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L A W S

OF THE

Legislat. c. 1821.

STATE OF MAINE:

To
10
TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

WITH AN APPENDIX.

HALLOWELL:

PRINTED AND PUBLISHED BY GOODALE, GLAZIER & CO.

.....

1822.

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1856 Nov 17



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In this Edition of the Laws, the following alterations in and
ade, which makes
with the classifi-
Laws made by the
ty of the Legisla-
the Constitution of
pendix as in that
g Maine into the
Union is added in this edition, and follows the Law last men-
tioned—The Ordinance of the Convention, determining the
Style and Title of the State is likewise added, and immedi-
ately precedes the Constitution of the State.

The typographical errors as certified by the Secretary in the State Edition, have been carefully corrected in this.—Many supposed errors have been discovered in the Laws, which we should have wished to have seen corrected, if, with propriety, we could have assumed the authority to have done ✓ it. Two supposed errors, of some importance, are found in the Articles, or Terms of the Separation Law, as incorporated with the Constitution: One is an omission of the following clause at the end of the 19th line of the first Article, page 46 of this edition; viz. "*and prosecute as a party, under the name and style of the Commonwealth of Massachusetts:*" The other is in the sixth Article, and relates to the filling of the vacancies of the Commissioners provided for in that Article. The Secretary of State has been called on, upon the subject of these errors, and states that these "passages are printed as they stand in the engrossed copy of the Constitution of the State."—But they vary from the corresponding provisions, in the Separation Law contained in the printed Laws of both this State and Massachusetts.

There are many supposed verbal errors, as well as in punctuation, which, in some instances, render passages unintelligible as they stand; concerning some of *these*, inquiry has likewise been made of the Secretary of State, who states the

passages to be "correctly printed from the engrossed Bills," but to be "undoubtedly errors in engrossing."—These errors were to be regretted, but when we recollected that the Supreme Judicial Court of Massachusetts, as stated in one of the volumes of Massachusetts Reports, gave construction to a clause of an important Statute of that State by merely shifting a comma from one part of the clause to another, we felt unwilling to alter punctuation, and more so, to alter words.

From these remarks, we may learn, that care and attention in the Engrossing Committee of the Legislature are of more consequence to the public, than, if we may judge from their work, they have heretofore considered it.—As a specimen and result of the care and attention of this Committee, which generally consists in taking the Rolls of the engrossed Bills from the engrossing Clerks and putting them into the hands of the proper officer to be passed to be enacted, we would refer our readers to the last clause, under the head of "Coroners' Fees" in the Fee Bill, page 344 of this edition.

We shall in future publish the General Laws of every Session of the Legislature in such form as to correspond with this edition.

MAY 22, 1822.

[The following Resolve prefixed to the *Edition* of the LAWS published by direction of the Legislature of the State, from which this Edition is copied, shows at what Sessions of the Legislature the Laws contained in the same were passed, and the authority by which the Laws were classed, arranged, and chaptered.]

RESOLVE

Authorizing the Board of Jurisprudence to superintend the publication of the Laws. March 8, 1821.

RESOLVED, That the Board of Jurisprudence be, and they are hereby authorized to superintend and direct the printing of the Laws revised at the present Session of the Legislature, and to prefix thereto the Constitution of the United States, and of this State; classifying and arranging the whole, as to them may appear most convenient; and combining therewith, such of the Laws of the last Session, and the present Session, as are of a general nature; the whole to be accompanied with a suitable Index, Marginal Abstracts, References, and Table of Contents. And the said Board are hereby further empowered and directed to insert in an Appendix to the said Edition, such parts of the Laws by which the several Counties in this State have been erected, and their boundaries determined, as to them may appear necessary; and also such other Statutes or parts of Statutes, revised or not revised, as in their judgment may be useful and expedient.

1

CONSTITUTION

OF THE UNITED STATES.

.....

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. Preamble.

ARTICLE I.

SECTION I.

1. ALL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. Legislative powers vested in Congress.

SECT. II.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the Electors in each State shall have the qualifications requisite for Electors of the most numerous branch of the State Legislature. House of Representatives; its members; by whom chosen; qualifications of Electors.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen. A Representative to be aged 25 years; 7 years a citizen of the U. S. and an inhabitant of his State, when elected.

3. Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. Representatives and direct taxes to be apportioned according to numbers. Actual enumeration every ten years.

The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and, until Limitation of the ratio of Representatives, &c.

First apportionment of Representatives.

such enumeration shall be made, the State of *New-Hampshire* shall be entitled to choose three; *Massachusetts* eight; *Rhode-Island* and *Providence plantations* one; *Connecticut* five; *New-York* six; *New-Jersey* four; *Pennsylvania* eight; *Delaware* one; *Maryland* six; *Virginia* ten; *North-Carolina* five; *South-Carolina* five; and *Georgia* three.

Writs of election for filling vacancies.

4. When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

House of Representatives to choose their Speaker, &c.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECT. III.

Two Senators chosen by the Legislature of each State for 6 years; each a vote. [* See Art. 5, clause 1.]

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.*

The Senate divided into three classes.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

One third of the Senatorial seats vacated and filled every two years.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Executives of States to fill vacancies in the rooms of Legislatures, &c.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

A Senator to be aged 30 years; nine years a citizen of the United States, and an inhabitant of his State, when chosen.

Vice President to be President of the Senate, to vote on an equal division only. The Senate to choose their President pro-tempore, &c.

5. The Senate shall choose their other officers, and also a President pro-tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The sole power to try impeachments in the Senate, &c.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

Extent of judgment in cases of impeachment.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Party liable also to judgment, &c. according to law.

SECT. IV.

1. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

Times, &c. of holding elections for Senators and Representatives regulated by the States or by Congress. Congress to assemble annually on the first Monday in December, &c.

2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. V.

1. Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Each House to be judge of the election of its own members. Quorum.

2. Each House may determine the rules of its proceedings; punish its members for disorderly behaviour; and, with the concurrence of two thirds, expel a member.

Each House to determine its own rules, &c.

3. Each House shall keep a journal of its proceedings; and, from time to time, publish the same, excepting such parts as may in their judgment, require secrecy: and the yeas and nays of the members of either House, on any question, shall, at the desire of one fifth of those present, be entered on the journal.

Journals to be kept by each House and published, &c.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Adjournment of both Houses.

SECT. VI.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest, during their attendance at the session of their respective Houses, and in going to, or returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

Senators and Representatives to be paid, &c.

Privileged from arrest, &c.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office, under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either House, during his continuance in office.

Concerning the holding of offices by Senators and Representatives.

SECT. VII.

1. All bills, for raising revenue, shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

Revenue bills to originate in the House of Representatives, &c.

... of the
... of Congress in
the ... laws, and the
forms of pro-
ceeding on bills
in that respect.

2. Every bill, which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States. If he approve, he shall sign it: but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to re-consider it. If, after such re-consideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be re-considered; and if approved by two thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill, shall be entered on the journal of each House respectively. If any bill shall not be returned by the President, within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law.

Joint Resolutions except for adjournment, to receive the same sanction as Bills.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and, before the same shall take effect, shall be approved by him; or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. VIII.

The Congress shall have power—

Congress have power to lay taxes, &c.

1. To lay and collect taxes, duties, imposts and excises; to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money.
To regulate commerce.

2. To borrow money on the credit of the United States:

To establish the rules of naturalization, &c.

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

To coin money, &c.

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:

To provide for punishing counterfeiters.

5. To coin money; regulate the value thereof, and of foreign coin; and fix the standard of weights and measures:

To establish post offices, &c.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

To promote science, &c.

7. To establish post offices and post roads:

To constitute inferior tribunals; to define and punish piracies, felonies, &c.

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

9. To constitute tribunals inferior to the Supreme Court: To define and punish piracies and felonies committed on the high seas and offences against the law of nations:

- 10. To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water : To declare war, &c.
- 11. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years : To raise armies, &c.
- 12. To provide and maintain a navy : To provide a Navy, &c.
- 13. To make rules for the government and regulation of the land and naval forces : To make rules for government of army and navy.
- 14. To provide for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions : To provide for calling forth the militia.
- 15. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress : To provide for organizing the militia, &c.
- 16. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings : To exercise exclusive jurisdiction over a territorial district not exceeding 10 miles square.
- 17. To make all laws, which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof. To make all laws necessary to the execution of these powers.

SECT. IX.

- 1. The migration or importation of such persons, as any of the States now existing, shall think proper to admit, shall not be prohibited by the Congress, prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.* Importation of certain persons not to be prohibited until after 1808. [* See Art. 5, clause 1.]
- 2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it. Writ of habeas corpus recognized, &c.
- 3. No bill of attainder, or ex post facto law, shall be passed. No bills of attainder or ex post facto law.
- 4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken. Direct taxes according to census.
- 5. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of Commerce or revenue, to the ports of one State over those of another: nor shall vessels, bound to or from one State be obliged to enter, clear, or pay duties in another. No export duty, nor preference of one State to another in commerce.
- 6. No Money shall be drawn from the Treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time. Money to be expended by legal appropriation only.

No titles of nobility can be conferred by the U. States; nor can its officers accept presents, &c.

7. No title of nobility shall be granted by the United States. And no person, holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince or foreign State.

SECT. X.

Powers withdrawn from States individually.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder; ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

Powers which the States can exercise only under the sanction of Congress.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I.

Executive power vested in a President, &c.

1. The Executive Power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Electors of President and Vice-President, &c.

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives, to which the State may be entitled in the Congress; but no Senator, or Representative, or person holding an office of trust or profit under the United States shall be appointed an Elector.

Meeting of the Electors of President, &c.

3. *The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate, and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority and have an equal number of votes, then the House of Representatives shall*

Their proceeding.

immediately choose by ballot one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the States; and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there shall remain two or more, who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.*

* Annulled. See amendments, Art. 12.]

4. The Congress may determine the time of choosing the Electors and the day on which they shall give their votes; which day shall be the same throughout the United States.

Congress may determine the time of choosing Electors of President, &c.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President. Neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

The President to be natural born, or a citizen in 1788; aged 35 years; and 14 years a resident of the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

In case of vacancy in the office of President the Vice-President to act, &c.

7. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished, during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Compensation of the President.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

The President to take an oath.

9. "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Form of the oath.

SECT. 11.

1. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, for offences against the United States, except in cases of impeachment.

The President is Commander in chief, &c.

He may require written opinions from principal executive officers.

He can reprieve and pardon.

He may, in con-
junction with
the Senate,
make treaties,
appoint Am-
bassadors, &c.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur: and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they shall think proper, in the President alone, in the courts of law, or in the heads of departments.

Congress may
vest in ap-
pointments in
the President
or other
ways.

The President
may fill vacan-
cies during the
recess of the
Senate.

3. The President shall have power to fill up all vacancies that may happen, during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECT. III.

President to in-
form Congress
of the state of
the Union; may
recommend
measures; and
may receive
Ambassadors,
&c. He may, on
extraordinary
occasions, con-
vene both
Houses, or either
of them, and
may adjourn
them to such
time as he shall
think proper.

1. He shall, from time to time, give to the Congress information of the state of the Union; and recommend to their consideration such measures as he shall judge necessary and expedient.

He may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive Ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECT. IV.

President, &c.
may be removed
from office, on
impeachment
and conviction.

1. The President, Vice-President and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I.

Judicial power
vested in Su-
preme Court,
&c.

1. The Judicial power of the United States shall be vested in one Supreme Court, and in such Inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and Inferior Courts, shall hold their offices during good behaviour; and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Judges shall
hold their
offices during
good behav-
iour.

SECT. II.

Extent of the
Judicial power.

1. The Judicial Power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers, and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two

or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State, claiming lands under grants of different States, and between a State, or citizens thereof, and foreign States, citizens or subjects.*

[* See a restriction of this provision. Amendments Article 11.]

2. In all cases, affecting Ambassadors, other public Ministers, and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

Original and appellate jurisdiction of the Supreme Court.

3. The trial of all crimes, except in cases of impeachment, shall be by jury: and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places, as the Congress may by law have directed.

Trial of crimes to be by jury, &c.

SECT. III.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

Definition of treason.

Two witnesses necessary to conviction.

2. The Congress shall have power to declare the punishment of treason; but no attainer of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

Congress to declare the punishment of treason.

ARTICLE IV.

SECTION I.

1. Full faith and credit shall be given, in each State, to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Credit to be given in one State to the public acts, &c. of another.

SECT. II.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Reciprocity of citizenship throughout the States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive Authority of the State from which he fled, be delivered up, to be removed to the State, having jurisdiction of the crime.

Criminals fleeing from one State to another, to be delivered up on demand.

3. No person, held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

Runaway slaves, &c. to be delivered up.

SECT. III.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within

New States may be admitted into the Union, &c.

the jurisdiction of any other State—nor any State be formed by the junction of two or more States, or parts of States—without the consent of the Legislatures of the States concerned, as well as of the Congress.

Congress to have power over territory, &c.

Claims of the States, &c. not to be prejudiced.

Republican form of government guaranteed to each State, &c.

2. The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed, as to prejudice any claims of the United States, or of any particular States.

SECT. IV.

1. The United States shall guarantee to every State in this Union a republican form of government; and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened,) against domestic violence.

ARTICLE V.

Mode of amending this Constitution.

[* Concerning the importation of certain persons and direct taxes.]
[† See ante, Art. I. Sec. 3. clause 1.]

1. The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first* and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.†

ARTICLE VI.

Assumption of debts incurred under the confederation.

This Constitution, Acts of Congress, and Treaties, the Supreme Law, &c.
The State Judges bound thereby.

Senators, Representatives, &c. bound by oath or affirmation to support this Constitution.

No religious test required.

1. All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land: and the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all Executive and Judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same. Ratification of nine States sufficient, &c.

Done in Convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord, one thousand seven hundred and eighty seven, and of the Independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON, *President,*
and *Deputy from Virginia.*

NEW-HAMPSHIRE.

JOHN LANGDON,
NICHOLAS GILMAN.

MASSACHUSETTS.

NATHANIEL GORHAM,
RUFUS KING.

CONNECTICUT.

WILLIAM SAMUEL JOHNSON,
ROGER SHERMAN.

NEW-YORK.

ALEXANDER HAMILTON.

NEW-JERSEY.

WILLIAM LIVINGSTON,
DAVID BREARLEY,
WILLIAM PATTERSON,
JONATHAN DAYTON.

PENNSYLVANIA.

BENJAMIN FRANKLIN,
THOMAS MIFFLIN,
ROBERT MORRIS,
GEORGE CLYMER,
THOMAS FITZSIMONS,
JARED INGERSOL,
JAMES WILSON,
GOVERNOUR MORRIS.

Attest,

WILLIAM JACKSON, *Secretary.*

DELAWARE.

GEORGE READ,
GUNNING BEDFORD, JUN'R.
JOHN DICKINSON,
RICHARD BASSET,
JACOB BROOM.

MARYLAND.

JAMES M'HENRY,
DANIEL OF ST. THOMAS JENIFER,
DANIEL CARROL.

VIRGINIA.

JOHN BLAIR,
JAMES MADISON, JUN'R.

NORTH CAROLINA.

WILLIAM BLOUNT,
RICHARD DOBBS SPRAIGHT,
HUGH WILLIAMSON.

SOUTH-CAROLINA.

JOHN RUTLEDGE,
CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY,
PIERCE BUTLER.

GEORGIA.

WILLIAM FEW,
ABRAHAM BALDWIN.

IN CONVENTION, *Monday, Sept. 17, 1787.*

PRESENT,

The States of New-Hampshire, Massachusetts, Connecticut, Mr. HAMILTON, from New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South Carolina and Georgia:

1. RESOLVED, That the preceding constitution be laid before the United States in Congress assembled, and that it is Constitution to be laid before Congress, &c.

the opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the people thereof, under the recommendation of its Legislature, for their assent and ratification; and that each convention assenting to and ratifying the same, should give notice thereof to the United States, in Congress assembled.

Congress to fix a day appointing Electors of President, &c.

2. RESOLVED, That it is the opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which Electors should be appointed by the States which shall have ratified the same, and a day on which the Electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution: That after such publication, the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed and directed as the Constitution requires, to the Secretary of the United States in Congress assembled: That the Senators and Representatives should convene at the time and place assigned: That the Senators should appoint a President of the Senate, for the sole purpose of receiving, opening, and counting the votes for President: and that after he shall be chosen, the Congress, together with the President, should without delay proceed to execute this Constitution.

Mode recommended for carrying the Constitution into effect.

By the unanimous order of the Convention,

GEORGE WASHINGTON, *President.*

WILLIAM JACKSON, *Secretary.*

IN CONVENTION, *Sept. 17, 1787.*

SIR,

1. WE have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most advisable.

Letter from the Convention that framed the Constitution, to the President, of Congress.

2. The friends of our country have long seen and desired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correspondent Executive and Judicial Authorities, should be fully and effectually vested in the General Government of the Union; but the impropriety of delegating such extensive trusts to one body of men is evident—hence results the necessity of a different organization.

