, but are in fact slaves: For remedy whereof,

Preamble.

II. *BE it enacted by the General Assembly*, That from and after the passing of this act, every free negro or mulatto, who resides in, or is employed to labour within the limits of any city, borough, or town, shall be registered and numbered in a book to be kept for that purpose by the clerk of the said city, borough, or town, which register shall specify his or her age, name, colour and stature, by whom, and in what court the said negro or mulatto was emancipated; or that such negro or mulatto was born free. A copy of the said register, signed by the clerk, and attested by one alderman or town magistrate, shall be annually delivered to the said negro or mulatto, for which copy the clerk shall receive twenty-five cents, to be paid by the person receiving the same.

Free negroes and mulattoes residing or employed in certain towns &c. to be registered and numbered; and each of them annually furnished with a certificate thereof.

III. ANY person harbouring or employing any negro or mulatto, who has not a certified copy of the said register, shall forfeit and pay for each offence five dollars to the owner of such negro or mulatto, and if there be no owner, to the informer; to be recovered by warrant before any alderman or magistrate, and shall be moreover liable to an action for damages at the suit of the party grieved.

Penalty for employing them without,

IV. *AND be it further enacted*, That in case any negro or mulatto, who resides in or is employed to labour, in any city, borough, or town, shall neglect to procure such certificate, it shall be lawful for any alderman or magistrate, to commit to jail such negro or mulatto, there to remain till such copy is produced and the jailor's fees paid.

Magistrates to commit those who neglect to procure such certificates.

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Free negroes and mulattoes in the country not to go at large or hire themselves without being registered, &c.

V. AND for the prevention of free negroes and mulattoes going at large in the several counties of this commonwealth, *Be it further enacted*, That no free negro or mulatto shall be allowed to go at large, or hire himself or herself to labour in any county, without having his or her certificate registered in the clerk's office of the county wherein he or she resides, and having a certified copy of the said certificate. For registering and granting such certificate, the clerk shall be allowed twenty-five cents.

Penalty for employing them without.

VI. ANY person employing or harbouring any negro or mulatto, coming within the purview of this act, shall forfeit and pay for each offence five dollars, to the use of the informer, to be recovered by a warrant before a justice of the peace, and shall be moreover liable to an action for damages at the suit of the party grieved.

To renew their certificates once in three years.

VII. EVERY such free negro or mulatto, shall once in every three years, obtain a new certificate, under the same rules and regulations, as are prescribed for obtaining the first.

Or may be committed to jail

VIII. AND in case any negro or mulatto, who resides in or is employed to labour in any county, shall neglect to procure such certificate, it shall be lawful for any magistrate in the said county to commit to jail such negro or mulatto, there to remain till such certificate is produced and the jailor's fees paid.

Commencement of this act.

IX. THIS act shall commence and be in force, from and after the first day of *January* next.

C H A P. CLXIV.

An Act to prevent the Migration of Free Negroes and Mulattoes into this Commonwealth.

[Passed the 12th of December, 1793.]

How they may be apprehended and sent out of the state.

I. **B**E it enacted, That it shall not be lawful for any free negro or mulatto to migrate into this commonwealth, and every free negro or mulatto who shall come into this commonwealth contrary to this act, shall and may be apprehended and carried by any citizen before some justice of the peace of the county where he shall be taken; which justice is hereby authorized to examine, send and remove every such free negro or mulatto out of this commonwealth, into that state or island from whence it shall appear he or she last came; and for this purpose, the sheriff or other officer, and other persons, may by such justice be employed within the commonwealth, upon the same terms as are by law directed in the removal of criminals from one county to another. And every free negro or mulatto who shall come or be brought into this commonwealth by water from any country, state or island, may and shall be exported to the place from whence he or she came, or was brought, and the charges attending the same shall be paid by the importer; to be recovered by motion in the name of the commonwealth, upon ten days previous notice thereof in any court of record.

Penalty for bringing them into the state.

II. EVERY master of a vessel, or other person who shall bring into this commonwealth by water or by land, in any vessel, boat, land carriage, or otherwise, any free negro or mulatto, shall forfeit and pay for every such person so brought, the penalty of one hundred pounds lawful money; one half to the commonwealth, and the other half to the person who shall inform thereof; to be recovered by action of debt or information in any court of record, and the defendant in every such case shall be ruled to give special bail.

Exception.

III. THIS act shall not extend to masters of vessels bringing into this state any free negro or mulatto employed on board and belonging to such vessel, and who shall therewith depart, nor to any person travelling into this state, having any free negro or mulatto as a servant.

Slaves brought from Africa or the West-India islands to be sent out of the state.

IV. *AND be it further enacted*, That in case any slave shall be brought or come into this state from *Africa* or the *West-India* islands, directly or indirectly, upon information thereof given to any justice of the peace, it shall be his duty to cause such slave to be apprehended immediately and transported out of this commonwealth, and the expence attending

1793.

such transportation, shall be paid by the person importing such slave, recoverable in the name of the justice directing such slave to be transported, by warrant before a single magistrate.

V. THIS act shall commence and be in force, from and after the first day of *January* next.

Commence-
ment of this
act.

C H A P. CLXV.

An Act for establishing several new Ferries.

[Passed the 22d of November, 1793.]

I. **B**E it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of *Moses Sutton*, in the county of *Harrison*, across the west fork of *Monongabela* river, to the land of *John Owen* on the opposite shore, the price for a man four cents, and for a horse the same; from the land of *John Keller*, in the county of *Hampshire*, across *Patterson's* creek, to his land on the opposite shore, the price for a man six cents, and for a horse the same; from the land of *John Hix*, in the county of *Campbell*, across *Staunton* river, to the land of *Joseph Eckbols*, deceased, on the opposite shore, the price for a man four cents, and for a horse the same; from the commons in the town of *Milton*, across *Rivanna* river, to the lands of *Thomas Mann Randolph*, junior, on the opposite shore, (to be kept by *Jacob Oglesby*) the price for a man four cents, and for a horse the same; from the land of *Benjamin Lewis*, across *Greenbrier* river, to the land of *John Stuart* on the opposite shore, the price for a man six cents, and for a horse the same; from the land of *Christiana Selser*, in the county of *Monongalia*, across *Cheat* river, to her land on the opposite shore, the price for a man four cents, and for a horse the same; and from the land of *Thomas Reade Rootes*, in the county of *Hanover*, across *Pamunkey* river, to his land on the opposite shore, the price for a man four cents, and for a horse the same.