3. It is obviously impracticable in the federal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all.—Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice

must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision, the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion, this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

4. In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected: and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

5. That it will meet the full and entire approbation of every State, is not perhaps to be expected; but each will doubtless consider, that had her interests been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect we have the honor to be, Sir, your Excellency's most obedient, and humble servants.

GEORGE WASHINGTON, *President.*

By the unanimous order of the Convention.

HIS EXCELLENCY, THE }
PRESIDENT OF CONGRESS. }

AMENDMENTS TO THE CONSTITUTION.

[The Conventions of a number of States having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, Congress, at the Session begun and held at the City of New-York, on Wednesday, the 4th of March, 1789. proposed to the Legislatures of the several States, twelve amendments, ten of which only were adopted. They are the ten first following.]

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendments to the Constitution.

Congress prohibited from interfering with religion, with freedom of speech, of the press, and the right of petition.

ARTICLE II.

Right of the people to keep and bear arms, &c.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier to be quartered in any house during peace, without consent, &c.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

No search warrant to issue, except on probable cause, oath, &c.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person to be held to answer for a crime, unless on presentment, &c. except in the land or naval forces, nor to answer for the same offence twice, &c.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case to be a witness against himself, nor to be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

Assurance of speedy and public trial by jury, &c. in criminal prosecutions.

In all criminal prosecutions, the accused shall enjoy the right to a speedy, and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour; and to have the assistance of counsel for his defence.

ARTICLE VII.

Right of trial by jury in suits at common law, above the value of twenty dollars, &c.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury, shall be preserved, and no fact tried by a jury shall be otherwise re-examined, in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail, and unjust and cruel punishments prohibited.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

Rights enumerated, not to disparage those retained.

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people,

ARTICLE X.

Powers not delegated, &c. are reserved to the States or people.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

Restriction of
Judicial pow-
ers. [See ante,
Art. 3. Sec. 2.
clause 1.]

ARTICLE XII.*

1. The electors shall meet in their respective States, and vote, by ballot, for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name, in their ballots, the person voted for as President, and, in distinct ballots, the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose, immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members, from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death, or other constitutional disability of the President.

[* See ante,
Art. 2. Sec. 1.
clause 3.]
Actual mode of
electing the
President and
Vice-President
of the United
States.

2. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President, shall be eligible to the office of Vice President of the United States.

[NOTE. The eleventh article of the Amendments to the Constitution, was proposed at the second session of the third Congress; and the twelfth article, at the first session of the eighth Congress.

AN ACT

Relating to the Separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and independent State.

Preamble.

WHEREAS it has been represented to this Legislature, that a majority of the people of the District of Maine are desirous of establishing a separate and independent Government within said District; Therefore,

Legislative consent.

SEC. 1. **B**E it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and independent State, if the people of the said District shall, in the manner, and by the majority, hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions; and provided, the Congress of the United States shall give its consent thereto, before the fourth day of March next: which terms and conditions, are as follow, viz:

Division of property.

First. All the lands and buildings belonging to the Commonwealth, within Massachusetts Proper, shall continue to belong to said Commonwealth; and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one half thereof, to the said Commonwealth, and the other half thereof, to the State to be formed within the said District, to be divided as is hereinafter mentioned; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title to the said lands remains in the Commonwealth; and the rights of the Commonwealth to their lands, within said District, and the remedies for the recovery thereof, shall continue the same within the proposed State, and in the Courts thereof, as they now are within the said Commonwealth, and in the Courts thereof; for which purposes, and for the maintenance of its rights, and recovery of its lands, the said Commonwealth shall be entitled to all other proper and legal remedies, and may appear in the Courts of the proposed State, and in the Courts of the United States, holden therein, and prosecute as a party, under the name and style of the Commonwealth of Massachusetts; and all rights of action for, or entry into lands, and of actions upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this Commonwealth, to be enforced, commuted, released,

or otherwise disposed of, in such manner as this Commonwealth may hereafter determine: *Provided however*, That whatever this Commonwealth may hereafter receive or obtain on account thereof, if any thing, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof, to the new State, and two third parts thereof to this Commonwealth. Proviso.

Second. All the arms which have been received by this Commonwealth from the United States, under the law of Congress, entitled, "an Act making provision for arming and equipping the whole body of Militia of the United States," passed April the twenty third, one thousand eight hundred and eight, shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the Militia, according to which, the said arms have been received from the United States as aforesaid. Division of arms.

Third. All monies, stock, or other proceeds, hereafter obtained from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defence of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two thirds to this Commonwealth, and one third to the new State. Division of Massachusetts claims.

Fourth. All other property of every description, belonging to the Commonwealth, shall be holden and receivable by the same, as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a separate State, the commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property so held by said Commonwealth, as an equivalent and indemnification to said Commonwealth, for all such debts, annuities, or Indian subsidies or claims, which may then remain due or unsatisfied; and all the surplus of the said property, so holden, as aforesaid, shall be divided between the said Commonwealth and the said District of Maine, in the proportion of two thirds to the said Commonwealth, and one third to the said District. And if, in the judgment of the said commissioners, the whole of said property, so held, as a fund and security, shall not be sufficient indemnification, the said District shall be liable for, and shall pay to said Commonwealth, one third of the deficiency. Commissioners to settle claims.

Fifth. The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose, shall obtain the assent of said Indians, and their re- Indian rights.

lease to this Commonwealth of claims and stipulations arising under the treaty at present existing between the said Commonwealth and said Indians; and as an indemnification to such new State, therefor, this Commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz: The said commissioners shall set off by metes and bounds, so much of any part of the land, within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State; or in lieu thereof, may pay the sum of thirty thousand dollars at its election; which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the commissioners, on this subject shall be made known to the Governor and Council; and if not made within that time, the election shall be with the new State.

Mode of choosing commissioners.

Sixth. Commissioners, with the powers and for the purposes mentioned in this Act, shall be appointed in manner following:—The Executive authority of each State shall appoint two; and the four so appointed, or the major part of them, shall appoint two more; but if they cannot agree in the appointment, the Executive of each State shall appoint one in addition; not, however, in that case, to be a citizen of its own State. And any vacancy happening with respect to these two commissioners, shall be supplied in the manner provided for their original appointment; and, in addition to the powers herein before given to said Commissioners, they shall have full power and authority, and it shall be their duty, within ten years, next after the commissions shall be filled up, to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality; they shall determine what lands shall be surveyed and divided, from time to time; the expense of which surveys, and of the commission, shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction; copies of which records, authenticated by them, shall be deposited from time to time, in the archives of the respective States; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The Executive authority of each State may revoke the power of either or both its commissioners; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own commissioners; four of said commissioners shall constitute a quorum, for the transaction of business; their decision shall be final, upon all subjects with-

Division of lands.

Vacancies to be filled up.

in their cognizance. In case said commission shall expire, the division not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed, or filled up in the same manner as is herein provided for filling the same, in the first instance, and with the like powers; and if either State shall, after six months notice neglect or refuse to appoint its commissioners, either for filling the commission in the first instance, or the renewal thereof, the other may fill up the whole commission.

Seventh. All grants of lands, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located, which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the Banks, within this Commonwealth shall be charged upon the tax upon the Banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained, except by judicial process, according to the principles of law; and in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth. And all lands heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society.

Eighth. No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars, or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State, resident therein; and the rights and liabilities of all persons, shall after the said separation, continue the same as if the said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied, on the fifteenth day of March next, where the suits have been commenced in Massachusetts Proper, and process has been served within the District of Maine; or commenced in the District of Maine, and process has been served in Massachusetts Proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits, the Courts within Massachu-

Former grants
to be held
good.

Suits to be
continued and
recovered.

setts Proper and within the proposed State, shall continue to have the same jurisdiction as if the said District still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies, within the proposed State, as it now has, for the collection of all taxes, bonds, or debts, which may be assessed, due, made, or contracted, by, to, or with the Commonwealth, on or before the said fifteenth day of March, within the said District of Maine; and all officers within Massachusetts Proper and the District of Maine, shall conduct themselves accordingly.

Constitutional principle.

Ninth. These terms and conditions, as here set forth, when the said District shall become a separate and independent State, shall, *ipso facto*, be incorporated into, and become, and be a part of any constitution, provisional, or other, under which the government of the said proposed State, shall, at any time hereafter, be administered; subject, however, to be modified, or annulled, by the agreement of the Legislature of both the said States; but by no other power or body whatsoever.

Time of meeting and qualification of voters.

SEC. 2. *Be it further enacted,* That the inhabitants of the several towns, districts, and plantations, in the District of Maine, qualified to vote for Governor or Senators, shall assemble in regular meeting, to be notified by warrants of the proper officers, on the fourth Monday of July next, and shall, in open meeting, give in their votes, on this question: "Is it expedient, that the District of Maine shall become a separate and independent State, upon the terms and conditions, provided in an act, entitled, "an Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and independent State?" And the Selectmen of the towns and districts, and the Assessors of the plantations, shall, in open meeting, receive, sort, count and declare, and the Clerks thereof, respectively, shall record the votes given for and against the measure; and the said Selectmen, Assessors, and Clerks, respectively, shall make out an exact return thereof, under their hands, and shall seal up and transmit the same to the office of the Secretary of this Commonwealth, on or before the fourth Monday of August next. And all returns, not then made, shall be rejected in the counting; and the Governor and Council shall open and examine the said returns, made as aforesaid, and shall count the votes given on the said question: And the Governor shall, by public proclamation, to be made as soon as the state of the votes can be ascertained, after the said fourth Monday of August next, make known the result, by declaring the number of votes appearing in favor of the separation of said District, as aforesaid, and the number of votes appearing against it. And, if the number of votes for the measure shall exceed the number of votes against it by fifteen hundred, then, and not otherwise, the people of said

District shall be deemed to have expressed their consent and agreement, that the said District shall become a separate and independent State, upon the terms and conditions above stated; and in case of such majority, the Governor, in his said proclamation, shall call upon the people of the said District to choose delegates to meet in Convention for the purposes, and, in the manner hereinafter provided; and in addition to publishing said proclamation, in one or more of the public newspapers printed in Boston, and in the District of Maine, copies of the same, duly authenticated, shall, as soon as can conveniently be done, after the making of the same, be transmitted to the office of the Clerks of the Courts of Common Pleas, in the several counties of the District of Maine, for public examination; and one such copy, at least, shall be transmitted to the Convention of delegates, hereinafter mentioned, when said Convention shall be formed.

Meeting of
Conventions.

SEC. 3. *Be it further enacted,* That if it shall be declared by said proclamation, that the said majority of fifteen hundred votes appeared by the said returns to be in favor of the separation of the said District as aforesaid; the inhabitants of the several towns and districts, now entitled to send one or more Representatives to the General Court, and all other incorporated towns, shall, on the third Monday of September next, assemble in town meeting, to be notified by warrant of the Selectmen, and shall elect one or more delegates (not exceeding the number of Representatives which such town is now entitled to; each town, however, to be at liberty to elect at least one,) to meet delegates from other towns within the said District in Convention, for the purpose of forming a Constitution, or frame of Government, for the said District. And at such meeting of the said inhabitants, every person qualified to vote for Senators, shall have a right to vote in the choice of delegates. And the Selectmen shall preside, at such meeting, and shall in open meeting, receive, sort, count and declare the votes, and the Clerk shall make a record thereof, in presence of the Selectmen, and in open meeting. And fair copies of the said record shall be attested by the Selectmen and town Clerk, and one such copy shall be delivered by the Selectmen to each of the persons duly elected a delegate.

Limitation of
delegates.

Declaration of
votes.

SEC. 4. *Be it further enacted,* That the persons so elected delegates, shall meet in Convention, at the Court House, in Portland, in the county of Cumberland, on the second Monday of October next, and they shall be the judges of the returns and elections of their own members, and may adjourn from time to time, and sixty of the persons elected shall constitute a quorum for the transaction of business; and the said delegates shall, as soon as may be, proceed to organize themselves, in Convention, by choosing a President, and such other officers as they may judge expedient, and establishing proper rules of proceedings; and it shall be the duty of the

Application to Congress. to said Convention, to apply to the Congress of the United States, for its assent to be given, before the last day of January next, that the said District shall be admitted into the Union, as a separate and independent State. And it shall also be the duty of the said Convention, to form a Constitution, or frame of government, for said new State, and to determine the style and title of the same; and such Constitution, when adopted, and ratified by the people of said District, in the manner hereinafter mentioned, shall, from and after the fifteenth day of March, in the year of our Lord, one thousand eight hundred and twenty, (the consent of the Congress of the United States, then being first had as aforesaid,) be the Constitution of said new State. And the said Convention shall, as soon as may be, after having formed such Constitution, or frame of government, for such new State, cause the same to be published, and sent to the several towns, districts, and plantations, within the said District of Maine; and there shall be a meeting of the inhabitants, in each of said towns, districts, and plantations, to be called and warned by the Selectmen, and Assessors respectively, in due course of law; and on the day named by said Convention, at which meeting, every male inhabitant, having the personal qualifications, herein declared requisite in the election of delegates to said Convention, shall have a right to vote; and the people so assembled, shall give in their votes in writing, expressing their approbation or disapprobation of the Constitution so prepared, and proposed by said Convention. And the Selectmen of the several towns, and the Assessors of the several districts, and plantations respectively, shall preside at such meetings, and shall receive the votes of all the inhabitants duly qualified as aforesaid, and shall sort and count them in open meeting of town, district or plantation; and the same, shall be then and there recorded in the books of the town, district or plantation; and a fair copy of such record shall be attested by the Selectmen or Assessors, and the Clerk of the town, district, or plantation respectively, and shall be, by the said Selectmen or Assessors, transmitted and delivered to the said Convention, or to the President thereof, for the time being, or to any committee appointed to receive the same, on or before the first day of January next; on which day, or within ten days thereafter, the said Convention shall be in session, and shall receive and count all the votes returned, and declare and publish the result; and if a majority of the votes so returned shall be in favor of the Constitution proposed, as aforesaid, the said Constitution shall go into operation, according to its own provisions; otherwise the Constitution of Massachusetts, with the addition of the terms and conditions herein provided, shall be, and be considered as the Constitution of the said proposed State, in manner as hereafter provided. And to the end, that no period of an-

Constitution to be formed.

Constitution to be approved by the people.

Return of votes to the Convention.

archy may happen to the people of said proposed State, in case a new Constitution shall not be so adopted and ratified by the people of said District of Maine, the present Constitution of the Commonwealth of Massachusetts, shall, with the terms and conditions aforesaid, and with the exception hereinafter made, be provisionally, the Constitution or frame of government, for said District; except only such parts of said Constitution of Massachusetts, as relate to the style or title of said State, or may be otherwise inconsistent with, or repugnant to the situation and condition of said new State; and except, that the people of said District shall choose in their Senatorial districts, as now established, three times the number of Senators now allowed them, and that the Legislature shall choose such a number of Counsellors, not exceeding nine, as they shall determine to be proper. And the said Convention shall designate the place for the first meeting of the Legislature of said new State, and for the organization of its government, and shall appoint a Secretary, pro tempore, for said new State; and the said Convention shall regulate the pay of its members; and the person, authorized by said Convention, may draw upon the Treasury of the Commonwealth for the amount of the pay roll, not, however, to exceed the amount of the money paid into the Treasury by the several Banks within said District, for the tax upon the same, due and payable on the first Monday of October next; and the sum or sums so drawn for, and paid out of the Treasury, shall be a charge upon the new State in the division of the property, provided for in the fourth article of the terms and conditions stated in the first section of this Act.

General reservations.

SEC. 5. *Be it further enacted,* That until a Governor of the proposed State shall be chosen and qualified according to the Constitution which may be in operation in said State, the person last chosen President of the said Convention, shall, from and after the fifteenth day of March next, have all the power of the Governor and Council under the Constitution of Massachusetts, until a new Governor shall be chosen and qualified in the said proposed State; excepting only, that the said President shall not have the power to remove from office any officer who may be duly qualified, and executing the duties of his office according to the intent and meaning of this Act.

Preliminary powers.

And in order that there may be no failure of justice, and that no danger may arise to the people of the said District of Maine, after the fifteenth day of March next, and before the government of the said State shall be fully organized; therefore,

SEC. 6. *Be it further enacted,* That all the laws which shall be in force within said District of Maine, upon the said fifteenth day of March next, shall still remain, and be in force, within the said proposed State, until altered or repealed by law.

Perpetuity of laws.

the government thereof, such parts only excepted as may be inconsistent with the situation and condition of said new State, or repugnant to the Constitution thereof. And all officers, who shall, on the said fifteenth day of March next, hold commissions, or exercise any authority within the said District of Maine, under the Commonwealth of Massachusetts, or by virtue of the laws thereof, excepting only, the Governor, Lieutenant Governor and Council, the members of the Legislature, and the Justices of the Supreme Judicial Court of the said Commonwealth of Massachusetts, shall continue to have, hold, use, exercise and enjoy, all the powers and authority to them respectively granted or committed, until other persons shall be appointed in their stead, or until their respective offices shall be annulled by the government of said proposed State. And all Courts of law, whatsoever, within the said proposed State, excepting only the Supreme Judicial Court, shall proceed to hear and determine all causes, matters and things, which are or may be commenced or depending before them, respectively, upon the said fifteenth day of March next, or at any time afterwards, and before the government of the said proposed State shall establish new Courts within the same; and shall continue from and after the said fifteenth day of March next, to exercise the like power and authority, and in like manner as they now by law may do, until such new Courts shall be so established, in their stead.