Public ferries
established
across the west
fork of *Mo-
nongabela* ri-
ver,

Patterson's
creek and
Staunton,

Rivanna,

Greenbrier,

Cheat,

and *Pamun-
key* rivers.

II. AND for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry keepers may demand and take the following rates, that is to say: For every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hoghead of tobacco, as for one horse; for every head of nett cattle, as for one horse; and for every sheep, goat, lamb, or hog, one fifth part of the ferriage for one horse, and no more.

Rates,

III. IF any ferry keeper shall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and two dollars; to be recovered with costs before a justice of the peace of the county, where the offence shall be committed.

Penalty for
demanding
more than the
legal rates.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

1794.

General Assembly, begun and held at the Capitol, in the City of Richmond, on Tuesday, the 11th Day of November, in the Year of our Lord, 1794.

C H A P. CLXVI.

An Act concerning Appointments to Civil Offices.

[Passed the 24th of November, 1794.]

I. **B**E it enacted by the General Assembly, That no senator or delegate, shall during the time for which he was elected, be appointed to any civil office under the authority of the commonwealth, which shall have been created, or the emoluments whereof shall have been encreased or decreased during such time.

Commencement of this act.

II. THIS act shall be in force from and after the passing hereof.

C H A P. CLXVII.

An Act concerning granting Appeals from Decrees in Chancery.

[Passed the 29th of November, 1794.]

Mode of obtaining appeals from decrees of the county courts in chancery, to the high court of chancery.

I. **B**E it, and it is hereby enacted by the General Assembly of the Commonwealth of Virginia, That whensoever any person or persons, body politic or corporate, shall think himself or themselves aggrieved by the decree or final order of any county or corporation court sitting in chancery, in any suit or controversy whatsoever, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of thirty-three dollars or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order, such person or persons, body politic or corporate, being a party defendant, may enter an appeal to the high court of chancery from such decree or final order, and before granting any such appeal, the party praying the same being a defendant, or some other responsible person, shall enter into bond with sufficient security in a reasonable penalty, with condition to satisfy and pay the amount recovered in the county or other court aforesaid, and all costs, and to perform in all things the said decree or final order in case the same be affirmed.

From decrees of the high court of chancery to the court of appeals.

II. AND in like manner and under the like regulations, an appeal may be prayed and granted unto a defendant from any decree or final order of the high court of chancery unto the court of appeals, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of one hundred dollars or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order.

Commencement of this act.

III. THIS act shall commence and be in force from the passing thereof, but shall not be construed to extend to any appeals heretofore allowed and granted.

1794.

C H A P. CLXVIII.

An Act to amend an Act, intituled "An Act declaring what shall be Treason; for punishing certain Offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same."

[Passed the 2d of December, 1794.]

I. **B**E it enacted by the General Assembly, That the Governor, or in case of his absence, inability, or death, the Councillor who acts as president shall in no wise have or exercise a right of granting pardon to any person or persons convicted of treason against the commonwealth, but may suspend the execution until the meeting of the General Assembly, who shall determine whether such person or persons are proper objects of mercy or not, and order accordingly.

By whom, & how persons convicted of treason may be pardoned.

II. THIS act shall commence and be in force from the passing thereof.

Commencement of this act.

C H A P. CLXIX.

An Act to amend the Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy.

[Passed the 3d of December, 1794.]

I. **W**HEREAS it is suggested to the General Assembly of *Virginia*, that there is no ordained minister of the gospel in regular communion with any society of christians, or other person residing in either of the counties of *Lee* or *Randolph*, authorized to celebrate the rites of matrimony between persons desirous of entering into that state, whereby the inhabitants of the said counties are exposed to great inconvenience, and in many instances to considerable personal danger, as persons desirous of contracting matrimony, are, in order to have the ceremony legally performed, obliged to travel a considerable distance over mountains difficult to pass, and often infested with hostile Indians:

Preamble.

II. *BE it therefore enacted by the General Assembly of Virginia*, That from and after the passing of this act, it shall and may be lawful for the courts of the said counties to appoint two persons in each of the said counties, who shall be residents within the county from the court whereof they shall have received their appointments, who by virtue of this act shall be authorized to celebrate the rites of marriage wherein they respectively reside.

Courts of certain counties to appoint persons to celebrate the rites of matrimony in their respective counties. Persons so appointed, how to be qualified.

III. *THAT* every person so appointed, before entering into the execution of his office, shall take the oath of fidelity to the commonwealth, and enter into bond with sufficient security, in the sum of fifteen hundred dollars, payable to the governor for the time being, and his successors, for the true and faithful performance of his trust, whereupon, such court is hereby required to grant to the person so appointed, a certificate in the following form, given under the hand and seal of the then sitting judge, or senior magistrate, and attested by the clerk, to wit:

THIS shall certify to all whom it may concern, that at a court held for the county of
on the *day of* *in the year of our Lord* *, A. B. took the oath of*
fidelity to this commonwealth, and having entered into bond and security, agreeable to an act, intituled, "An act, to amend the act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy," is hereby authorized to celebrate within the county of
, the rites of marriage between persons desirous of contracting the same:

Form of certificate to be given them.

And every testimonial so obtained, shall be considered as a good and sufficient authority to celebrate the rites of marriage within the county from the court whereof the testimonial is obtained, between persons regularly applying therefor.

1794.

Not to marry persons without publication of banns, or a license. To be subject to the same penalties for breach of their duty as ordained ministers.