Duration of
offices, civil and
judicial.

SEC. 7. *Be it further enacted,* That all actions, suits, and causes, civil and criminal, and all matters and things whatsoever, that shall, on the said fifteenth day of March next, be in any manner depending in the Supreme Judicial Court of the said Commonwealth of Massachusetts, then last holden within any county in the District of Maine, and all writs, recognizances, and other processes whatsoever, that may be then returnable to the said Supreme Judicial Court, shall be respectively transferred, and returned to, have day in, and be heard, tried, and determined in the highest Court of law that shall be established in the said new State, by the government thereof; and at the first term of such Court, that shall be held within the county in which such action, writ, process, or other matter or thing, may be so pending or returnable. And in all cases of appeals from any Circuit Court of Common Pleas, or Probate, or other Court, which shall be made after the said fifteenth day of March next, in any action, cause, or suit whatsoever, and which would by law be made to the said Supreme Judicial Court thereof, it shall be sufficient for the appellant to claim an appeal, without naming or designating the Court appealed to; and such appeal shall be entered at the Supreme or Superior Judicial Court, or highest Court of law, to be established by the government of the said new State, which shall first thereaf-

Continuance of
actions.

Probate or other
appeals.

ter be held within or for the county in which such action, cause, or suit may be pending, and shall there be heard, tried, and determined, according to law.

Provided, however, That nothing contained in this section shall be understood or construed to control, in any degree, the right of the people of the said new State, or the government thereof, to establish Judicial Courts, in such manner, and with such authority as they shall see fit; nor to prevent the said people or their government from making any other provisions, pursuant to their Constitution, and not repugnant to the terms and conditions above set forth, respecting all the said actions, suits, processes, matters and things, herein above mentioned, as they shall think most proper, to prevent the discontinuance thereof, and to avoid any delay or failure of justice.

General provisions.

[Approved by the Governor, June 19, 1819.]



AN ACT

FOR THE ADMISSION OF THE STATE OF MAINE INTO THE UNION.

WHEREAS, by an Act of the State of Massachusetts, passed on the nineteenth day of June, in the year one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and independent State," the people of that part of Massachusetts heretofore known as the District of Maine, did, with the consent of the Legislature of said State of Massachusetts, form themselves into an independent State, and did establish a Constitution for the government of the same, agreeably to the provisions of the said Act; therefore,

Preamble.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, from and after the fifteenth day of March, in the year one thousand eight hundred and twenty, the State of Maine is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

WASHINGTON, MARCH 3, 1820.—*Approved,*

JAMES MONROE.

AN ORDINANCE

DETERMINING THE STYLE AND TITLE OF THE STATE OF MAINE.

Style & Title. BE IT ORDAINED AND DETERMINED, by the Delegates of the people inhabiting the territory now called and known by the name of the District of Maine, in Convention assembled, that provided the District of Maine aforesaid shall, before the fourth day of March next, be admitted into the Union as a separate and independent State, on an equal footing with the original States, the said State shall be known and called by the style and title of the STATE OF MAINE.

*Done in Convention, at Portland, this fifteenth day of
October, in the year of our Lord one thousand
eight hundred and nineteen.*

WILLIAM KING, PRESIDENT.

ATTEST, ROBERT C. VOSE, SECRETARY.

CONSTITUTION OF MAINE.

Preamble. WE, the people of Maine, in order to establish justice, ensure tranquillity, provide for our mutual defence, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging with grateful hearts the goodness of the Sovereign Ruler of the Universe in affording us an opportunity, so favorable to the design; and, imploring his aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the State of Maine, and do ordain and establish the following Constitution for the government of the same.

ARTICLE I.

DECLARATION OF RIGHTS.

Natural rights. SEC. 1. All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

All power inherent in the people. SEC. 2. All power is inherent in the people; all free governments are founded in their authority and instituted for their

benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

SEC. 3. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested or restrained in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship;—and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another, shall ever be established by law, nor shall any religious test be required as a qualification for any office of trust, under this State; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

Freedom of worship.

All religious sects equal.

Religious tests prohibited.

SEC. 4. Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press; and in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

Freedom of speech and publication.

Truth may be given in evidence.

SEC. 5. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause—supported by oath or affirmation.

Unreasonable searches.

SEC. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election;

Rights of persons accused.

To demand the nature and cause of the accusation, and have a copy thereof;

To be confronted by the witnesses against him;

To have compulsory process for obtaining witnesses in his favor;

To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property or privileges, but by judgment of his peers or the law of the land.

No person to answer to a capital crime, &c. but on indictment.

Exceptions.

Juries.

Not to be put in jeopardy twice for one crime. Sanguinary laws, &c. prohibited.

All persons allowed bail.

Bills of attainder, &c. prohibited.

Treason defined.

Suspension of laws.

Corporal punishment under military law.

Right to petition.

To keep and bear arms.

Standing armies not to be kept;

Nor soldiers to be quartered on citizens, but in time of war.

SEC. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences, as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger. The legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

SEC. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb.

SEC. 9. Sanguinary laws shall not be passed: all penalties and punishments shall be proportioned to the offence: excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

SEC. 10. All persons, before conviction, shall be bailable, except for capital offences, where the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

SEC. 11. The Legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

SEC. 12. Treason against this State shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

SEC. 13. The laws shall not be suspended but by the Legislature or its authority.

SEC. 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service in time of war or public danger.

SEC. 15. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

SEC. 16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

SEC. 17. No standing army shall be kept up in time of peace without the consent of the Legislature, and the militia shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 18. No soldier shall, in time of peace be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

SEC. 19. Every person for an injury done him in his person, reputation, property or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

Right of redress for injuries.

SEC. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised: the party claiming the right may be heard by himself and his counsel, or either, at his election.

Trial by jury.

SEC. 21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

Private property not to be taken without compensation.

SEC. 22. No tax or duty shall be imposed without the consent of the people or of their Representatives in the Legislature.

Taxes.

SEC. 23. No title of nobility or hereditary distinction, privilege honor or emolument, shall ever be granted or confirmed, nor shall any office be created, the appointment to which shall be for a longer time than during good behaviour.

Titles of nobility prohibited.

SEC. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

Other rights not to be impaired.

ARTICLE II.

ELECTORS.

SEC. 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators and Representatives, in the town or plantation where his residence is so established; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack, or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

Qualification of Electors.

Soldiers and seamen in the United States service.

Students at Colleges or Academies.

SEC. 2. Electors shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

Electors exempt from arrest on days of election.

SEC. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

And from military duty.

SEC. 4. The election of Governor, Senators and Representatives, shall be on the second Monday of September annually forever

Time of elections

ARTICLE III.

DISTRIBUTION OF POWERS.

Powers distributed, SEC. 1. The powers of this Government shall be divided into three distinct departments, the *Legislative, Executive, and Judicial.*

And to be kept separate. SEC. 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV.—PART FIRST.

LEGISLATIVE POWER—HOUSE OF REPRESENTATIVES.

Legislative power.

SEC. 1. The Legislative power shall be vested in two distinct branches, a House of Representatives, and a Senate, each to have a negative on the other, and both to be styled the LEGISLATURE OF MAINE, and the style of their Acts and Laws, shall be, "*Be it enacted by the Senate and House of Representatives in Legislature assembled.*"

Style.

House of Representatives elected annually, to consist of not less than 100 nor more than 200.

SEC. 2. The House of Representatives shall consist of not less than one hundred nor more than two hundred members, to be elected by the qualified Electors for one year from the day next preceding the annual meeting of the Legislature. The Legislature which shall first be convened under this Constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature, within every subsequent period of at most ten years and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of Representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of Representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; and, whenever the number of Representatives shall be two hundred, at the next annual meetings of Elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of Representatives shall be increased or diminished, and if a majority of votes are in favor thereof, it shall be the duty of the next Legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.

To be apportioned once in ten years at least.

Equally among the counties.

Apportionment among towns.

SEC. 3. Each town having fifteen hundred inhabitants may elect one representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each

town having twenty-six thousand two hundred and fifty inhabitants may elect seven ; but no town shall ever be entitled to more than seven representatives : and towns and plantations duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns ; and each such district may elect one representative ; and when on this apportionment the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle ; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion ; and whenever any town or towns, plantation or plantations not entitled to elect a representative shall determine against a classification with any other town or plantation, the Legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time and such periods, as shall be equal to its portion of representation : and the right of representation, so established, shall not be altered until the next general apportionment.

SEC. 4. No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty-one years, have been a resident in this State one year, or from the adoption of this Constitution ; and, for the three months next preceding the time of his election shall have been, and, during the period for which he is elected, shall continue to be a resident in the town or district which he represents.

Qualifications of a representative.

SEC. 5. The meetings for the choice of representatives shall be warned in due course of law by the Selectmen of the several towns seven days at least before the election, and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count and declare them in open town meeting, and in the presence of the town clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the selectmen, and in open town meeting ; and a fair copy of this list shall be attested by the selectmen and town clerk, and delivered by said selectmen to each representative within ten days next after such election. And the towns and plantations organized by law, belonging to any class herein provided, shall hold their meetings at the same time in the respective towns and plantations ; and the town and plantation meetings in such towns and plantations shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. And the assessors

Meetings for choice of Representatives regulated.

Towns classed.

and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have, and are subject to by this Constitution. And the selectmen of such towns, and the assessors of such plantations, so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the selectmen or assessors of the eldest town, or plantation, in such class, and the copies of said lists shall be then examined and compared; and in case any person shall be elected by a majority of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election; and the clerks of towns and plantations respectively shall seal up copies of all such lists and cause them to be delivered into the Secretary's office twenty days at least before the first Wednesday in January annually; but in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be had at every future meeting until an election shall have been effected: *Provided*, That the Legislature may by law prescribe a different mode of returning, examining and ascertaining the election of the representatives in such classes.

Vacancies to be filled by new elections.

SEC. 6. Whenever the seat of a member shall be vacated by death, resignation, or otherwise the vacancy may be filled by a new election.

House to choose speaker, &c.

SEC. 7. The House of Representatives shall choose their Speaker, Clerk and other officers.

To have the power of impeachment.

SEC. 8. The House of Representatives shall have the sole power of impeachment.

ARTICLE IV.—PART SECOND.

SENATE.

Senate to consist of not less than 20 nor more than 31.

SEC. 1. The Senate shall consist of not less than twenty, nor more than thirty-one members, elected at the same time and for the same term, as the representatives, by the qualified electors of the districts, into which the State shall from time to time be divided.

State to be districted once in ten years at least.

SEC. 2. The Legislature, which shall be first convened under this Constitution, shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature at every subsequent period of ten years, cause the State to be divided into districts for the choice of Senators. The districts shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of Senators shall not exceed twenty at the first apportionment, and shall at each apportionment be increased, until they shall amount to thirty-one, according to the increase in the House of Representatives.

SEC. 3. The meetings for the election of Senators shall be notified, held and regulated, and the votes received, sorted, counted, declared and recorded, in the same manner as those for Representatives. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the Secretary's office thirty days at least before the first Wednesday of January. All other qualified electors living in places unincorporated, who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of voting for Senators, Representatives and Governor in such town; and shall be notified by the selectmen thereof for that purpose accordingly.

Meetings for choice of Senators regulated.

Electors in unincorporated plantations.

SEC. 4. The Governor and Council shall, as soon as may be, examine the returned copies of such lists, and, twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a majority of the votes in each district, to attend that day and take their seats.

Votes to be examined by the Governor and council.

SEC. 5. The Senate shall, on the said first Wednesday of January, annually, determine who are elected by a majority of votes to be Senators in each district; and in case the full number of Senators to be elected from each district shall not have been so elected, the members of the House of Representatives and such Senators, as shall have been elected, shall, from the highest numbers of the persons voted for, on said lists, equal to twice the number of Senators deficient, in every district, if there be so many voted for, elect by joint ballot the number of Senators required; and in this manner all vacancies in the Senate shall be supplied, as soon as may be, after such vacancies happen.

Senate to determine on elections.

Vacancies how supplied.

SEC. 6. The Senators shall be twenty-five years of age at the commencement of the term, for which they are elected, and in all other respects their qualifications shall be the same as those of the Representatives.

Qualification of Senators.

SEC. 7. The Senate shall have the sole power to try all impeachments, and when sitting for that purpose shall be on oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present.— Their Judgment, however, shall not extend farther than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit, under this State. But the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment, according to law.

Senate to try impeachments.

Party liable to be tried and punished after.

SEC. 8. The Senate shall choose their President, Secretary and other officers.

To choose a President, &c.

ARTICLE IV.—PART THIRD.

LEISLATIVE POWER.

Legislature to meet annually.

SEC. 1. The Legislature shall convene on the first Wednesday of January annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

Governor to sign their acts.

SEC. 2. Every bill or resolution, having the force of law, to which the concurrence of both Houses may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Governor, and if he approve, he shall sign it; if not, he shall return it with his objections to the House, in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it. If, after such reconsideration two thirds of that House shall agree to pass it, it shall be sent, together with the objections, to the other House, by which it shall be reconsidered, and, if approved by two thirds of that House it shall have the same effect, as if it had been signed by the Governor: but in all such cases, the votes of both Houses shall be taken by yeas and nays, and the names of the persons, voting for and against the bill or resolution, shall be entered on the journals of both Houses respectively. If the bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect, as if he had signed it, unless the Legislature by their adjournment prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

If he disapprove—proceedings in such case.

To return the bill in five days.

Each House to judge of elections, &c.; majority a quorum.

SEC. 3. Each House shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House shall provide.

May punish and expel members, &c.

SEC. 4. Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two thirds, expel a member, but not a second time for the same cause.

To keep a journal.

SEC. 5. Each House shall keep a journal, and from time to time publish its proceedings, except such parts as in their judgment may require secrecy: and the yeas and nays of the members of either House on any question, shall, at the desire of one fifth of those present, be entered on the journals.

Yeas and nays.

May punish for contempt.

SEC. 6. Each House, during its session, may punish by imprisonment any person, not a member, for disrespectful or disorderly behaviour in its presence, for obstructing any of its proceedings, threatening, assaulting or abusing any of its members for any thing said, done, or doing in either House:

Provided, that no imprisonment shall extend beyond the period of the same session.

SEC. 7. The Senators and Representatives shall receive such compensation, as shall be established by law; but no law increasing their compensation shall take effect during the existence of the Legislature, which enacted it. The expenses of the members of the House of Representatives in travelling to the Legislature, and returning therefrom, once in each session and no more, shall be paid by the State out of the public Treasury to every member, who shall seasonably attend, in the judgment of the House, and does not depart therefrom without leave.

Compensation.

Travelling expenses.

SEC. 8. The Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the Legislature, and no member shall be liable to answer for any thing spoken in debate in either House, in any court or place elsewhere.

Members exempted from arrest.

Freedom of debate.

SEC. 9. Bills, orders or resolutions, may originate in either House, and may be altered, amended or rejected in the other; but all bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other cases: *Provided*, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

Either House may originate bills.

Exceptions—money bills.

SEC. 10. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which increased during such term, except such offices as may be filled by elections by the people: *Provided*, that this prohibition shall not extend to the members of the first Legislature.

Members not to be appointed to certain offices.

Proviso.

SEC. 11. No member of Congress, nor person holding any office, under the United States, (post officers excepted) nor office of profit under this State, (Justices of the Peace, Notaries Public, Coroners and officers of the militia excepted,) shall have a seat in either House during his being such member of Congress, or his continuing in such office.

Persons disqualified to be members.

SEC. 12. Neither House shall during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the Houses shall be sitting.

Adjournments.

ARTICLE V.—PART FIRST.

EXECUTIVE POWER.

SEC. 1. The supreme executive power of this State shall be vested in a Governor.

Governor.

SEC. 2. The Governor shall be elected by the qualified Electors, and shall hold his office one year from the first Wednesday of January in each year.

Elected for one year.

Meetings for the choice of Governor regulated.

Votes to be returned to Secretary of State's office.

If there be no choice, provision in such case.

Qualifications of Governor.

Disqualifications.

Compensation.

Commander in chief of the Militia.

Not to march the Militia out of the State.

With the advice of Council to appoint officers.

To communicate information to the Legislature.

May require information of any officers.

SEC. 3. The meetings for election of Governor shall be notified, held and regulated, and votes shall be received, sorted, counted, declared and recorded, in the same manner as those for Senators and Representatives. They shall be sealed and returned into the Secretary's office in the same manner, and at the same time, as those for Senators. And the Secretary of State for the time being shall, on the first Wednesday of January, then next, lay the lists before the Senate and House of Representatives to be by them examined, and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But, if no person shall have a majority of votes, the House of Representatives shall, by ballot, from the persons having the four highest numbers of votes on the lists, if so many there be, elect two persons, and make return of their names to the Senate of whom the Senate shall, by ballot, elect one, who shall be declared the Governor.

SEC. 4. The Governor shall, at the commencement of his term, be not less than thirty years of age; a natural born citizen of the United States, have been five years, or from the adoption of this Constitution, a resident of the State; and at the time of his election and during the term for which he is elected, be a resident of said State.

SEC. 5. No person holding any office or place under the United States, this State, or any other power, shall exercise the office of Governor.

SEC. 6. The Governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

SEC. 7. He shall be commander in chief of the army and navy of the State, and of the Militia except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the Legislature, unless it shall become necessary, in order to march or transport them from one part of the State to another for the defence thereof.

SEC. 8. He shall nominate, and, with the advice and consent of the Council, appoint all judicial officers, the Attorney General, the Sheriffs, Coroners, Registers of Probate, and Notaries Public; and he shall also nominate, and with the advice and consent of the Council, appoint all other civil and military officers whose appointment is not by this Constitution, or shall not by law be otherwise provided for; and every such nomination shall be made seven days at least prior to such appointment.

SEC. 9. He shall from time to time give the Legislature information of the condition of the State, and recommend to their consideration such measures, as he may judge expedient.

SEC. 10. He may require information from any military

officer, or any officer in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall have power, with the advice and consent of the Council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves and pardons, except in cases of impeachment.

To have the power of pardoning.

SEC. 12. He shall take care that the laws be faithfully executed.

To see that the laws are executed.

SEC. 13. He may, on extraordinary occasions, convene the Legislature; and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time, as he shall think proper, not beyond the day of the next annual meeting; and if, since the last adjournment, the place where the Legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

To convene the Legislature on extraordinary occasions and adjourn them in case of disagreement.

SEC. 14. Whenever the office of Governor shall become vacant by death, resignation, removal from office, or otherwise, the President of the Senate shall exercise the office of Governor until another Governor shall be duly qualified; and in case of the death, resignation, removal from office or other disqualification of the President of the Senate, so exercising the office of Governor, the Speaker of the House of Representatives shall exercise the office, until a President of the Senate shall have been chosen; and when the office of Governor, President of the Senate, and Speaker of the House shall become vacant, in the recess of the Senate, the person, acting as Secretary of State for the time being, shall by proclamation convene the Senate, that a President may be chosen to exercise the office of Governor. And whenever either the President of the Senate, or Speaker of the House shall so exercise said office, he shall receive only the compensation of Governor, but his duties as President or Speaker shall be suspended; and the Senate or House, shall fill the vacancy, until his duties as Governor shall cease.

Vacancy how supplied.

ARTICLE V.—PART SECOND.

COUNCIL.

SEC. 1. There shall be a Council, to consist of seven persons, citizens of the United States, and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion, to assemble; and he, with the Counsellors, or a majority of them, may from time to time, hold and keep a Council, for ordering and directing the affairs of State according to law.

Council to consist of seven.

SEC. 2. The Counsellors shall be chosen annually, on the first Wednesday of January, by joint ballot of the Senators and Representatives in Convention; and vacancies, which shall afterwards happen, shall be filled in the same manner;

Counsellors how chosen.

but not more than one Counsellor shall be elected from any district, prescribed for the election of Senators; and they shall be privileged from arrest in the same manner, as Senators and Representatives.

Journal to be kept of their proceedings.

SEC. 3. The resolutions and advice of Council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either House of the Legislature; and any Counsellor may enter his dissent to the resolution of the majority.

Persons disqualified to be Counsellors.

SEC. 4. No member of Congress, or of the Legislature of this State, nor any person holding any office under the United States, (post officers excepted) nor any civil officers under this State. (Justices of the Peace and Notaries Public excepted) shall be Counsellors. And no Counsellor shall be appointed to any office during the time for which he shall have been elected.

Not to be appointed to any office.

ARTICLE V.—PART THIRD.

SECRETARY.

Secretary how chosen.

SEC. 1. The Secretary of State shall be chosen annually at the first session of the Legislature, by joint ballot of the Senators and Representatives in Convention.

To keep the records of the State.

SEC. 2. The records of the State shall be kept in the office of the Secretary, who may appoint his deputies, for whose conduct he shall be accountable.

To attend the Governor and Council.

SEC. 3. He shall attend the Governor and Council, Senate and House of Representatives, in person or by his deputies, as they shall respectively require.

And to keep the records of the government.

SEC. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor and Council, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

ARTICLE V.—PART FOURTH.

TREASURER.

Treasurer how chosen; ineligible for more than five years in succession.

SEC. 1. The Treasurer shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators and Representatives in Convention, but shall not be eligible more than five years successively.

To give bond.

SEC. 2. The Treasurer shall, before entering on the duties of his office, give bond to the State with sureties, to the satisfaction of the Legislature, for the faithful discharge of his trust.

Not to engage in business of trade, &c.

SEC. 3. The Treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

No money to be drawn but by warrant, &c.

SEC. 4. No money shall be drawn from the Treasury, but by warrant from the Governor and Council, and in conse-

quence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the annual session of the Legislature.

ARTICLE VI.

JUDICIAL POWER.

SEC. 1. The Judicial power of this State shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish. Supreme and other Courts.

SEC. 2. The Justices of the Supreme Judicial Court shall at stated times, receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward. Compensation.

SEC. 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Council, Senate or House of Representatives. To give opinion on questions of law to the Governor, &c.

SEC. 4. All Judicial officers, except Justices of the Peace, shall hold their offices during good behaviour, but not beyond the age of seventy years. Tenure of Judicial offices.

SEC. 5. Justices of the Peace and Notaries Public, shall hold their offices during seven years if they so long behave themselves well, at the expiration of which term they may be re-appointed or others appointed, as the public interest may require. Justices of the Peace and Notaries.

SEC. 6. The Justices of the Supreme Judicial Court shall hold no office under the United States, nor any State, nor any other office under this State, except that of Justice of the Peace. Justices of Supreme Judicial Court to hold no other office.

ARTICLE VII.

MILITARY.

SEC. 1. The captains and subalterns of the Militia shall be elected by the written votes of the members of their respective companies. The field officers of regiments by the written votes of the captains and subalterns of their respective regiments. The Brigadier Generals in like manner, by the field officers of their respective brigades. Officers—by whom elected.

SEC. 2. The Legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making the returns to the Governor of the officers elected; and, if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the Governor shall appoint suitable persons to fill such offices. Notify electors, &c.

SEC. 3. The Major Generals shall be elected by the Senate and House of Representatives, each having a negative on the other. The Adjutant General and Quartermaster General shall be appointed by the Governor and Council; but the Adjutant General shall perform the duties of Quarter- Adjutant General, &c. Major Generals, &c.

master General, until otherwise directed by law. The Major Generals and Brigadier Generals, and the commanding officers of regiments and battalions shall appoint their respective staff officers; and all military officers shall be commissioned by the Governor.

Organization of the Militia.

SEC. 4. The Militia, as divided into divisions, brigades, regiments, battalions, and companies, pursuant to the laws now in force, shall remain so organized, until the same shall be altered by the Legislature.

Persons who may be exempted from Militia duty.

SEC. 5. Persons of the denominations of Quakers and Shakers, Justices of the Supreme Judicial Court and Ministers of the Gospel, may be exempted from military duty, but no other person of the age of eighteen and under the age of forty-five years, excepting officers of the Militia, who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent to be fixed by law.

ARTICLE VIII.

LITERATURE.

Legislature to require of towns to support public schools.

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State: *Provided*, That no donation, grant, or endowment; shall at any time be made by the Legislature, to any Literary Institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to, alter, limit or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof.

May endow colleges, &c.

Proviso.

ARTICLE IX.

GENERAL PROVISIONS.

Oaths and subscriptions.

SEC. 1. Every person elected or appointed to either of the places or offices provided in this Constitution, and every person elected, appointed, or commissioned, to any Judicial, Executive, Military, or other office under this State, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation:—
 "I do swear, that I will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof. So help me God."

"I do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as

according to the Constitution and the laws of the State. So help me God!" *Provided*, That an affirmation in the above forms may be substituted, when the person shall be conscientiously scrupulous of taking and subscribing an oath.

The oaths or affirmations shall be taken and subscribed by the Governor and Counsellors before the presiding officer of the Senate, in the presence of both Houses of the Legislature, and by the Senators and Representatives before the Governor and Council, and by the residue of said officers before such persons as shall be prescribed by the Legislature; and whenever the Governor or any Counsellor shall not be able to attend during the session of the Legislature to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the Legislature before any Justice of the Supreme Judicial Court: *Provided*, that the Senators and Representatives, first elected under this Constitution, shall take and subscribe such oaths or affirmations before the President of the Convention.

Before whom to be taken.

SEC. 2. No person holding the office of Justice of the Supreme Judicial Court, or of any inferior Court, Attorney General, County Attorney, Treasurer of the State, Adjutant General, Judge of Probate, Register of Probate, Register of Deeds, Sheriffs or their deputies, Clerks of the Judicial Courts, shall be a member of the Legislature; and any person holding either of the foregoing offices, elected to, and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising, at the same time, within this State more than one of the offices before mentioned.

Persons disqualified to be members of the Legislature.

From holding more than one office.

SEC. 3. All Commissions shall be in the name of the State, signed by the Governor, attested by the Secretary or his deputy, and have the seal of the State thereto affixed.

Commissions.

SEC. 4. And in case the elections, required by this Constitution on the first Wednesday of January annually, by the two Houses of the Legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order: the vacancies in the Senate shall first be filled; the Governor shall then be elected, if there be no choice by the people; and afterwards the two Houses shall elect the Council.

Elections on the first Wednesday of January may be adjourned from day to day.

SEC. 5. Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor with the advice of the Council, on the address of both branches of the Legislature. But before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence.

Every civil officer may be removed by impeachment or address.

SEC. 6. The tenure of all offices, which are not or shall

Tenure of office.

not be otherwise provided for, shall be during the pleasure of the Governor and Council.

Valuation.

SEC. 7. While the public expenses shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years.

Real estate to be taxed according to its value.

SEC. 8. All taxes upon real estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

ARTICLE X.

SCHEDULE.

Meeting of first Legislature.

SEC. 1. The first Legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September annually shall not commence until the year one thousand eight hundred and twenty one, and in the mean time the election for Governor, Senators and Representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty, and at this election the same proceedings shall be had as are required at the elections, provided for in this Constitution on the second Monday in September annually, and the lists of the votes for the Governor and Senators shall be transmitted, by the town and plantation clerks respectively, to the Secretary of State *pro tempore*, seventeen days at least before the last Wednesday in May next, and the President of the Convention shall, in presence of the Secretary of State, *pro tempore*, open and examine the attested copies of said lists so returned for Senators, and shall have all the powers, and be subject to all the duties, in ascertaining, notifying, and summoning the Senators, who appear to be elected, as the Governor and Council have, and are subject to, by this Constitution: *Provided*, he shall notify said Senators fourteen days at least before the last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided; and the Senators to be elected on the said first Monday of April, shall be apportioned as follows:

Elections for 1820.

Senators apportioned.

- The County of York shall elect three.
- The County of Cumberland shall elect three.
- The County of Lincoln shall elect three.
- The County of Hancock shall elect two.
- The County of Washington shall elect one.
- The County of Kennebec shall elect three.
- The County of Oxford shall elect two.
- The County of Somerset shall elect two.
- The County of Penobscot shall elect one.

And Representatives.

And the members of the House of Representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September, and the first House of Representatives shall consist of the following number, to be elected as follows:

COUNTY OF YORK.

York.

The towns of York and Wells may *each* elect two representatives; and each of the remaining towns may elect one.

COUNTY OF CUMBERLAND.

Cumberland.

The town of Portland may elect three representatives; North-Yarmouth, two; Brunswick, two; Gorham, two; Freeport and Pownal, two; Raymond and Ousfield, one; Bridgton, Baldwin and Harrison, one; Poland and Danville, one; and each remaining town one.

COUNTY OF LINCOLN.

Lincoln.

The towns of Georgetown and Phippsburg, may elect one representative; Lewiston and Wales, one; St. George, Cushing and Friendship, one; Hope and Appleton Ridge, one; Jefferson, Putnam and Patricktown Plantation, one; Alna and Whitefield, one; Montville, Palermo, and Montville plantation, one; Woolwich and Dresden, one; and each remaining town one.

COUNTY OF HANCOCK.

Hancock.

The town of Bucksport may elect one representative; Deer Island, one; Castine and Brooksville, one; Orland and Penobscot, one; Mount Desert and Eden, one; Vinalhaven and Islesborough, one; Sedgwick and Bluehill, one; Gouldsborough, Sullivan and plantations No. 8 and 9 north of Sullivan, one; Surry, Ellsworth, Trenton and plantation of Mariaville, one; Lincolnville, Searsmont and Belmont, one; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson and Thordike, one.

COUNTY OF WASHINGTON.

Washington.

The towns of Steuben, Cherryfield and Harrington, may elect one representative; Addison, Columbia and Jonesborough, one; Machias, one; Lubec, Dennysville, Plantations No. 9, No. 10, No. 11, No. 12, one; Eastport, one; Perry, Robinston, Calais, plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

COUNTY OF KENNEBEC.

Kennebec.

The towns of Belgrade and Dearborn may elect one representative; Chesterville, Vienna and Rome, one; Wayne and Fayette, one; Temple and Wilton, one; Winslow and China, one; Fairfax and Freedom, one; Unity, Joy and 25 mile pond plantation, one; Harlem and Malta, one; and each remaining town one.

COUNTY OF OXFORD.

Oxford.

The towns of Dixfield, Mexico, Weld and plantations No. 1 and 4, may elect one representative; Jay and Hartford, one; Livermore, one; Rumford, East Andover and plantations Nos. 7 and 8, one; Turner, one; Woodstock, Paris and Greenwood, one; Hebron and Norway, one; Gilead, Bethel, Newry, Albany and Howard's gore, one; Porter, Hiram and Brownfield, one; Waterford, Sweden and Lovell, one; Den-

mark, Fryeburg, and Fryeburg addition, one; Buckfield and Sumner, one.

Somerset.

COUNTY OF SOMERSET.

The town of Fairfield may elect one representative; Norridgewock and Bloomfield, one; Starks and Mercer, one; Industry, Strong and New-Vineyard, one; Avon, Phillips, Freeman and Kingfield, one; Anson, New-Portland, Embden and Plantation No. 1, one; Canaan, Warsaw, Palmyra, St. Albans and Corinna, one; Madison, Solon, Bingham, Moscow and Northhill, one; Cornville, Athens, Harmony, Ripley and Warrenstown, one.

Penobscot.

COUNTY OF PENOBSCOT.

The towns of Hampden and Newburg may elect one representative; Orrington, Brewer, and Eddington, and Plantations adjacent on the east side of Penobscot river, one; Bangor, Orono and Sunkhaze Plantation, one; Dixmont, Newport, Carmel, Hermon, Stetson, and Plantation No. 4, in the 6th range, one; Levant, Corinth, Exeter, New-Charlestown, Blakesburg, Plantation No. 1, in 3d range, and Plantation No. 1, in 4th range, one; Dexter, Garland, Guilford, Sangerville, and Plantation No. 3, in 6th range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburgh, Plantation No. 1, in 7th range, and Plantation No. 3, in 7th range, one.

Powers and duties of Secretary of State *pro tempore*, in relation to the votes.

And the Secretary of State *pro tempore*, shall have the same powers, and be subject to the same duties, in relation to the votes for Governor, as the Secretary of State has, and is subject to, by this Constitution: and the election of Governor shall, on the said last Wednesday in May, be determined and declared, in the same manner, as other elections of Governor are by this Constitution; and in case of vacancy in said office, the President of the Senate, and Speaker, of the House of Representatives, shall exercise the office as herein otherwise provided, and the Counsellors, Secretary and Treasurer, shall also be elected on said day, and have the same powers, and be subject to the same duties, as is provided in this Constitution; and in case of the death or other disqualification of the President of this Convention, or of the Secretary of State *pro tempore*, before the election and qualification of the Governor or Secretary of State under this Constitution, the persons to be designated by this Convention at their session in January next, shall have all the powers and perform all the duties, which the President of this Convention, or the Secretary *pro tempore*, to be by them appointed, shall have and perform.

Duration of the first Legislature.

SEC. 2. The period for which the Governor, Senators and Representatives, Counsellors, Secretary and Treasurer, first elected or appointed, are to serve in their respective offices and places, shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January,

in the year of our Lord one thousand eight hundred and twenty-two.

SEC. 3. All laws now in force in this State, and not repugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation.

Laws now in force continue until repealed

SEC. 4. The Legislature, whenever two thirds of both Houses shall deem it necessary, may propose amendments to this Constitution; and when any amendments shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

Constitution how it may be amended.

SEC. 5. All officers provided for in the sixth section of an act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and Independent State," shall continue in office as therein provided; and the following provisions of said Act shall be a part of this Constitution, subject however to be modified or annulled as therein is prescribed, and not otherwise, to wit:

Persons in office to continue to hold their offices.