IV. *PROVIDED*, That any person so appointed, shall in no instance celebrate the rites of marriage, until the due publication of banns, or in consequence of a license duly obtained: And if he should celebrate the rites of marriage when forms and provisions of law have been dispensed with, which are necessary to be observed when marriage is celebrated by an ordained minister, he shall be subject to the same penalties as are in such instances inflicted on ordained ministers, recoverable in the manner, and liable to the action of the party aggrieved, as is directed by the act, intituled, "*An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.*"

Removing out of the county, others to be appointed in their stead.

V. AND if any person so appointed by the courts aforesaid, or either of them, shall die or remove out of the county, it shall be lawful for the said courts or either of them, to appoint some person in lieu of the person so dying or removing, who shall qualify to the performance of his trust in the manner before directed, and shall be subject to the same penalties and actions, and by the same mode of recovery above pointed out.

To be allowed the same fees as ordained ministers. To return to the clerk's offices certificates of the marriages celebrated by them.

VI. *AND be it further enacted*, That any person appointed to celebrate the rites of marriage by virtue of this act, shall be entitled to the same fees and liable to the same actions, in case of refusal to celebrate the same between persons legally applying therefor, as are given to or against ordained ministers in similar circumstances by virtue of the above recited act, and that he shall return to the clerk of the county a certificate of every marriage by him celebrated, a record whereof shall be kept by the clerk as is directed by law when the marriage ceremony has been performed by an ordained minister.

C H A P. CLXX.

An Act to amend an Act, "Reducing into one the several Acts concerning Wills, the Distribution of Intestates Estates, and the Duty of Executors and Administrators."

[Passed the 5th of December, 1794.]

What portion of the father's estate shall be allotted to children born after the making of their father's will, in which they are pretermitted, where they are not provided for by settlement.

I. *BE it enacted by the General Assembly*, That if a testator having a child or children born at the time of making and publishing his last will and testament, shall at his death leave a child or children born after the making and publishing of his said last will and testament, the child or children so after born, if such child or children be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate as such child or children would have been entitled to if the father had died intestate; towards raising which portion the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament, in the same manner as is provided in the case of posthumous children.

Executors not to sell their testator's slaves for payment of debts, unless the

II. AND whereas by an act, intituled, "*An act reducing into one, the several acts concerning slaves, free negroes, and mulattoes,*" it is enacted, "That all negro and mulatto slaves "in all courts of judicature within this commonwealth, shall be held, taken and adjudged "to be personal estate:" And whereas by the act "*Reducing into one the several acts concerning wills, the distribution of intestates estates, and the duty of executors and administrators,*" it is also enacted, "That executors and administrators, whether it be necessary "for payment of debts or not, shall as soon as convenient after they are qualified, sell at "public sale all such goods of their testator or intestate, specific legacies excepted, as are "liable to perish, be consumed, or rendered worse by keeping:" And whereas doubts may arise whether as slaves being personal estate, are perishable and liable through age or sickness to be rendered of less value by keeping, executors and administrators are not bound to sell the same whether it be necessary for the payment of debts or not: For declaring the law touching the same, *Be it further enacted*, That executors and administrators shall not sell the slaves of their testators or intestates, unless the other part of the personal estate, regard being had to the privilege of specific legacies, shall not be sufficient for paying the debts and expences, and in that case such part only of the slaves shall be sold as shall be

sufficient to satisfy the debts and expences, and the residue of the slaves shall be reserved in kind for the legatees or distributees, of their testators or intestates respectively.

III. THIS act shall commence and be in force from the passing thereof.

1794.
other personal
estate is insuf-
ficient.
Commence-
ment of this
act.

C H A P. CLXXI.

An Act to amend the Act, intituled, "An Act reducing into one the several Acts for punishing Persons guilty of certain Thefts and Forgeries."

[Passed the 8th of December, 1794.]

I. **B**E it enacted by the General Assembly, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wittingly act or assist in the false making, forging or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, or any acquittance or receipt either for money or tobacco, or other valuable thing, or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, or shall utter or publish as true, any false, forged or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, acquittance or receipt for money, tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, knowing the same to be false, forged, or counterfeited, then every such person being thereof legally convicted, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.

Felony with-
out benefit of
clergy, to
counterfeit or
assist in coun-
terfeiting any
deed, will,
bond, bill,
note, acquit-
tance or re-
ceipt, or as-
signment of
any bond, bill,
&c.
Or to utter or
publish as true
any such coun-
terfeited deed,
will, bond,
bill, note, &c.
or assignment
thereof.

II. THIS act shall commence and be in force from and after the last day of *March* next.

Commence-
ment of this
act.

C H A P. CLXXII.

An Act to amend the Act, to reduce into one the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.

[Passed the 12th of December, 1794.]

I. **B**E it enacted by the General Assembly, That every guardian appointed by the last will and testament of any person which shall be legally proved and recorded in any court, shall before he exercises any authority over the minor or his estate, appear openly in such court and declare his acceptance of the guardianship, which shall be recorded, and shall give bond with such security as the court may approve of in the same manner as statutory guardians, unless it is otherwise directed by the testator's will, and at the first or second session thereafter, he shall deliver into such court an inventory upon oath of all the estate which he shall have received, and within two successive courts after the receipt of any other estate of the ward, an inventory of such estate to be entered in the book directed to be kept concerning other guardians, and every testamentary guardian shall exhibit to such court once in every year, which if it be a county or corporation court, shall be in *September*, or at the next session if there be none in that month, or oftener if specially required by the court, accounts of the produce and profits of the estate of the ward, and of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof, to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the court, shall with such certificate or confirmation be recorded in the book aforesaid: And if any article of such accounts at any time afterwards be except-

Testamentary
guardians to
give bond and
security before
they exercise
any authority
over their
wards;
unless it is
otherwise di-
rected by the
will.
When they
are to deliver
into the court
an inventory
of their wards
estates; and
accounts of
their receipts
and disburse-
ments.
Their ac-
counts to be
examined, &
if approved
and confirmed
to be recorded.