"SEC. 1. Whereas it has been represented to this Legislature, that a majority of the people of the District of Maine are desirous of establishing a separate and Independent Government within said District: Therefore,

Part of a Law of Massachusetts made a part of the Constitution.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and Independent State, if the people of the said District shall in the manner, and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions: And, provided the Congress of the United States shall give its consent thereto, before the fourth day of March next: which terms and conditions are as follows, viz:

"*First.* All the lands and buildings belonging to the Commonwealth, within Massachusetts Proper, shall continue to belong to said Commonwealth, and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one half thereof, to the said Commonwealth, and the other half thereof, to the State to be formed within the said

District, to be divided as is hereinafter mentioned; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title to the said lands remains in the Commonwealth; and the rights of the Commonwealth to their lands, within said District, and the remedies for the recovery thereof, shall continue the same within the proposed State, and in the Courts thereof, as they now are within the said Commonwealth, and in the Courts thereof; for which purposes, and for the maintenance of its rights, and recovery of its lands, the said Commonwealth shall be entitled to all other proper and legal remedies, and may appear in the Courts of the proposed State, and in the Courts of the United States, holden therein; and all rights of action for, or entry into lands, and of actions upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this Commonwealth, to be enforced, commuted, released or otherwise disposed of, in such manner as this Commonwealth may hereafter determine: *Provided however*, That whatever this Commonwealth may hereafter receive or obtain on account thereof, if any thing, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof, to the new State, and two third parts thereof to this Commonwealth.

Second. All the arms which have been received by this Commonwealth from the United States, under the law of Congress, entitled, "an Act making provision for arming and equipping the whole body of Militia of the United States," passed April the twenty third, one thousand eight hundred and eight, shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the Militia, according to which, the said arms have been received from the United States as aforesaid.

Third. All monies, stock, or other proceeds, hereafter derived from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defence of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two thirds to this Commonwealth, and one third to the new State.

Fourth. All other property of every description, belonging to the Commonwealth, shall be holden and receivable by the same, as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a separate State, the commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property so held by said Commonwealth, as an equivalent and indemnification

to said Commonwealth, for all such debts, annuities, or Indian subsidies or claims, which may then remain due or unsatisfied; and all the surplus of the said property, so holden, as aforesaid, shall be divided between the said Commonwealth and the said District of Maine, in the proportion of two thirds to the said Commonwealth, and one third to the said District. And if, in the judgment of the said commissioners, the whole of said property, so held, as a fund and security, shall not be sufficient indemnification for the purpose, the said District shall be liable for, and shall pay to said Commonwealth, one third of the deficiency.

“*Fifth.* The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose, shall obtain the assent of said Indians, and their release to this Commonwealth of claims and stipulations arising under the treaty at present existing between the said Commonwealth and said Indians; and as an indemnification to such new State, therefor, this Commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz: The said commissioners shall set off by metes and bounds, so much of any part of the land, within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State; or in lieu thereof, may pay the sum of thirty thousand dollars at its election; which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the commissioners, on this subject shall be made known to the Governor and Council; and if not made within that time, the election shall be with the new State.

“*Sixth.* Commissioners, with the powers and for the purposes mentioned in this Act, shall be appointed in manner following:—The Executive authority of each State shall appoint two; and the four so appointed, or the major part of them, shall appoint two more; but if they cannot agree in the appointment, the Executive of each State shall appoint one in addition; not, however, in that case, to be a citizen of its own State. And any vacancy happening with respect to the commissioners, shall be supplied in the manner provided for their original appointment; and, in addition to the powers herein before given to said Commissioners, they shall have full power and authority, to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situa-

tion and quality; they shall determine what lands shall be surveyed and divided, from time to time; the expense of which surveys, and of the commissioners, shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction; copies of which records, authenticated by them, shall be deposited from time to time, in the archives of the respective States; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The Executive authority of each State may revoke the power of either or both its commissioners; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own commissioners; four of said commissioners shall constitute a quorum, for the transaction of business; their decision shall be final, upon all subjects within their cognizance. In case said commission shall expire, the division not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner as is herein provided for filling the same, in the first instance, and with the like powers; and if either State shall, after six months' notice neglect or refuse to appoint its commissioners, the other may fill up the whole commission.

“Seventh. All grants of lands, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located, which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the Banks within this Commonwealth, shall be charged upon the tax upon the Banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained, except by judicial process, according to the principles of law; and in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth. And all lands heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society.

“Eighth. No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars, or

limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State, resident therein; and the rights and liabilities of all persons, shall, after the said separation, continue the same as if the said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied, on the fifteenth day of March next, where the suits have been commenced in Massachusetts Proper, and process has been served within the District of Maine; or commenced in the District of Maine, and process has been served in Massachusetts Proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits, the Courts within Massachusetts Proper and within the proposed State, shall continue to have the same jurisdiction as if the said District had still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies, within the proposed State, as it now has, for the collection of all taxes, bonds, or debts, which may be assessed, due, made, or contracted, by, to, or with the Commonwealth, on or before the said fifteenth day of March, within the said District of Maine; and all officers within Massachusetts Proper and the District of Maine, shall conduct themselves accordingly.

Ninth. These terms and conditions, as here set forth, when the said District shall become a separate and independent State, shall, *ipso facto*, be incorporated into, and become, and be a part of any constitution, provisional, or other, under which the government of the said proposed State, shall, at any time hereafter, be administered; subject, however, to be modified, or annulled, by the agreement of the Legislature of both the said States; but by no other power or body whatsoever."

SEC. 6. This Constitution shall be enrolled on parchment, deposited in the Secretary's Office, and be the supreme law of the State, and printed copies thereof shall be prefixed to the books containing the laws of this State. Constitution to be enrolled on parchment.

Done in Convention, October 29, 1819.

WILLIAM KING,

PRESIDENT OF THE CONVENTION,
and member from Bath.

Attest, ROBERT C. VOSE, SECRETARY.

L A W S

OF THE

STATE OF MAINE.

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CHAPTER I.

An Act against Treason and Misprison of Treason.

Punishment of Treason. SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every person whether male or female, who shall commit the crime of treason against this State, and be thereof duly convicted in the Supreme Judicial Court, shall suffer the pains of death, by being hanged by the neck until they are dead.

Concealment of Treason—only misprison of Treason. SEC. 2. *Be it further enacted,* That concealment or keeping secret of any treason, be deemed and taken only misprison of treason; and the offender therein shall forfeit to the use of this State, all his goods and chattels and the profits of his lands during his life, and shall and may be imprisoned for a term not less than two years, nor exceeding five years, at the discretion of the Court before whom he shall be convicted.

Crime and punishment of misprison of Treason. SEC. 3. *Be it further enacted,* That any person who shall know of any Treason to be committed, (and is no party or consentor to it,) and shall not, within a reasonable time, give information thereof, upon oath, to one of the Justices of the Supreme Judicial Court, or some Justice of the Peace within this State, to the end the offender or offenders therein may be apprehended and be amenable to Justice, shall be taken and deemed to be guilty of misprison of treason or concealment of treason.

Person indicted to have copy of indictment two days before arraignment. SEC. 4. *Be it further enacted,* That all and every person and persons whatsoever, that shall be accused and indicted for treason, or for misprison of treason, shall have a true copy of the whole indictment delivered unto them, or any of them, two full days at least, before he or they shall be arraigned for the same, whereby to enable them, and any of them, respectively, to advise with counsel thereupon, to plead and make their defence; and in case any person or persons, so accused and indicted, shall desire counsel, the Court before whom such person or persons shall be tried, or some Judge of that Court, shall, and is hereby authorized and required,

immediately upon his or their request, to assign to such person or persons, such and so many counsel not exceeding two, as the person or persons shall desire, to whom such counsel shall have free access at all reasonable hours.

Counsel to be assigned them.

SEC. 5. *Be it further enacted,* That no person or persons whatsoever shall be indicted, tried or convicted of misprison of treason, but by and upon the oaths and testimony of two lawful witnesses, either both of them to the same overt act, or one of them to one, and the other of them to another overt act of the same species of treason, unless the party indicted and arraigned, or tried, shall willingly without violence, in open Court confess the same.

Oaths of two witnesses necessary in case of misprison of Treason—unless, &c.

SEC. 6. *Be it further enacted,* That all and every person and persons who shall be accused, indicted and tried for treason, as aforesaid, or for misprison of treason, shall have copies of the panel of the Jurors who are to try them, delivered unto them and every of them so accused and indicted respectively, two days at least before he or they shall be tried for the same: and that all persons so accused and indicted for any treason, as aforesaid, or for misprison of treason, shall have the like process of the court where they shall be tried, to compel their witnesses to appear for them at any such trial or trials, as is usually granted to compel witness to appear against them.

Prisoners to have copy of panel of jurors two days before trial: may have compulsory process for their witnesses.

SEC. 7. *Be it further enacted,* That no person or persons whatsoever shall be indicted, tried or prosecuted for any treason, or for misprison of treason, that shall be committed or done in violation of this Act, unless the indictment for the same be found within three years next after the treason done or committed.

No persons to be indicted after three years next following the offence.

[Approved March 19, 1821.]

CHAPTER II.

An Act providing for the punishment of the crimes of Murder, Manslaughter, felonious Maims and Assaults, and Duelling, and for the prevention thereof.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall commit the crime of wilful murder, or shall be present, aiding and abetting, in the commission of such crime, or not being present, shall have been accessory thereto before the fact, by counselling, hiring, or otherwise procuring the same to be done, every such offender, who in the Supreme Judicial Court, shall be duly convicted of either of the felonies and offences aforesaid, shall suffer the punishment of death. And the Justices of the said Court, before whom the conviction

Punishment of murder or being accessory thereto before the fact.

Court may order body of convict to be dissected and anatomized :

Sheriff may deliver the dead body over for that purpose.

Punishment of accessories to the crime after the fact.

Punishment of manslaughter.

Punishment for maiming or being accessory thereto.

tion shall be in cases of murder committed in a duel shall, and in other cases may, at their discretion, further sentence and order the body of such convict to be dissected and anatomized. And in case of further sentence, it shall be the duty of the Sheriff to deliver the body of the convict, being dead, to a professor of anatomy and surgery in some public college or seminary, when it shall be required in his behalf, and otherwise to any surgeon or surgeons, who shall be attending at the place of execution, to receive the body, and will engage for the dissection and anatomizing thereof.

SEC. 2. *Be it further enacted,* That if any person, after a wilful murder done and committed as aforesaid, shall be accessory thereto, by knowingly receiving, harboring, comforting, concealing, maintaining, or otherwise unlawfully assisting any principal offender, or accessory therein before the fact; every such accessory after the fact, who shall be thereof duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding six months, and by confinement afterwards to hard labor, for such term, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

SEC. 3. *Be it further enacted,* That if any person shall commit the crime of manslaughter, and shall be thereof duly convicted, every such offender shall be punished by solitary imprisonment, for such term not exceeding six months, and by confinement afterwards to hard labor, for such term, not exceeding ten years, as the Court before whom the conviction may be, shall sentence and order; or by fine not exceeding one thousand dollars, and imprisonment in the common gaol, for a term not exceeding three years, at the discretion of the Court, before whom the conviction may be.

SEC. 4. *Be it further enacted,* That if any person, with set purpose and aforethought malice, or intention to maim or disfigure, shall unlawfully cut out or disable the tongue, put out an eye, cut off an ear, slit the nose, or cut off the nose or lip, or cut off or disable a limb, or member of any person, every such offender, and every person privy to the intent aforesaid, who shall be present, aiding and abetting in the commission of such offence, or not being present, shall have counselled, hired or procured the same to be done, upon due conviction thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement to hard labor, or by imprisonment in the common gaol for such term, not exceeding ten years, commencing from the expiration of such solitary imprisonment, as the Justices of the said Court before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Sec. 5. *Be it further enacted,* That if any person being armed with a dangerous weapon, and with intent to commit murder, shall assault another, every such offender, and every person present aiding and abetting, or who shall be accessory before the fact, to the commission of the offence aforesaid, by counselling, hiring, or procuring the same to be done and committed, and who shall be thereof duly convicted, shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement afterwards to hard labor, for such term, not exceeding twenty years, as the Court before whom the conviction may be shall sentence and order.

Punishment for assault with intent to commit murder, and being accessory thereto.

Sec. 6. *Be it further enacted,* That if any person with a dangerous weapon and with an intention to maim or disfigure in any of the modes, mentioned in the fourth section of this Act, shall assault another; or shall be present, aiding or abetting therein, or not being present, shall have counselled, hired or procured the same to be done, every such offender, who shall be thereof duly convicted, in the Supreme Judicial Court, shall be deemed a felonious assaulter, and shall be punished by solitary imprisonment, for such term, not exceeding six months, and by confinement afterwards to hard labor, or by imprisonment in the common gaol, for such term not exceeding four years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Punishment for assault with intent to maim, &c. and being accessory thereto.

Sec. 7. *Be it further enacted,* That if any person shall voluntarily engage in a duel, with rapier, or small sword, back sword, pistol, or other dangerous weapon, to the hazard of life, when no homicide shall ensue thereon; and if any person shall, by word, message, or in any other manner, challenge another to fight in a duel, as aforesaid, when no duel shall be fought thereon, every such offender, and every person, who shall be knowingly a second, agent or abettor in such duel or challenge, upon due conviction of either of the said offences in the Supreme Judicial Court, shall be punished as a felonious assaulter; and for his further punishment, shall be disqualified from holding, and incapable of any office or place of honor, profit or trust under this State, during the term of twenty years from and after such conviction.

Punishment for engaging in a duel, giving a challenge or acting as second or abettor:

On conviction shall be disqualified from holding any office for twenty years.

Sec. 8. *Be it further enacted,* That if any person shall accept a challenge to a duel, and shall consent to fight thereon as aforesaid, when no duel shall thereupon ensue, every such offender, and every person who shall knowingly be a second, agent or abettor in such acceptance of a challenge, upon due conviction thereof in the Supreme Judicial Court, shall be punished by imprisonment in the common gaol, not exceeding one year, and shall be disqualified from holding, and incapable of any office or place of honor, profit or trust under this State, during the term of five years from and after such conviction.

Punishment for accepting a challenge:—

On conviction disqualified for holding any office for five years.

Punishment for concealing pregnancy, or being delivered of a bastard.

SEC. 9. *Be it further enacted,* That if any woman shall conceal her pregnancy, and shall willingly be delivered in secret by herself, of any issue of her body, male or female which shall by law be a bastard, every such woman so offending, shall pay a fine not exceeding the sum of one hundred dollars, to the use of the State; to be recovered by information or indictment in any Court proper to try the said offence, or imprisoned, not exceeding three months, at the discretion of the Court.

Punishment for endeavoring to conceal the death of such child.

SEC. 10. *Be it further enacted,* That if any woman shall endeavor privately, either by herself or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would by law be a bastard, so that it may not come to light, whether it were born alive or not, or whether it was murdered, or not, in every such case, the mother, so offending, shall be punished by solitary imprisonment for a term not exceeding three months, and confinement to hard labor, for a term not exceeding five years, at the discretion of the Court.

If women be indicted for murder of such child and for both or either of the above offences in same indictment, Jury may acquit of the murder & convict of both or either of the other offences.

SEC. 11. *Be it further enacted,* That if the Grand Jury shall, in the same indictment, charge any woman with the wilful murder of her infant bastard child, as well as with either or both the offences aforesaid, and it appear to the Jury of trials that she is guilty of the murder charged, she shall be thereupon convicted of murder, and suffer the pains of death as in case of murder; but if it doth not appear to the same Jury that she is guilty of the murder charged in the indictment, but only of either or both the offences aforesaid, then the same Jury may acquit her of the charge of murder, and find her guilty of the aforesaid offences or either of them, as the case may be.

[Approved February 28, 1821.]

CHAPTER III.

An Act providing for the punishment of Rape, and for the prevention thereof.

Punishment of rape and of being accessory thereto before the fact.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any man shall ravish, and carnally know any woman, by force, and against her will, or shall unlawfully and carnally know and abuse any woman child under the age of ten years, every such offender, and any person present, aiding and consenting in such rape, or accessory thereto before the fact, by counselling, procuring or commanding such rape to be committed, who shall be duly convicted in the Supreme Judicial Court, of either of the felonies and offences aforesaid, shall suffer the punishment of death.

SEC. 2. *Be it further enacted*, That if any person, after any rape committed as aforesaid, shall knowingly harbor, conceal, maintain or assist any principal offender therein, or any accessory thereto, before the fact, and shall be thereof duly convicted in the Supreme Judicial Court, every such accessory after the fact, shall be punished by solitary confinement, for such term, not exceeding three months, and by confinement to hard labor, for such term thereafter commencing, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment of accessories after the fact.

SEC. 3. *Be it further enacted*, That if any man, with intent to commit a rape as aforesaid, shall make an assault upon a woman or female child of the age of ten years and upwards, every such offender, and any person who shall consent, aid or assist therein, and shall be thereof duly convicted in the Supreme Judicial Court, shall be adjudged guilty of a felonious assault, and shall be punished by solitary imprisonment, for such term, not exceeding three months, and by confinement afterwards to hard labor, for such term, not exceeding ten years, or by a fine not exceeding five hundred dollars, and by imprisonment in the common gaol for such term, not exceeding one year, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

Punishment of assault, with intent to commit a rape on woman or child of ten or more years old.

SEC. 4. *Be it further enacted*, That when any person shall be convicted in the Supreme Judicial Court of having made an assault on any female child under the age of ten years, with an intent to commit a rape, he shall be punished by solitary imprisonment, not exceeding four months, and afterwards by confinement to hard labor for any term of years, or for life, according to the circumstances and aggravation of the offence, as the Court in their discretion may think proper.

Punishment for an assault with such intent on a female child under ten years old.

[Approved February 28, 1821.]

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CHAPTER IV.

An Act providing for the punishment of Incendiaries, and the perpetrators of other malicious mischief.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall wilfully and maliciously set fire to the dwelling house of another, or to any out building, adjoining to such dwelling house, or to any other building, and by the kindling of such fire or by the burning of such other building, such dwelling house shall be burnt in the night time, every such offender, and any person present, aiding, abetting or consenting, in the commission of such offence, or accessory thereto, before the fact, by

Burning dwelling house in night time.

punishable
with death.

counselling, hiring or procuring the same to be done, who shall be duly convicted before the Supreme Judicial Court of either of the felonies and offences aforesaid, shall suffer the punishment of death.

Punishment
for burning
dwelling-house,
&c. in day
time.

SEC. 2. *Be it further enacted,* That if any person shall wilfully and maliciously burn, in the day time, the dwelling house of another, or any out building adjoining to such dwelling house, or any other building, whereby such dwelling house shall be burnt; or if any person shall wilfully and maliciously set fire to any meeting house, church, court house, town house, college, academy, or other building erected for public uses, or to the store, barn or stable of another within the curtilage of any dwelling house, and by the kindling of such fire, such meeting house, or other building, erected for public uses, or such store, barn or stable, shall be burnt in the night time; every such offender, and any person present, aiding, abetting or consenting in the commission of such offence, or accessory thereto before the fact, by counselling, hiring or procuring the same to be done, who shall be duly convicted before the Supreme Judicial Court of either of the felonies and offences aforesaid, shall be punished by solitary imprisonment for such term, not exceeding one year, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, and by confinement afterwards to hard labor for life.

Punishment
for burning
public build-
ings or stores,
barns, &c. in
night time;

or being access-
ary thereto
before the fact.

SEC. 3. *Be it further enacted,* That if any person shall wilfully and maliciously burn, in the day time, any meeting house or other building erected for public uses, or any store, barn or stable of another, within the curtilage of any dwelling house: or if any person shall wilfully and maliciously burn, by night or day, any other store, barn, stable, house or building whatsoever, or any ship or vessel lying in the body of any county; every such offender, and any person aiding or consenting in the commission of such offence, who shall be duly convicted thereof before the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding one year, and by confinement afterwards to hard labor for such term, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the nature and aggravation of the offence.

—for burning
such buildings
in day time.

—for burning
corn, hay, fences,
etc. lumber, &c.

SEC. 4. *Be it further enacted,* That if any person shall wilfully and maliciously burn any stack of corn, hay, grain, straw, cornstalks, flax, fences, piles of wood, boards, or other lumber; or any soil, grass, trees, poles or underwood, of another; and if any person shall wilfully and maliciously, passionately, cruelly or barbarously kill, wound, maim, or disfigure any one or more of the horses, sheep or cattle of another, every such offender, and any person aiding and consenting in the commission of such offence, who shall be duly

—killing,
wounding or
disfiguring cat-
tle, horses and
sheep.

convicted thereof before the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding six months, and by confinement afterwards to hard labor for such term, not exceeding three years, or by fine not exceeding five hundred dollars, and by imprisonment in the common gaol, not exceeding one year, at the discretion of the Justices of the said Court, before whom the conviction may be, and as they shall sentence and order, according to the nature and aggravation of the offence.

Sec. 5. *Be it further enacted,* That if any person, after any felony or offence done and committed, by any incendiary in any manner as aforesaid, shall knowingly harbor, conceal, maintain, assist or relieve such offender, or any accessory before the fact, in any such felony or offence, every such accessory after the fact, who shall be duly convicted thereof, before the Supreme Judicial Court, shall be punished by solitary imprisonment, for a term not exceeding one month, and by confinement afterwards to hard labor for a term not exceeding five years; or by a fine not exceeding one thousand dollars, and by imprisonment in the common gaol, not exceeding one year, at the discretion of the Justices of the said Court, before whom the conviction may be, and as they shall sentence and order thereupon, according to the nature and aggravation of the offence.

Punishment of accessories after the fact.

Sec. 6. *Be it further enacted,* That if any person or persons shall wittingly and willingly set fire to any woods or lands, lying in common, or to woodland, or other land held in severalty and not his own, within this State, without leave first had and obtained from the owners of the land or those who have a right to give the same leave, excepting in cases in which it may become necessary to make back fires to stop the progress or subdue any fire that may be spreading, the person so offending shall forfeit and pay for each offence, ten dollars, one moiety thereof to the use of the State, and the other moiety thereof to the use of him or them that shall inform and sue for the same; and shall be liable, in a special action on the case, to pay damages to all persons injured by such fire, including the injury which may be done by any necessary back fire made for the purpose aforesaid. And in case any person under age shall offend against this section, such penalty shall be recovered of the parent or master respectively, of such person under age, unless it shall appear such person under age was employed or directed by some person, other than the parent or master; in which case the person so employing or directing shall be liable therefor; and the fines in this section mentioned may be recovered in an action of debt, with costs of suit.

Punishment for wittingly setting fire to woods without leave.

Liable in damages also.

Parents or masters of minors offending liable for penalty in certain cases.

Sec. 7. *Be it further enacted,* That if any person shall cruelly beat any horse or cattle, and be thereof convicted, before a Justice of the Peace, he shall be punished by fine

Punishment for cruelly beating horses or cattle.

not less than two dollars nor more than five dollars, or by imprisonment in the common gaol for a term not exceeding thirty days, according to the aggravation of the offence.

[Approved February 24, 1821.]

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CHAPTER V.

An Act against Sodomy and Bestiality.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That if any man shall commit the crime against nature with a man or male child, or any man or woman shall have carnal copulation with a beast, every such offender, being duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding one year, and by confinement afterwards to hard labor for such term, not exceeding ten years, as the Justices of said Court, before whom the conviction may be, shall sentence and order.

[Approved February 19, 1821.]

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CHAPTER VI.

An Act providing for the punishment of the Crimes of Burglary and other breaking and entering of buildings.

Punishment of the crime of Burglary, the offender being armed with a dangerous weapon, or making an actual assault, and being necessary before the fact.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person with intent to kill, rob, steal, commit a rape, or to do, or perpetrate any other felony, shall, in the night time, break and enter, or having with such felonious intent, entered, shall in the night time break a dwelling house, any person then being lawfully therein, and such offender being, at the time of such breaking or entering, armed with a dangerous weapon, or arming himself or herself in such house, with a dangerous weapon, or committing an actual assault upon any person lawfully being in such house; every such offender, and any person present, aiding, assisting or consenting in such burglary, or accessory thereto before the fact, by counselling, hiring or procuring such burglary to be committed, who shall be duly convicted thereof in the Supreme Judicial Court, shall suffer the punishment of death.

Punishment of the offence when the offender is not so armed, and commits no assault on those in the house.

SEC. 2. *Be it further enacted,* That if any person, with intent to kill, rob, steal, commit a rape, or to do, or perpetrate any other felony, shall, in the night time, break and enter, or having, with such felonious intent entered, shall in the night time break a dwelling house, without being armed with a dangerous weapon, or without arming himself, or herself in such house with a dangerous weapon, and without committing

an assault upon any person lawfully being in such house; every such offender and every person present, aiding and abetting in such burglary, or accessory thereto before the fact, by counselling, hiring or procuring such burglary to be committed, who shall be duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term, not exceeding two years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, and by confinement afterwards to hard labor for life.

Accessories before the fact.

SEC. 3. *Be it further enacted*, That if any person after any burglary committed as aforesaid, shall knowingly harbor, conceal, maintain, or assist any principal offender, or accessory thereto before the fact: every such accessory after the fact, who shall be thereof duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding three months, and by confinement afterwards to hard labor, for such term, not exceeding ten years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment of accessories after the fact.

SEC. 4. *Be it further enacted*, That if any person, with intent to kill, rob, steal, commit a rape, or to do, or perpetrate any other felony, shall, in the night time, enter without breaking, or in the day time break and enter any dwelling house, or any out house thereto adjoining and occupied therewith, or any office, shop or warehouse, or any ship or vessel lying within the body of a County: every such offender and every person present, aiding or abetting in the commission of such offence, or who shall have counselled, hired, or procured the same to be committed, being thereof duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding six months, and by confinement afterwards to hard labor for such term, not exceeding three years: or by a fine, not exceeding five hundred dollars, and imprisonment in the common gaol, not exceeding three years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment when the offender enters a dwelling house with such intent in the night time without breaking, or in the day time by breaking any dwelling house or other building.

Accessories before the fact.

[Approved February 28, 1821.]

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CHAPTER VII.

An Act providing for the punishment of the crimes of Robbery and other larcenies, and for the prevention thereof.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Supreme Judicial Court shall have exclusively the jurisdiction of all larcenies

Supreme Jud. Court to have exclusive jurisdiction of larcenies above 100 dollars.

S. J. Court & C. C. Common Pleas, concurrent jurisdiction of larcenies, not exceeding 100 dollars.

Just's. of Peace to have concurrent jurisdiction of larcenies not exceeding five dollars.

Mode of punishment before Just. of Peace.

Punishment of simple larceny.

Being accessory before the fact.

Punishment on a second offence.

where the money, goods or other article or articles stolen, shall be alleged to exceed in amount or value, the sum of one hundred dollars, the said Supreme Judicial Court and the Circuit Courts of Common Pleas, within their respective Counties, shall have concurrent jurisdiction of all larcenies, where the money, goods or other article or articles stolen, shall not be alleged to exceed in amount or value, the sum of one hundred dollars; and every Justice of the Peace, within his proper County, shall have concurrent jurisdiction with the said Courts, of all larcenies, where the money, goods or other article or articles stolen, shall not be alleged to exceed in amount or value, the sum of five dollars. And any person duly convicted before a Justice of the Peace of any larceny, either as principal or as accessory before or after the fact, shall be punished by such fine, not exceeding five dollars, and imprisonment in the common gaol for such term, not exceeding twenty days, either or both, as the said Justice, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

SEC. 2. *Be it further enacted*, That any person, who shall feloniously steal, take and carry away of the property of another, any money, goods, or chattels, or any bond, promissory note, bill of exchange, or other bill, order or certificate, or any book of accounts for or respecting any money or goods, due or becoming due and payable, or to be delivered, or any deed or writing containing a conveyance of lands or other real estate, or any other valuable contract remaining in force, or any receipt, release or defeasance, or any writ, process, or public record, shall be deemed guilty of the crime of larceny; and every such offender, and any person present, aiding and abetting in any such larceny, or accessory thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, who, before any Court having jurisdiction thereof, shall be duly convicted of either of the felonies and offences aforesaid, shall be punished, when the money, goods, or other article or articles stolen, shall not exceed in amount or value the sum of one hundred dollars, by solitary imprisonment for a term not exceeding six months, and by confinement afterwards to hard labor for a term not exceeding one year, or by a fine not exceeding one hundred dollars and imprisonment in the common gaol for a term not exceeding one year. And when the money, goods or other article or articles stolen, shall exceed in amount or value, the sum of one hundred dollars, then by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labor for a term not exceeding three years, to be ordered by the Court before whom the conviction may be, according to the degree and aggravation of the offence.

SEC. 3. *Be it further enacted*, That if any person having been before convicted of the crime of larceny, or as acces-

sary thereto before the fact, shall afterwards commit or shall be alike accessory to another larceny, and shall be duly convicted thereof, before the Supreme Judicial Court; or if any person before the Supreme Judicial Court at one and the same term thereof, shall be duly convicted as principal or as accessory before the fact, in three distinct larcenies, every such offender shall be punished as a common and notorious thief, by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labor for a term not less than three years and not exceeding fifteen years, to be ordered as aforesaid.

violation as principal or accessory.

SEC. 4. *Be it further enacted,* That if any person in the night time, shall break and enter any shop, warehouse or office, not adjoining to, or occupied with, a dwelling house, or any ship or vessel, lying within the body of a County, and shall there commit a larceny, every such offender, and every person present, aiding, and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or procuring the same to be committed, and being thereof duly convicted before the Supreme Judicial Court, shall be punished by solitary imprisonment for such term not exceeding one year, and confinement afterwards to hard labor for such term, not exceeding fifteen years, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Punishment for breaking and entering shop, warehouse or office in night time.

SEC. 5. *Be it further enacted,* That if any person in the night time, shall enter, without breaking, or in the day time, shall break and enter any dwelling house, or out houses thereto adjoining, and occupied therewith, or any office, shop, warehouse, ship or vessel, as aforesaid, the owner or other person being therein and put in fear, every such offender, and any person present, aiding and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, upon due conviction thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labor for a term not exceeding ten years, to be ordered as aforesaid.

Punishment for entering a dwelling house &c. in night, without breaking, or in day time breaking and entering.

SEC. 6. *Be it further enacted,* That if any person shall in the day time commit any larceny in any dwelling house, office, shop, warehouse, ship or vessel, as aforesaid, or in the night time shall break and enter any church, meeting house, court house, town house, college or academy, or other building erected for public uses, or any mill, malt-house, store, barn or stable, and shall commit any larceny therein, or shall be aiding and abetting in the commission of such felony, or shall be accessory thereto before the fact, by counselling, hiring or otherwise procuring, the same to be done, every

Punishment for committing larceny in dwelling house, shop office, &c. in day time, or breaking and entering in night a church or other public building, or store, barn, &c.

such offender, upon conviction of either of the felonies aforesaid, in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding six months, and by confinement afterwards to hard labor, for a term not exceeding five years, to be ordered as aforesaid.

Punishment for robbery, when the offender is not armed with a dangerous weapon, nor intends to kill, &c.

SEC. 7. *Be it further enacted,* That any person, who shall by force and violence, or by other assault and putting in fear, feloniously steal, rob and take from the person of another, any money or goods, bank note, bill of exchange or other negotiable bill, note or order, due or in force, or any other property which may be the subject of larceny, shall be adjudged guilty of the crime of robbery; and every such offender, and any person present, aiding and abetting in the commission of such felony, or accessory thereto before the fact, by counselling, hiring or procuring the same to be done, who in the Supreme Judicial Court, shall be duly convicted of either of the felonies and offences aforesaid, shall be punished by solitary imprisonment for such term, not exceeding two years, and by confinement afterwards, to hard labor for life.

Punishment of robbery, when armed with a dangerous weapon, and intending to kill, &c.

SEC. 8. *Be it further enacted,* That if any person shall commit an assault upon another, and shall rob, steal and take from his person, any money, goods, or chattels, or any property which may be the subject of larceny, such robber being, at the time of committing such assault, armed with a dangerous weapon, with intent to kill or maim the person so assaulted and robbed; or if any such robber, being armed as aforesaid, shall actually strike or wound the person, so assaulted and robbed; every person so offending, and every person present, aiding and abetting in the commission of such felony, or who shall be accessory thereto before the fact, by counselling, hiring or procuring the same to be done and committed, and who shall be duly convicted thereof, shall suffer the punishment of death.

Death.

Punishment of assault with intent to rob—offender being armed with a dangerous weapon.

SEC. 9. *Be it further enacted,* That if any person, being armed with a dangerous weapon, and with intent to commit robbery, shall assault another, every such offender, and every person present, aiding and abetting, or who shall be accessory before the fact, to the commission of the offence aforesaid, by counselling hiring or procuring the same to be done and committed, and who shall be thereof duly convicted, shall be punished by solitary imprisonment, for such term not exceeding one year, and by confinement afterwards to hard labor, for such term not exceeding twenty years, as the Court, before whom the conviction may be, shall sentence and order.

Punishment of any other larceny from person.

SEC. 10. *Be it further enacted,* That if any person shall commit any other larceny from the person of another, either openly and violently, or privily and fraudulently, every such offender, and any person present, aiding and abetting in

the commission of such felony, or accessory thereto before the fact, by counselling, hiring or otherwise procuring the same to be done, who shall be duly convicted in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labor, for a term not exceeding five years, to be ordered by the Justices of the said Court, before whom the conviction may be, according to the aggravation of the offence.

Sec. 11. *Be it further enacted,* That if any person with a dangerous weapon, or other actual violence, and with intent to steal, in manner as aforesaid, shall assault another, every such offender, and any person present, aiding and assisting therein, or who shall have counselled or procured the same to be done, shall be deemed a felonious assaulter; and upon due conviction thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment, for a term not exceeding one year, and by confinement afterwards to hard labor, for a term not exceeding ten years, to be ordered as aforesaid.

Punishment of assault with violence, or dangerous weapon with intent to steal.