1794.

Exceptions
thereto, how
to be made.

ed to by the ward or his representatives, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts that such article would be excepted to, and a memorandum of that notice and the exception shall have been entered on record.

When they
may be dis-
placed by the
court and
others ap-
pointed.
Court to ap-
point guardian
when the tes-
tamentary
guardian being
summoned re-
nounces the
guardianship.

II. THE court aforesaid if a testamentary guardian shall appear to have been guilty of a flagrant abuse of trust, may displace him and appoint some other person or persons under the like rules and regulations as are prescribed by law in cases of statutory guardians.

III. EVERY testamentary guardian who shall fail or neglect to appear before the court in which the last will and testament of his testator shall be proved and recorded, within the space of six months thereafter, may be summoned and compelled to declare his acceptance or renunciation of the trust, and if every of the guardians appointed in any such last will and testament shall renounce the same, which renunciation shall be recorded, the said court may and shall thereafter proceed to appoint and qualify some other person or persons to the guardianship, in like manner as if no such testamentary guardian had been nominated in such last will and testament.

Proceedings
against testa-
mentary guar-
dians failing
to deliver in
their accounts.

Penalty on the
justices for
neglect.

IV. A TESTAMENTARY guardian who shall not deliver in such inventory and render such accounts as aforesaid, shall by order of the court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty or be displaced, for which purpose the summons or other process from a county or corporation court may be directed to, and shall be executed by the sheriff of any other county wherein the guardian may be found; and every justice of the court fitting therein at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced.

On the death
of a guardian,
debt due to his
ward to be
first paid.

V. THE estate of a testamentary guardian not under a specific lien, shall after the death of the guardian be liable to whatsoever may be due from the guardian to his ward, before any other debt due from such guardian.

Balance due to
the guardians
for disburse-
ments, to be
debited in the
account of the
ensuing year,
or paid out of
the infant's
personal es-
tate.
When and
how such es-
tate shall be
sold for that
purpose.
Balance due to
the ward, how
to be disposed
of.

VI. IF a testator shall omit to direct the sum of money, or the fund to be applied to the maintenance and education of his infant, and if the disbursements of the testamentary guardian, or other guardian being suitable to the estate and circumstances of the ward, shall exceed the profits of his or her estate in any year, the balance with the allowance of the said court may be debited in the account of a succeeding year, and paid out of the personal estate of the infant, and so much and such part thereof may with the approbation of the court, be sold at public auction to the highest bidder, after reasonable notice has been given of the time and place of such sale for that purpose as shall be necessary, and the balance appearing on the contrary side may be put out to interest for the benefit of the ward, upon such security as the court shall direct and approve, or the guardian if it remain in his hands shall account for the interest, to be computed from the time his accounts were or ought to have been passed.

Power of tes-
tamentary
guardians to
lease their
wards lands.

VII. IT shall be lawful for the testamentary guardian, provided there be no prohibition in the last will and testament, to make a lease of any lands, tenements, or hereditaments belonging to his ward, reserving the best annual rent and most beneficial covenants for any term, ending when the ward shall arrive to the age of twenty one years, or continuing beyond that time as the ward shall elect.

Of statutory
guardians.

VIII. AND it shall be lawful for every statutory guardian in like manner to make a lease of any lands, tenements or hereditaments, belonging unto his ward, for any term, so that the same does not exceed that period, when his said ward shall arrive at the age of fourteen years.

Testamentary
guardians may
by order of
the court of
chancery, ex-
ecute such
deeds as their
wards could if
of age.

IX. A TESTAMENTARY guardian if his ward be a trustee or mortgagee of any lands, tenements or hereditaments, upon petition of one or more of the parties interested, to the high court of chancery, by order of such court to be made after hearing, may execute any deed, or perform any other act, which the trustee or mortgagee if of full age might or could execute or perform, and such deed or other act shall be valid, except that he shall not be bound by a warranty or other covenant contained in the deed.

X. A TESTAMENTARY guardian shall have the power under the same regulations to make or take a surrender of a former lease, and to take or make a new lease as are prescribed and granted to a statutory guardian, unless inconsistent with the last will and testament, subject however to be determined or continued by the ward after he or she arrives to full age.

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To have the same power to receive surrenders of leases, and to make others a statutory guardians.

XI. IT shall be lawful for the court having cognizance of the accounts of any guardian, whether statutory or testamentary, upon passing the same, to make such allowance to the guardian as it shall deem a reasonable compensation for his attention, care and trouble.

Courts may in passing guardians accounts make them a reasonable allowance.

XII. WHERE an orphan shall have an estate, the profits of which are insufficient for his or her support, and yet is of such tender years, that the overseers of the poor cannot prevail upon a proper person to accept of the same orphan as an apprentice, it shall and may be lawful for the guardian or curator, with the approbation of the court, to take from the personal estate of his ward such sums of money as are necessary for the immediate support of the orphan, until he or she shall arrive at an age when the overseers of the poor can find a suitable master or mistress for him or her. The courts of each county respectively shall have full power at their discretion, to direct the overseers of the poor to covenant with the master or mistress of any apprentice bound to serve under their order, that a sum not exceeding twenty dollars shall be paid to the said apprentice, instead of the sum of twelve dollars heretofore allowed by law.

Where the court may direct part of an orphan's estate to be sold for his support. Courts may direct overseers of the poor in binding out orphans, to covenant for the payment to the apprentice of any sum not exceeding twenty dollars. Commencement of this act.

XIII. THIS act shall commence and be in force from and after the first day of March next.

C H A P. CLXXIII.

An Act concerning Prison Breakers.

[Passed the 13th of December, 1794.]

I. WHEREAS it hath been held that by the common law, the offence of breaking a jail or prison is in all cases felony:

Preamble.

II. BE it therefore enacted by the General Assembly, That none from henceforth who being in actual jail, breaketh prison, shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convicted thereupon, according to the law of the land.

In what cases breaking prison shall be felony.

III. THIS act shall commence and be in force from the passing thereof.

Commencement of this act.

C H A P. CLXXIV.

An Act concerning Debtors and their Securities.

[Passed the 23d of December, 1794.]

I. WHEREAS in many instances creditors have delayed to commence actions on bonds, bills, or promissory notes, executed to them for tobacco or money, until the principal debtor or debtors of such creditors either becoming insolvent or migrating from this commonwealth, the innocent securities of such debtor or debtors have been ultimately compelled to discharge the amount of the money or tobacco due by such bill, bond, or note, without the possibility of being afterwards reimbursed by such principal debtor or debtors: For remedy whereof,

Preamble.

II. BE it enacted by the General Assembly, That when any person or persons shall hereafter become bound as security or securities by bond, bill, or note, for the payment of money or tobacco, and shall apprehend that his or their principal debtor or debtors is or are likely to become insolvent, or to migrate from this commonwealth, without previously discharging such bond, bill, or note, so that it will be impossible or extremely difficult for

When securities in bonds may require the creditors to commence suits thereon.

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Creditors failing to do so, to lose their remedy against the securities.

such security or securities after being compelled to pay the amount of the tobacco or money which may be due by such bond, bill, or note, to recover the same back from such principal debtor or debtors, it shall and may be lawful for such security or securities, in every such case, provided an action shall have accrued on such bond, bill, or note, to require by notice in writing of his or their creditor or creditors, forthwith to put the bond, bill, or note, by which he or they may be bound as security or securities as aforesaid, in suit; and unless the creditor or creditors so required to put such bond, bill, or note, in suit, shall in a reasonable time commence an action on such bond, bill, or note, and proceed with due diligence in the ordinary course of law to recover a judgment for, and by execution to make the amount of the tobacco or money due by such bond, bill, or note, the creditor or creditors so failing to comply with the requisition of such security or securities, shall thereby forfeit the right which he or they would otherwise have to demand and receive of such security or securities the amount of the money or tobacco which may be due by such bond, bill, or note.

Securities and their executors may proceed in the same manner with the executors of the creditor.

III. ANY security or securities, or in case of his or their death, then his or their executors or administrators, may in like manner and for the same cause make such requisition of the executors or administrators of the creditor or creditors of such security or securities, as it is herein before enacted may be made by a security or securities of his or their creditor or creditors; and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid being duly made, the security or securities, his or their executors or administrators, making the same, shall have the same relief that is herein before provided for a security or securities when his or their creditor or creditors shall be guilty of a similar failure.

Bonds with collateral conditions & those given by guardians, executors and public officers excepted. Creditors remedy against his principal debtor, to be affected. Commencement of this act.

IV. *PROVIDED always*, That nothing in this act contained shall be so construed as to affect bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, administrators, or public officers.

V. *AND provided also*, That the rights and remedies of any creditor or creditors against any principal debtor or debtors, shall be in no wise affected by this act. Any thing therein to the contrary, or seeming to the contrary, notwithstanding.

VI. THIS act shall commence and be in force, from and after the first day of *March*, which shall be in the year of our Lord, one thousand seven hundred and ninety-five.

C H A P. CLXXV.

An Act supplementary to the Act, intituled, An Act to empower Securities to recover Damages in a summary Way."

[Passed the 23d of December, 1794.]

How securities in bonds, on which executions may be awarded without judgment, may proceed against their principals.

I. **B**E it enacted by the General Assembly, That in all cases where execution hath been or shall hereafter be awarded or issued in any of the courts of record within this commonwealth, against any person or persons as security or securities, his, her, or their heirs, executors, or administrators, upon any bond, obligation, or recognizance upon which by the laws of this commonwealth execution can be so awarded or issued without judgment, and the amount of such bond, obligation, or recognizance, or any part thereof, or the debt or damages due by reason thereof, or any part thereof, hath been paid or discharged under the said execution issued thereon by such security or securities, his, her, or their heirs, executors, or administrators, it shall and may be lawful for such security or securities, his, her, or their heirs, executors, or administrators, to obtain judgment by motion against such principal obligor or obligors, recognizor or recognizers, his, her, or their heirs, executors, or administrators, in any court where such execution may have been awarded or issued against such security or securities, his, her, or their heirs, executors, or administrators.

How they may proceed against those

II. *AND be it further enacted*, That where the said principal obligor or obligors, recognizor or recognizers, have or hereafter shall become insolvent, and there have been, or

shall be two or more securities jointly bound with the said principal obligor or obligors, recognizer or recognizers, in any such bond, obligation, or recognizance, and execution shall be awarded or issued thereon against one or more of such securities, and his or their legal representatives, it shall and may be lawful for the court in which such execution was awarded or issued, upon motion of the party or parties, his or their legal representatives, against whom execution hath been awarded or issued as aforesaid, to award or issue execution against all and every of the obligors and recognizers, and legal representatives, for their and each of their respective shares and proportions of the said debt or damages due by reason of the said obligation or recognizance. *Provided always*, That no judgment shall be obtained or execution awarded or issued by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice in writing thereof.

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who were
bound with
them as secu-
rities.

III. ALL judgments entered, and executions awarded and issued by virtue of this act, shall be enforced under the like regulations with judgments under the act, intituled, "*An act to empower securities to recover damages in a summary way*,"

Executions on
the judg-
ments, how
to be enfor-
ced.

IV. THIS act shall commence and be in force, from and after the passing thereof.

Commence-
ment of this
act.

C H A P. CLXXVI.

An Act to continue and amend the Act, intituled, "An Act for further continuing and amending the Act, intituled, An Act for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors."

[Passed the 24th of December, 1794.]