Sec. 12. *Be it further enacted,* That if any person shall knowingly harbor, conceal or maintain any principal felon or accessory before the fact, in any robbery or larceny, committed in any manner as aforesaid, or shall receive or shall aid in concealing any money, goods or other articles stolen as aforesaid, knowing the same to have been so stolen, in any such manner as aforesaid, every such offender upon due conviction of either of the offences as aforesaid, shall be deemed an accessory after the fact to the same robbery or larceny, and shall be punished by solitary imprisonment, for such term not exceeding six months, and by confinement afterwards to hard labor for such term not exceeding three years, or by a fine not exceeding five hundred dollars, and by imprisonment in the common gaol, for such term not exceeding three years, or either of them, as the Justices of the said Court, before whom the conviction may be, shall and may sentence and order, according to the nature and aggravation of the offence.

Punishment of accessories to robbery or larceny after the fact.

Sec. 13. *Be it further enacted,* That any person charged with the receipt or concealment of money, goods or other articles stolen in any manner as aforesaid, knowing the same to have been stolen, may be prosecuted therefor, as for a misdemeanor, although the principal felon chargeable, or charged with the larceny, shall not have been prosecuted or convicted; and upon due conviction thereof before any Court having jurisdiction of the principal offence, shall be punished in the same degree and manner, as an accessory after the fact might be, being alike convicted; but after prosecution for such misdemeanor, the person charged shall not be liable to be prosecuted as an accessory after the fact in the same larceny.

Accessory to such felony may be prosecuted for misdemeanor, though principal is not convicted or prosecuted.

Punishment on a second conviction as receiver of stolen goods, or on conviction of three distinct offences of same kind, at same term.

SEC. 14. *Be it further enacted,* That if any person, having been before convicted as a receiver of money, goods or other articles stolen in any manner as aforesaid, shall afterwards knowingly receive or aid in the concealment of any other money, goods or other articles stolen, and shall be duly convicted thereof before the Supreme Judicial Court; or if any person shall be alike duly convicted before the Supreme Judicial Court, in the same term thereof, as a receiver of any money, goods or other articles as aforesaid, stolen in any manner as aforesaid, in three distinct acts of receiving and concealing as aforesaid, every such offender shall be deemed a common receiver of stolen goods, and shall be punished by solitary imprisonment for such term, not exceeding one year, and by confinement afterwards to hard labor for such term, not less than three years, and not exceeding ten years, as the Justices of the said Court, before whom the conviction may be shall sentence and order, according to the nature and aggravation of the offence.

Case in which Court may exempt convict from punishment by hard labor.

SEC. 15. *Be it further enacted,* That when any person convicted for the first offence as a receiver of stolen goods, or as accessory, after the fact, in any simple larceny and not adjudged to be a common receiver of stolen goods, shall make satisfaction to the party injured by such larceny to the full amount of the money, goods or articles stolen and not restored, the Justices of the Court before whom the conviction may be, shall exempt such receiver and accessory from the penalty of confinement of hard labor.

Court may allow compensation to prosecutor for time and trouble;

SEC. 16. *Be it further enacted,* That in every case of a conviction of larceny as aforesaid, the Justices of the Court before whom the conviction may be, shall have authority, at the prayer of the prosecutor therein, and at their discretion, to order for him or her a meet recompense, not exceeding his or her actual expenses, with a reasonable allowance for time and trouble in such prosecution, to be paid by the County Treasury; and all payments which shall be made by any County Treasurer, pursuant to any order which may be granted as aforesaid, shall be the proper charge of this State, and shall be allowed in the manner which is or shall be provided for the reimbursement to the several Counties of other costs arising in criminal prosecutions.

—same to be charged to the State.

Sheriff when he arrests a person accused—to seize goods, money, &c. and make inventory of them to be annexed to his return.

SEC. 17. *Be it further enacted,* That it shall be the duty of any Sheriff or other officer who shall be charged with, or lawfully employed in, apprehending and arresting any person accused of the crime of larceny or robbery, or as accessory therein, in any manner as aforesaid, to seize and secure the money, goods or other articles aforesaid, alleged to be stolen or to have been obtained by such larceny or robbery, and which shall be found in the possession of such accused person, or which shall be waved by him or her in flying from justice. And of the money, goods or other articles aforesaid,

which shall be so found and secured, a true inventory or schedule shall be made in, or annexed to the return of such Sheriff or other officer, upon the warrant or process which shall have been issued for the arrest of any person accused as aforesaid; and such Sheriff or other officer shall be accountable for the money, goods or other articles thereby seized and secured. And whenever the conviction of any person accused as aforesaid, shall be had upon the prosecution, and by the care and diligence of the owner of any money, goods or articles, found and seized as aforesaid, such owner shall and may have restitution thereof immediately after such conviction, by an order in open Court, or by a writ of restitution as the case may require.

Sheriff accountable for such goods, &c.

On conviction to be delivered to owner.

SEC. 18. *Be it further enacted,* That whenever, upon any conviction as aforesaid, such convict shall be sentenced to confinement to hard labor, such owner prosecuting as aforesaid, shall be allowed against each and every convict, the full amount or value of the money, goods or other articles stolen or obtained by such larceny, and not restored or satisfied for, to be charged against such convict at his or her place of confinement under such sentence, and to be paid from his or her net earnings, as the same shall accrue, and so far as they may extend. And when such convict shall be sentenced to fine or imprisonment in the common gaol, he or she shall be required by the sentence to pay to such owner prosecuting as aforesaid, the full amount or value of the money, goods or other article or articles stolen and not restored or satisfied for; and if any such convict shall be unable to make restitution, or pay the amount or value as aforesaid, the Justices of the Court before whom the conviction may be, may further sentence and order him or her to make satisfaction to such owner by service, who shall thereupon be empowered to take such convict in service, or to dispose of him or her to any person for such term of time, not exceeding three years, as shall be ordered by the said Justices: *Provided however,* That no such convict shall be held in gaol for such satisfaction of the amount or value, as aforesaid, for a longer term than thirty days, unless such owner shall give security to the keeper of the gaol, to satisfy the charge of keeping such prisoner from and after that time, according to the rate allowed for keeping prisoners in the same gaol; and if such owner shall refuse or neglect so to do, and shall not take or dispose of such prisoner, the keeper shall no longer keep such prisoner for that purpose, but may set him or her at liberty, after the expiration of the term of imprisonment, if any, ordered by the sentence, and after the payment of the costs of Court, and his own charges of imprisonment; and if he or she be unable to pay the same, upon application by the keeper of the gaol to any two Justices of the quorum, within the same County, they are hereby empowered to de-

Convicts, sentenced to hard labor to be charged with value of goods stolen and not restored.

to be paid from his earnings, &c.

Court may empower owner of goods to dispose of convict in service—in case.

Proviso.

termine the sum to be paid, and to order such prisoner to make satisfaction by service, for such reasonable time, not exceeding two years, as they may assign, for which time the keeper may thereupon dispose of such prisoner in service to any citizen of the United States: And if he or she cannot be so disposed of, after being confined three months, for costs, or fine and costs only, the Justices of the Circuit Court of Common Pleas, within and for the same County, may, at their discretion, order such prisoner to be discharged upon such security as they may judge proper.

Persons charged with larceny, &c. to recognise in a sum double the value of the goods—besides the sum required to secure their appearance.

SEC. 19. *Be it further enacted,* That when any person, charged with the crime of larceny, or as an accessory therein, or as a receiver of money, goods or other articles stolen as aforesaid, shall and may be let to bail, the recognisance for the appearance of such person, shall be taken, with sufficient surety, or sureties, in such sum as may be reasonably required for that purpose; with a further additional sum which shall be double the amount or value of the money, goods or articles charged to have been stolen or obtained by such larceny; and when such recognisance shall be forfeited by default, the Justices of the Court before whom judgment may be rendered thereon, shall order the amount or value of the money, goods, or other articles stolen or obtained as aforesaid, to be paid out of the sum which shall be collected on such recognisance, to the owner of such money, goods or other articles, provided he shall have been the prosecutor.

[Approved March 19, 1821.]

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CHAPTER VIII.

An Act against Blasphemy, and profane Cursing and Swearing.

Crime of blasphemy described.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That if any person shall wilfully blaspheme the holy name of God, by denying, cursing, or contumeliously reproaching God, his creation, government, or final judging of the world, or by cursing, or reproaching Jesus Christ, or the Holy Ghost, or by cursing or contumeliously reproaching the holy word of God, that is, the canonical scriptures, contained in the Books of the Old and New Testaments, or by exposing them, or any part of them, to contempt and ridicule; which books are as follows: Genesis, Exodus, Leviticus, Numbers, Deuteronomy, Joshua, Judges, Ruth, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Esther, Job, Psalms, Proverbs, Ecclesiastes, the Song of Solomon, Isaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zechariah, Malachi, Matthew, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Ephesians, Phillipians, Colos-

sians, Thessalonians, Thessalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelations; every person so offending, shall be punished by solitary imprisonment for a term not exceeding three months, and confinement to hard labor, for a term not exceeding five years. And whereas the horrible practice of profane cursing and swearing is inconsistent with the dignity and rational cultivation of the human mind, with a due reverence of the Supreme Being and his Providence, and hath a natural tendency to weaken the solemnity and obligation of oaths, lawfully taken in the administration of justice; to promote falsehood, perjury, blasphemy, and dissoluteness of manners, and to loosen the bonds of civil society:

Punishment of blasphemy.

Sec. 2. *Be it therefore enacted,* That if any person, who has arrived at the age of discretion, shall profanely curse or swear, and shall be thereof convicted, such person, so offending, shall forfeit and pay a sum not exceeding two dollars, nor less than one dollar, according to the aggravation of the offence and the quality and circumstances of the offender, in the judgment of the Court, or Justice of the Peace before whom the conviction may be; and in case the same person shall, after one conviction as aforesaid, offend a second time, such offender shall forfeit and pay, upon such second conviction, double the sum forfeited on the first conviction; and in case the same person shall, after two convictions, as aforesaid, again offend, such offender shall forfeit and pay, upon each and every subsequent conviction, treble the sum forfeited on the first conviction, one moiety, of the forfeitures aforesaid, to be to the use of the town, in which the offence shall be committed, and the other moiety thereof to the use of the person or persons, who shall make complaint thereof, or prosecute for the same: and provided also such prosecution be commenced within twenty days after the offence be committed, [Approved February 24, 1821.]

Punishment of profane cursing and swearing.

Double penalty on second conviction.

Treble penalty on third conviction.

Limitation of prosecution.

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CHAPTER IX.

An Act providing for the due observance of the Lord's day.

Whereas the observance of the Lord's day is highly promotive of the welfare of a community, by affording necessary seasons for relaxation from labor and the cares of business; for moral reflections and conversation on the duties of life, and the frequent errors of human conduct; for public and private worship of the Maker, Governor and Judge of the world; and for those acts of charity which support and adorn a Christian Society: And whereas some thoughtless and irreligious persons, inattentive to the duties and benefits of the Lord's day, profane the same, by unnecessarily pursuing their worldly business and recreations on that day, to their own great damage, as members of a Christian Society: to the great disturbance of well disposed persons, and to the great injury of the community, by producing dissipation of manners and immoralities of life,

Preamble.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no traveller, drover,

Travelling, teaming, &c. on Lord's day prohibited.

Penalty, how recovered and applied.

Limitation of prosecution.

Business and amusements unlawful.

Innholders not to suffer drinking, idleness or play in their houses.

Penalty for so doing.

waggoner, teamster, or any of their servants, shall travel on the Lord's day, or any part thereof, (except from necessity or charity,) under a penalty not less than four dollars nor more than six dollars and sixty-six cents; which penalty may be recovered with costs of prosecution, upon complaint before any Justice of the Peace in the County where the offence may be committed; one moiety thereof to the complainant and the other moiety to the use of the County within which the offence may be committed; or before the Circuit Court of Common Pleas of the same County by presentment of the Grand Jury, in which case the whole penalty shall enure to the benefit of the County: *Provided however*, That all prosecutions for the said penalty shall be commenced within six months after the offence was committed, unless the offender resides without the State.

SEC. 2. *Be it further enacted*, That no person or persons whatsoever shall keep open, his, her, or their shop, warehouse, or workhouse, nor shall, upon land or water, do any manner of labor, business, or work, (works of necessity and charity only excepted,) nor be present at any concert of music, dancing or any public diversion, show or entertainment, nor use any sport, game, play, or recreation, on the Lord's day, or any part thereof, upon penalty of a sum not exceeding six dollars and sixty-six cents, nor less than four dollars for each offence.

SEC. 3. *Be it further enacted*, That no vintner, retailer of strong liquors, innholder or other person keeping a house of public entertainment, shall entertain or suffer any of the inhabitants of the respective towns where they dwell, or others not being travellers, strangers, or lodgers in such houses, to abide and remain in their houses, yards, orchards or fields, drinking, or spending their time either idly or at play or doing any secular business on the Lord's day or any part thereof, on penalty of three dollars and thirty-three cents, payable by such vintner, retailer or innholder, or person keeping such house of entertainment, for each person so entertained or suffered; and every person so drinking or abiding, (except as aforesaid,) shall pay a fine not less than two dollars, nor more than four, for each offence; and every such licensed person, upon any conviction after the first, shall pay a fine of six dollars and sixty-six cents for each offence: and having been three times convicted, shall be debarred from renewing his license forever after. And although it is the sense of this Legislature, that the time commanded in the sacred Scriptures to be observed as holy time, includes a natural day, or twenty-four hours; yet whereas there is a difference of opinion concerning the beginning and ending of the Lord's day among the good people of this State, and this Legislature being unwilling to lay any restrictions, which may seem unnecessary or unreasonable, to persons of sobriety and conscience:

SEC. 4. *Be it therefore enacted,* That all the foregoing regulations, respecting the due observation of the Lord's day, shall be construed to extend to the time included between the midnight preceding and the sun setting of the same day.

Limits of the Lord's day.

SEC. 5. *Be it further enacted,* That no person shall be present at any concert of music, dancing, or other public diversion, nor shall any person or persons use any game, sport, play or recreation, on the land or water, on the evening next preceding or succeeding the Lord's day, on pain of three dollars and thirty-three cents for each offence; and no retailer, innholder, or person licensed to keep a public house, shall entertain, or suffer to remain, or be in their houses or yards or other places appurtenant, any person or persons, (travelers, strangers or lodgers excepted,) drinking or spending their time on the said evenings on penalty of three dollars.

No person may attend concerts or public diversion, &c. on Saturday or Sunday evening.

SEC. 6. *Be it further enacted,* That the fines and penalties aforesaid, shall be, one moiety thereof to the town wherein the offence shall be committed, and the other moiety thereof to any person or persons who shall inform and sue for the same; to be recovered by a complaint to a Justice of the Peace, with costs of suit, or the said fines may be recovered by presentment of the Grand Jury before the Circuit Court of Common Pleas, in the County wherein the offence or offences shall be committed, and when thus recovered, shall enure to the town wherein the offence shall be committed. And whereas the public worship of Almighty God is esteemed by Christians an essential part of the due observance of the Lord's day, and requires the greatest decency and reverence for a due performance of the same:

Fines and penalties—how recovered.

SEC. 7. *Be it further enacted,* That if any person shall on the Lord's day, within the walls of any house of public worship, behave rudely or indecently, he or she shall pay a fine not more than seven dollars nor less than one dollar.

Indecent behaviour in church, &c. how punished.

SEC. 8. *Be it further enacted,* That if any person or persons, either on the Lord's day, or at any other time, shall wilfully interrupt or disturb any assembly of people met for the public worship of God within the place of their assembly, or out of it, he or they shall severally pay a fine not exceeding thirty-three dollars nor less than three dollars.

Disturbing public worship, how punished.

SEC. 9. *Be it further enacted,* That no person shall serve or execute any civil process, from midnight preceding to midnight following the Lord's day: but the service thereof shall be void, and the person serving the same shall be as liable to answer damages to the party aggrieved, as if he had done the same, without any such civil process.

Civil process not to be served on Lord's day.

SEC. 10. *Be it further enacted,* That the Tythingmen chosen or which shall be chosen in the several towns within this State, shall be held and obliged to inquire into and inform of all offences against this act; and all such Tything-

Tythingmen, their duty and oath.

men as shall be hereafter chosen, shall take the following oath:—You, being chosen a Tythingman for the town of —, for the year ensuing, and until another shall be chosen in your room, do solemnly swear, that you will diligently attend to, and faithfully execute the duties of the said office, without partiality, and according to your best discretion and judgment. *So help you GOD.* And every such Tythingman is hereby authorized and empowered, to enter into any of the rooms and other parts of an inn or public house of entertainment, on the Lord's day, and the evening preceding and succeeding; and if such entrance shall be refused to any Tythingman, the landlord or licensed person, shall forfeit the sum of seven dollars for each and every offence: And the said Tythingmen are hereby further authorized and empowered, within their respective towns, to examine all persons whom they shall have good cause, from the circumstances thereof, to suspect of unnecessarily travelling as aforesaid, on the Lord's day, and to demand of all such persons the cause thereof, together with their names and places of abode; and if any person shall refuse to give answer, or shall give a false answer to such demand, he shall pay a fine not exceeding thirteen dollars, nor less than three dollars, and if the reason given for such travelling shall not be satisfactory to such Tythingman, he shall enter a complaint against the person travelling, before a Justice of the Peace in the County where the offence is committed, if such person lives in such County, otherwise shall give information thereof to some Grand Jurymen, to be by him laid before the Grand Jury, for their consideration and presentment.