I. **B**E it enacted by the General Assembly of Virginia, That the act, intituled, "*An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning executions, and for relief of insolvent debtors*," passed in the year one thousand seven hundred and ninety-three, shall be, and the same is hereby continued in force, until the first day of January, one thousand seven hundred and ninety-six.

Act of 1793,
concerning
executions
continued un-
til the 1st of
January 1796.

II. *AND* be it further enacted, That if any person shall hereafter be taken or charged in execution in any suit commenced or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation, to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before any two justices of the county or corporation, to whose jail he may be committed, at the courthouse of such county or corporation, on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey, and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such person or persons shall be in execution; and the said justices shall have full power to administer the oath heretofore required by law to such prisoner or prisoners, and to release him or them in the manner and under the regulations and provisions prescribed by the said recited act.

Justices of any
county may
administer the
oath to an in-
solvent debtor
committed to
the jail of such
county.

III. *AND* be it further enacted, That if any sheriff or other officer shall fail to deliver to the creditor, his agent or attorney, or other legal representative, on demand, any bond taken for the forthcoming of property, or any twelve months bond taken under the above recited act, or return the same to the office from whence the execution issued, within sixty days from the return day of the execution, such sheriff or other officer, his executors or administrators shall be liable to the same fine and penalty for every month of such failure, to be recovered in the same manner by the party injured, as is directed by law against a sheriff failing to return an execution.

Penalty on a
sheriff failing
to deliver a
forthcoming
or replevy
bond to the
plaintiff on de-
mand, or to
return it with-
in 60 days to
the clerk's of-
fice.

IV. ON a sale under execution upon twelve months credit, where the amount of such sale shall exceed the principal, interest and costs, if the sheriff or other officer shall fail to

Mode of pro-
ceeding a-
gainst a sheriff

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failing to take a bond for the excess, on a sale on 12 months credit.

take a twelve month's bond for such excess as directed by the twenty-sixth section of the above recited act, such sheriff or other officer so failing, his executors or administrators, shall be liable to the debtor or his legal representatives for the full amount of such excess, to be recovered in the same manner as is directed by law against a sheriff failing to pay money received on an execution.

Obligees and assignees remedy on replevy bonds.

V. THE obligee or obligees, in a twelve month's replevy bond, shall and may have the like remedy thereon, by *fiery facias*, against the executors or administrators of a deceased obligor or obligors, as such obligee or obligees may now have against the obligor or obligors themselves; and that every assignee or assignees, and the executors or administrators of every assignee of such bond, shall be entitled to the like remedy thereon, as by law is given to the executors or administrators of the first assignee thereof.

Plaintiff may sue out new execution when a replevy or forthcoming bond is quashed.

VI. IF a replevy or forthcoming bond be at any time quashed as faulty, the obligee or obligees in such bond, besides his or their remedy against the sheriff, may moreover have execution on his or their judgment, in the same manner as if such replevy or forthcoming bond had never been taken.

Writs of *elegit* and *capias ad satisfaciendum* may be issued on replevy bonds, &c.

VII. ALL persons who have or shall hereafter have any money or tobacco due on a twelve month's replevy bond, or bond taken for the excess on a sale under execution upon twelve months credit, may at their election after lodging the same in the clerk's office, with an affidavit as directed by law, prosecute as well the writs of *elegit* and *capias ad satisfaciendum* thereon, as the writ of *fiery facias* now given by law; on which writs of *elegit* and *capias ad satisfaciendum*, the same rules and regulations shall be observed, as are by law established, when issued on judgments. *Provided*, That if any person or persons taken on any such *capias ad satisfaciendum*, after twelve months replevy, shall tender to the sheriff or other officer serving the same, slaves or other personal property, to the value of the debt and costs for which such execution has issued, or may hereafter issue, the sheriff or other officer shall not take any security, either to have the goods forthcoming at the day of sale, or for the payment of the money or tobacco at a future day, but shall proceed to sell the same, or sufficient thereof to raise the money or tobacco mentioned in the said execution.

Remedy against executors and securities of a sheriff failing to return an execution, &c. in due time.

VIII. IF any sheriff or other officer shall fail to return any execution whatever or attachment for not performing a decree in chancery, to the office from whence the same issued, on or before the return day thereof, the executors or administrators of such sheriff or other officer, as well as the securities of such sheriff or other officer, and the executors or administrators of such securities, shall be liable to like fine and penalty, recoverable in the same manner as by law is directed against a sheriff himself failing to return an execution.

No execution to be returned without an indorsement thereon, how it hath been executed.

IX. NO sheriff or other officer shall return any execution or attachment for not performing a decree in chancery to the office from whence the same issued, without noting thereon how he hath executed the same, unless by the express directions in writing of the plaintiff, his agent or attorney; and if any sheriff or other officer having no such directions, shall return any such execution or attachment to the office from whence the same issued, without noting or endorsing thereon how he hath executed the same, such sheriff or other officer, and his securities, and the executors or administrators of all and every of them, shall in every such case be liable to the like fine, and recoverable in the same manner as is directed by law against a sheriff failing to return an execution.

Allowance to sheriffs for support of slaves and live stock taken in execution.

X. WHEN any sheriff or other officer shall provide sustenance for the support of slaves, horses, or other live stock, by virtue of the twentieth section of the above recited act, the said sheriff or other officer in lieu of the mode thereby provided for obtaining compensation therefor, shall be allowed *per* day for each slave fifteen cents; for each horse or mule twelve cents; and for each head of horned cattle five cents; which allowance the said sheriff or other officer shall charge to the plaintiff, to be collected in same manner as commissions arising on executions, and shall be paid by the defendant to the plaintiff, to be taxed in the bill of costs by the said sheriff or other officer.

Sheriffs to include their

XI. *AND be it further enacted*, That every sheriff or coroner (as the case may be) shall be allowed for taking every bond to the creditor sixty-two cents, and no more; and that

every sheriff or coroner may include his commissions in forthcoming and replevy bonds taken on any writ of execution; but he shall not demand or receive such commissions on forthcoming bonds, unless the same shall be forfeited.

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commissions in forthcoming and replevy bonds.

XII. *PROVIDED always*, That where any fine or penalty is inflicted on the executors or administrators of any sheriff by this or the above recited act, the same shall be considered to affect only the assets in their hands as executors or administrators.

Fines and penalties on executors of sheriffs, to affect only the assets in their hands.

XIII. SO much of the thirty-eighth section of the said recited act as is contrary hereto, shall be, and the same is hereby repealed.

Part of the 38th sect. of the act of 1793, repealed.

XIV. THIS act shall commence and be in force, from and after the thirty-first day of *December*, one thousand seven hundred and ninety-four, until the first day of *January*, one thousand seven hundred and ninety-six.

Commencement and duration of this act.

C H A P. CLXXVII.

An Act to amend the Act for regulating Pilots, and ascertaining their Fees.

[Passed the 24th of December, 1794.]

I. **B**E it enacted by the General Assembly, That every master of a vessel, carrying a pilot to sea, shall pay to such pilot the same wages as the mate of such vessel receives.

Pilots carried to sea, to receive the same wages as the mate.

II. EVERY pilot hereafter applying for a branch, shall, previous to obtaining the same, enter into bond, with such security as the commissioners may approve, in the sum of eight hundred dollars.

Pilots hereafter obtaining branches, to give bond and security.

III. NO pilot residing in another state shall be allowed to act as a pilot in any boat belonging to this state; and if any such person shall presume to act, he shall be liable to the same penalty for each offence as is imposed by law on such as violate the terms of their branch and respective class, to be recovered in like manner.

Pilots residing out of the state, not to act in any boat belonging to this state.

IV. EVERY pilot being requested by the owner or master of a vessel, and attending the same with his boat, shall be allowed and paid the sum of five dollars for each day he shall attend.

Allowance to pilots for each day they attend a vessel at the master's request.

V. EVERY pilot taking charge of any ships of war, shall receive the following prices in lieu of the pilotage heretofore allowed, that is to say: For all ships of war above fifty guns, from *Cape Henry* to *Hampton Road*, sixteen dollars; for all ships under fifty and above twenty guns, twelve dollars; from *Cape Henry* to *York town* for all ships above fifty guns, twenty dollars; for all ships under fifty guns and above twenty guns, fifteen dollars; from *Cape Henry* to any river on *Mockjack* bay, twenty dollars; from the *Cape* to *Smith's* point on *South Patowmac*, forty dollars, and the same back again.

Rates of pilotage for ships of war.

VI. EVERY pilot shall be allowed and paid for the pilotage of any vessel above seventy tons, and coming from sea, one fourth in addition to the sums allowed by law.

One fourth added to the pilotage of certain vessels.

VII. SO much of any act or acts as comes within the purview of this act, is hereby repealed.

Repealing clause.

VIII. *PROVIDED*, That nothing herein expressed shall affect the rate of pilotage as established by law from the *Capes* to the different places up the *Patowmac* river, which shall remain as estimated in the law passed in one thousand seven hundred and ninety-two.

Exception as to vessels going from the capes up *Patowmac*.

IX. THIS act shall commence and be in force, from and after the first day of *March* next.

Commencement of this act.

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C H A P. CLXXVIII.

An Act for the Support of the Marine Hospital.

[Passed the 25th of December, 1794.]

Taxes imposed on all failors coming into the ports of this commonwealth.

When and how to be collected.

I. **B**E it enacted by the General Assembly, That a tax of thirty cents shall be, and is hereby imposed on every failor, to be paid by the captain, master or owner of the vessel on her return from a voyage at the time of making entry of such vessel.

II. EVERY captain, master or owner of a vessel on his return from a voyage, shall at the time of entering his vessel, give in upon oath to the collector a list of the names of failors in his vessel, and moreover pay down the tax hereby imposed, to be by him deducted out of their wages. If the captain, master or owner shall fail to give in such list, he shall forfeit and pay the sum of forty dollars, to be recovered by the collector with costs on motion in any court of record in this commonwealth, provided the party has ten days previous notice of such motion. If the captain, master or owner of any vessel shall fail to pay down the amount of the tax as aforesaid, it shall be lawful for the collector, and he is hereby required to recover the same by warrant, before a magistrate, where the sum doth not exceed five dollars, and where it exceeds that sum, by motion as before directed in case of failure to give in a list.

Collectors to give bond and security for collecting and accounting for the said tax.

To render accounts thereof quarterly to the treasurer. Their commissions.

III. EVERY collector in this commonwealth on or before the first day of *March* next, shall enter into bond with sufficient security in the court of the county where he resides, in the penalty of four thousand dollars, payable to the Governor and his successors, with condition for the due and faithful accounting for and paying all such sums of money as shall or may come to his hands by virtue of this act. Every collector shall render such account quarterly to the treasurer of the commonwealth, and pay to him the money he shall have received by virtue of this act, deducting a commission of two and an half for his trouble in collecting and paying the same, and on failure thereof, such collector shall forfeit and pay the sum of eight hundred dollars, to be recovered by the treasurer in any court of record in this commonwealth by motion, provided the collector has ten days previous notice of such motion.

Money received by virtue of this act to be applied to the support of the marine hospital in *Washington*, in *Norfolk* county. Ports in which the tax is payable.

IV. ALL monies received by the treasurer in virtue of this act shall be applied under the direction of the Executive towards finishing and supporting the Marine hospital in the town of *Washington*, in the county of *Norfolk*: *Provided*, that no seaman or mariner whatever, who shall arrive in any port of this commonwealth, (other than into the ports on *James*, *York*, *Rappahannock* and *Elizabeth* rivers) shall be considered as coming within the purview of this act. Any thing herein contained to the contrary notwithstanding.

C H A P. CLXXIX.

An Act to amend the Act for regulating Conveyances.

[Passed the 25th of December, 1794.]

Preamble.

I. **W**HEREAS it is enacted in the fifth section of the act, intituled, "*An act for regulating conveyances*," passed the thirteenth day of *December*, in the year of our Lord, one thousand seven hundred and ninety-two, in the following words, to wit: "If the party who shall sign and seal any such writing reside not in *Virginia*, or in the district or county where the lands conveyed lie, the acknowledgment of such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any court of law, or the mayor or other chief magistrate of any city, town, or corporation of the county in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court, to be recorded within eighteen months after sealing and delivering, where the party resides out of this commonwealth, and within eight months after the sealing and delivery, where the party resides within this commonwealth, shall be as effectual as if it had been in the last mentioned court:" And whereas

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the operation of the said act is found not to be coextensive with the intent thereof, by reason that some of the subdivisions of the United States, as well as of other countries, are not denominated by the term of counties :

II. *BE it therefore enacted*, That if any party who shall sign and seal any such writing as is contemplated in the section aforesaid, reside not in *Virginia*, the acknowledgment by such party, or the proof by the number of witnesses requisite of the sealing and delivering of the writing before any court of law, or the mayor or other chief magistrate of any city, town, or corporation, of and in the country in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court to be recorded within two years after the sealing and delivering, shall be as effectual as if it had been done in the last mentioned court.

How deeds, &c. made by persons residing out of the State, may be proved and recorded.

III. THIS act shall commence and be in force from the passing thereof.

Commencement of this act.

C H A P. CLXXX.

An Act to amend an Act, intituled, "An Act concerning Escheators."

[Passed the 26th of December, 1794.]

I. **W**HEREAS a contrariety of opinion hath prevailed respecting the construction of an act of the General Assembly of this commonwealth, passed *November* thirtieth, one thousand seven hundred and ninety-two, intituled, "*An act concerning escheators*;" and it is proper that the said act should be so explained and amended as to prevent any doubts in the exposition thereof in future:

Preamble.

II. *BE it enacted by the General Assembly*, That each and every inquest hereafter to be taken under the said in part recited act, shall consist of sixteen freeholders, who shall be returned and impannelled by the sheriff of the county, to meet at the courthouse of the said county where the inquest is taken, who shall suffer every person to give evidence openly in the presence of the said jurors; and the said inquisition so taken, shall be by indentures to be made between the escheator and any twelve or more of the inquest; whereof the counter part shall remain in the possession of the first person that shall be sworn in the said jury, and by him shall be returned to the court of the same county, there to be recorded, and the other part sealed by the jurors agreeing in their verdict, shall by the escheator be sent into the court of the district in which the land lieth, within one month after the inquest taken; and the same proceedings shall then in every case and manner be pursued as is directed in the said act.

How many jurors shall be impannelled on each inquest. Where they shall meet. Inquisitions when taken, how to be disposed of.

III. AND where the escheator proceeds to a sale of lands under the provisions in the said act, the same shall be sold at public vendue, at the courthouse of the county wherein the said land lieth, either by the whole tract, or in such manner as in his opinion will increase the value thereof.

How and when escheated lands shall be sold.

IV. THIS act shall not be construed to repeal any part or parts of the aforesaid act, other than such as are rendered nugatory by the express directions of this act.

How far this act is to affect the act of 1792 concerning escheators. Escheators fees, and commissions.

V. AND whereas no allowance hath been provided by law for the services required to be performed by the several escheators of this commonwealth, and some allowance being adjudged reasonable, *Be it therefore enacted*, that for each inquest taken by any escheator on behalf of this commonwealth, such escheator shall be allowed the sum of five dollars, to be paid out of the fund charged with the payment of the civil list; and that he shall also be allowed a commission of five *per cent.* on all sums by him received by virtue of his office, and which shall be paid into the public treasury by him.

VI. AND it is hereby declared to be the duty of the attorney prosecuting for the commonwealth, in any and every county therein, to prosecute such inquest; and such attorney for his trouble and expence, shall be allowed the sum of five dollars for every inquest and office found he shall attend, to be paid by the auditor of public accounts out of the aggregate fund.

Attorney for the commonwealth to attend at the taking of inquests. Allowance to him.

VII. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

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C H A P. CLXXXI.

An Act authorising the Executive to remit the Damages and Fines incurred by Sheriffs and Collectors in certain Cases.

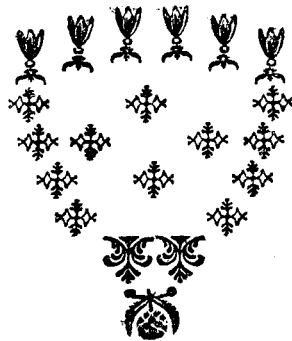
[Passed the 26th of December, 1794.]

Discretionary power vested in the Executive to remit damages, and fines incurred by public collectors. Proviso.

I. **B**E it enacted by the General Assembly, That when any application shall be made to the Executive by any sheriff or other collector of the public revenue, or their securities, or the representatives of either, for the remission of damages or fines incurred by them in favour of the commonwealth, the Executive shall be authorised to take into consideration the particular circumstances of each case, and may remit the whole or part of such damages or fines, as to them shall appear just and reasonable. *Provided*, That before any damages, or any part thereof shall be remitted, that the applicant shall produce a certificate from the auditor of public accounts, that the principal, interest and costs have been paid into the public treasury.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.



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When bail is not requirable thereon, the sheriff may take the engagement of an attorney to appear for the defendant, -	93
----- penalty on the attorney failing in such case to appear, -	104
Duly served valid, altho' not directed to any sheriff -	119
Writs and other process to be served by sheriffs in their counties, and on the bays, rivers and creeks adjoining thereto; -	129
When the officer may return that the defendant is not found, -	129
Not to be served on <i>Sunday</i> , or upon any person attending musters, elections, or as witnesses, except in cases of treason, felony, breach of the peace, escape, &c. -	130
Deputy sheriffs to endorse the time when served, and their own, and their principals names, -	131
When to be served by the coroner, -	134

THE END.