Oath of tythingmen competent evidence in cases.

SEC. 11. *Be it further enacted,* That the oath of any Tythingman shall be deemed full and sufficient evidence, in any trial for any offence against this act, unless in the judgment of the Court of Justice, the same shall be invalidated by other evidence that may be produced.

Duty of sheriffs, grand jurors and constables.

SEC. 12. *Be it further enacted,* That the special authority given by this act to Tythingmen, for preventing the breaches thereof, shall not be construed or understood to exempt any Sheriff, Grand Jurors, Constables, or other officers or persons whatsoever, from any obligation or duty, to cause this act to be put in execution, but they shall be held to take due notice and prosecute all breaches thereof, such special authority notwithstanding.

Fines and penalties, how recovered and appropriated.

SEC. 13. *Be it further enacted,* That all the penalties and fines, incurred and paid for any of the offences aforesaid, mentioned in the seventh, eighth and tenth sections of this act shall be for the use of the State. And that all said offences, the penalties against which exceed seven dollars, shall be prosecuted by presentment of the Grand Jury, before the Circuit Court of Common Pleas, in the County wherein the offence may be committed: But all offences, the penalty

whereof does not exceed seven dollars, except the offender lives out of the County in which the offence may be committed, shall be prosecuted by complaint before a Justice of the Peace in such County: but when the offender lives out of such County, he may be prosecuted by presentment as aforesaid, although the penalty does not exceed seven dollars.

[Approved February 5, 1821.]

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CHAPTER X.

An Act for the Punishment of Adultery, Poligamy, Lewdness and Fornication.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any man or woman shall commit adultery, and be thereof convicted, he or she shall be punished by solitary imprisonment for a term not exceeding three months, and confinement to hard labor for a term not exceeding five years.

Punishment of adultery.

SEC. 2. *Be it further enacted,* That if any person within this State, being married, shall marry any person, the former husband or wife being alive, or who shall continue to live so married, and being thereof convicted, shall be punished by solitary imprisonment for a term not exceeding three months, and by confinement to hard labor for a term not exceeding five years: *Provided always,* That this act shall not extend to

Persons while married not to marry again.

Penalty for bigamy.

any person whose husband or wife shall be continually remaining beyond sea, 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; the one of them in either case not knowing the other to be living within that time, nor to the wife of any married man who shall willingly absent himself from his said wife, by the space of seven years together, without making suitable provision for her support and maintenance in the mean time, if it shall be in his power so to do; nor to any person that is or shall be at the time of such marriage divorced, by sentence of any Court whatsoever, which has, or may have legal jurisdiction for that purpose, unless such person is the guilty cause of such divorce, nor to any person for or by reason of any former marriage had or made, or hereafter to be had or made within the age of consent.

Proviso in case of either party's absence for seven years beyond sea and not known to be living;

or desertion by husband for seven years, in certain cases.

Proviso, as to the innocent party in case of divorce.

SEC. 3. *Be it further enacted,* That if any man and woman, either or both of whom being then married, shall lewdly and lasciviously associate and cohabit together, or if any man or woman, married or unmarried, shall be guilty of open gross lewdness and lascivious behaviour, and shall be thereof convicted before the Justices of the Supreme Judicial Court, they shall be punished by solitary imprisonment for a term not exceeding three months, and confinement to hard labor for a term, not exceeding five years.

Punishment of lewd and lascivious cohabitation, and open and gross lewdness.

Punishment of
fornication.

SEC. 4. *Be it further enacted*, That if any man shall commit fornication with any single woman, the man or woman so offending and being thereof convicted before the Circuit Court of Common Pleas, shall be punished by imprisonment in the common gaol for a term not less than ten days, nor more than sixty days: or shall be sentenced to pay a fine not less than twenty dollars, nor more than one hundred dollars, as the Court may direct.

[Approved Feb. 28, 1821.]

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CHAPTER XI.

An Act against Forgery and Counterfeiting.

Forgery of
public records
and certificates
and private se-
curities, &c.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That if any person shall falsely make, alter, forge, or counterfeit, or shall procure to be falsely made, altered, forged or counterfeited, or shall willingly aid or assist in falsely making, altering, forging or counterfeiting any public record, any certificate or attestation of a Justice of the Peace, Public Register, Notary Public, Clerk of any Court, Town Clerk, or other public officer, in any matter wherein such their certificate or attestation is receivable and may be taken as legal proof; any charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance or bill of exchange; any promissory note, order, acquittance or discharge, for or upon the payment of money or delivery of goods; or any acceptance of a bill of exchange, or any endorsement or assignment of a bill of exchange or promissory note, for the payment of money; any accountable receipt for money or goods, or for any note, bill or security for money or goods; or any lottery ticket in any lottery legally authorized and licensed within this State, or shall utter or publish as true, any such false, altered, forged or counterfeited record, certificate or attestation, charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of exchange, promissory note, acceptance, endorsement, assignment, order, acquittance, discharge, accountable receipt or lottery ticket, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud any person, or any body politic or corporate, then every person so offending, in either of the particulars aforesaid, who shall be thereof duly convicted, in the Supreme Judicial Court, shall be punished by solitary imprisonment, for a term not exceeding six months, and by confinement afterwards, to hard labor, for a term not less than two years, and not exceeding ten years.

or uttering
them as true,
&c. how pun-
ished

on conviction
in the S. J.
Court.

Punishment
for forging

SEC. 2. *Be it further enacted*, That if any person shall falsely make, alter, forge or counterfeit, or shall procure to be falsely made, altered, forged or counterfeited; or shall

willingly aid or assist in falsely making, altering, forging or counterfeiting, any note, certificate or other bill of credit, which hath been or may be, issued by the Treasurer or other Commissioner or Commissioners duly authorized, for any debt of this State; or any bank bill, or promissory note payable to the bearer, signed in behalf of any company or corporation by law licensed and authorized as a bank, within this State, or payable and demandable therein, at the office of any banking company incorporated by any law of the United States; or if any person having knowledge of such false making, altering, forging or counterfeiting, shall willingly aid or assist in altering or rendering current as true, any such false, altered, forged or counterfeit notes, certificates, bills of credit, bank bills, or notes, and for that purpose shall possess, at any one time, any number not less than ten of such similar false, altered, forged, or counterfeit notes, certificates or bills of credit, bank bills or notes, knowing the same to be false, altered, forged or counterfeit as aforesaid, with intent to utter or pass the same and thereby to injure or defraud this State, any body politic or corporate, or any person or persons, then every person, so offending, in either of the particulars aforesaid, who shall be thereof duly convicted, in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labor, for and during his or her life.

bills of credit, bank bills, &c.

or aiding in altering or rendering current as true, any such, knowing them to be false,

or possessing such, knowingly, with intent to pass as true.

SEC. 3. *Be it further enacted,* That if any person shall utter, or tender in payment as true, any such false, altered, forged or counterfeit note, certificate, or bill of any debt of this State, bank bill or promissory note payable to the bearer, by any bank as aforesaid, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud this State, any body politic or corporate, or any person or persons; every person so offending, and who shall be duly convicted thereof, in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term not exceeding thirty days; and by confinement afterwards to hard labor for a term not exceeding three years; or by a fine not exceeding one thousand dollars, and by binding to the good behaviour for two years, at the discretion of the Justices of the said Court before whom the conviction may be. And if after any such conviction, the same person shall be guilty a second time of the like offence, and shall be duly convicted thereof in the Supreme Judicial Court; or if in the Supreme Judicial Court at the same term thereof any person shall be duly charged and convicted of the said offence, in three several instances, then such person may be adjudged to be a common utterer of counterfeit bills, and shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement afterwards to hard labor for a term not less than two years, and not exceeding ten years.

Punishment for uttering or tendering in payment, false bills, notes, &c. knowingly.

Punishment on second conviction;

or on conviction of three several offences at same term.

Punishment for having, or bringing into the State, bank bills, with intent to pass, &c.

SEC. 4. *Be it further enacted,* That if any person shall bring into or shall have in his possession within this State, any false, forged and counterfeit bill or bills, note or notes in the similitude of the bills or notes payable to the bearer thereof, issued by or for any bank or banking company, which is or shall be established within this State, or in any other part of the United States, for the purpose of rendering the same current as true, or with intent to pass the same, knowing the same to be false, forged and counterfeit, every such offender upon due conviction thereof, before the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding three months; and by confinement afterwards to hard labor, for such term not exceeding three years; or by a fine not exceeding one thousand dollars, and imprisonment in the common gaol not exceeding one year, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

SEC. 5. *Be it further enacted,* That in all prosecutions for forgery, or counterfeiting any bank bills or promissory notes, of any of the banks mentioned and described in the second, third and fourth sections of this Act; or for uttering, publishing, or tendering in payment as true any such forged or counterfeit bills or notes, or for having the possession of any such forged or counterfeit bills or notes with intent to pass the same, the testimony of the President or Cashier of such banks may be dispensed with, if the place of residence of such President or Cashier shall exceed the distance of forty miles from the place of trial; but in all such cases it shall be lawful to admit the testimony of any witness acquainted with the signature of the officers of said banks, or who may have knowledge of the difference between the true and the counterfeit bills or notes of said banks, to prove that such bills or notes are counterfeit, any law or practice to the contrary notwithstanding.

Testimony of President or Cashier may, in certain cases be dispensed with—and other proof admitted.

SEC. 6. *Be it further enacted,* That in all criminal prosecutions, within this State, for forging and altering any paper or other bill of credit of the United States of America, or either of said States; or for uttering or passing, any such paper or other bill of credit, knowing the same to be forged or altered; or of holding and possessing such forged or altered bill of credit, with intent to utter or pass the same, knowing the same to be forged or altered, the certificate under oath of the Secretary or Treasurer of the said United States of America, or of either of the said States, of the tenor of the true bill, alleged to be forged or altered, shall be admitted on trial in such prosecution, for the purpose of proving such bill of credit to be forged or altered.

Certificate of Secretary or Treasurer of U. States, or of any State may, in certain cases, be admitted as proof.

Punishment for engraving or

SEC. 7. *Be it further enacted,* That if any person shall engrave, form, make or mend. or shall begin to engrave,

form, make or mend any plate or plates, paper rolling press, or other tool, instrument or material, devised, adapted and designed for the stamping, forging and making any false and counterfeit certificates, bills, or notes which have been, or which shall be issued as aforesaid, by or for any debt of this State, or by or for any bank or banking company which is or shall be established in this State, or in any other part of the United States; or shall have in his possession any such plate or plates, engraven in any part, or any paper rolling press, or other tool, instrument or material, devised, adapted and designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging and making any such false and counterfeit certificates, bills or notes, every person so offending, who shall be thereof duly convicted before the Supreme Judicial Court, shall be punished by solitary imprisonment, for such term, not exceeding three months, and by confinement afterwards to hard labor, for such term, not exceeding three years; or by fine not exceeding five hundred dollars, and by imprisonment in the common gaol, for such term, not exceeding one year, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

making plates, press, &c. for forging;

or possessing such plates, &c. with intent to use, &c.

SEC. 8. *Be it further enacted* That if any person shall forge or counterfeit, or shall procure to be forged or counterfeited, or shall willingly aid or assist in forging or counterfeiting any gold or silver coin, current within this State, by the laws or usages thereof, or if any person, knowing of such forging and counterfeiting, shall willingly aid or assist in passing and rendering current, as true, any such forged or counterfeit coin, and for that purpose shall, at any one time, possess any number, not less than ten, of similar pieces of false money or coin, forged and counterfeited to the similitude of the gold or silver money or coin, current as aforesaid, with intent to utter the same, as true, knowing the same to be false, forged and counterfeit, every person so offending, in either of the particulars, aforesaid, who shall be duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment, for a term not exceeding one year, and by confinement afterwards to hard labor for and during his or her life.

Punishment for forging gold or silver coin—or knowingly aiding in passing it as true, &c.

or possessing such false pieces, with intent to pass them as true, &c.

SEC. 9. *Be it further enacted*, That if any person shall bring into this State, or shall possess within the same, any number of similar pieces of false money or coin, forged and counterfeited as aforesaid, knowing the same to be false, forged and counterfeit, with intent to utter and pass the same, as true; or if any person shall utter, pass or tender in payment, as true, any false money or coin, knowing the same to be false, being counterfeit, in the similitude of any gold or silver money, or coin current by law or usage, within this

Punishment for bringing into State, or possessing in it, false coin, &c. with intent to pass, &c.

State, with intent to defraud any person or persons; every person so offending, who shall be duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for a term, not exceeding three months and by confinement afterwards to hard labor for a term not exceeding three years; or by a fine not exceeding one thousand dollars, and by binding to the good behaviour for two years. And if after one conviction as aforesaid, the same person shall be guilty a second time of the like offence, and shall be duly convicted thereof; or if any person before the Supreme Judicial Court, at the same term thereof, shall be charged and convicted of the said offence, in three several instances, then such person shall be adjudged to be a common utterer of counterfeit money, and shall be punished by solitary imprisonment for a term not exceeding one year, and by confinement to hard labor, for a term not less than two years and not exceeding ten years.

Punishment on a second conviction.

or on being convicted of said offence, in three several instances, at the same term.

Punishment for making mending or possessing any mould, or engine for coining metals, &c. or permitting such mould, &c. to be used.

SEC. 10. *Be it further enacted*, That if any person shall cast, stamp, engrave, form, make or mend, or shall knowingly possess any mould, pattern, die, puncheon, engine, press or other tool or instrument, devised, adapted or designed, for the coining and making any false and counterfeit money or coin, in the similitude of the gold or silver money or coin, current within this State, by the laws or usages thereof, with the intent to use and employ the same, or to cause or permit the same to be used and employed in coining and making any such false and counterfeit money and coin as aforesaid; every person so offending, shall be punished by solitary imprisonment for such term, not exceeding three months, and by confinement afterwards to hard labor for such term, not exceeding three years; or by a fine, not exceeding five hundred dollars, and by imprisonment in the common gaol for such term, not exceeding one year, as the Justices of the said Court, before whom the conviction may be, shall sentence and order, according to the aggravation of the offence.

Rewards to be paid from State Treasury to prosecutors, on conviction of certain offences against this Act.

SEC. 11. *Be it further enacted*, That for the prevention and discovery of certain of the offences aforesaid, there shall be allowed and paid at the public treasury, by the warrant of the Governor, with the advice and consent of the Council to be granted upon the certificate of the Justice or Justices of the Supreme Judicial Court, before whom the conviction shall be, to the person or persons, who shall inform and prosecute against any other person or persons, who shall be thereupon charged and convicted, the following rewards, that is to say; for any conviction of the crime of forging and making any false and counterfeit certificate, bill or note, in the similitude of any certificate, bill or note, payable to the bearer thereof, which hath been, or which shall be issued as aforesaid, for any debt of this State, or by or for any bank or banking company, within this State by law established; or of the

crime of forging and making any false and counterfeit coin, as aforesaid, for every person that shall be so convicted, the sum of sixty dollars: and for any conviction of the crime of possessing, with an intent to utter, or of knowingly uttering any such false and counterfeit certificate, bill, note, money or coin, the sum of forty dollars, for every person that shall be so convicted. And when it shall happen that two or more are the informers and prosecutors, in any one offence, the reward thereupon to be allowed, shall be divided between them equally, or in such other proportions, as the Justice or Justices certifying as aforesaid, shall determine and appoint.

Case of more than one prosecutor in one offence—reward to be divided.

[Approved February 19, 1821.]

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CHAPTER XII.

An Act against Perjury and Subornation of Perjury.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person, being lawfully required to depose the truth, in any proceeding in a course of justice, shall commit any manner of wilful perjury, every person so offending, and being thereof convicted before the Supreme Judicial Court, shall be punished by solitary imprisonment, for a term not exceeding three months, and by confinement afterwards to hard labor, for a term not less than two years, and not exceeding fifteen years.

Punishment of perjury.

SEC. 2. *Be it further enacted,* That if any person shall commit subornation of perjury, by procuring another person to commit wilful and corrupt perjury as aforesaid, every person guilty of such subornation of perjury, and being thereof duly convicted, shall be liable to, and suffer the same punishment and disability, as in this act is provided for the punishment of wilful perjury.

Of subornation of perjury.

SEC. 3. *Be it further enacted,* That if any person shall wilfully and corruptly endeavor to incite or to procure another person to commit wilful and corrupt perjury, as aforesaid, and the person, so incited, do not commit such perjury, the person so corruptly endeavoring to incite, and procure the committing of perjury, shall be punished by solitary imprisonment, for a term not exceeding two months, and by confinement afterwards to hard labor, for a term not exceeding five years.

Of a corrupt endeavor to procure the commission of the crime of perjury.

SEC. 4. *Be it further enacted,* That the oath of any person offending in any manner aforesaid, and thereof duly convicted as aforesaid, shall not be received, in any Court of record, until such time as the judgment given against such person shall be reversed.

Persons convicted of such crimes not to be received as witnesses until reversed, &c.

[Approved February 27, 1821.]

CHAPTER XIII.

An Act for the Suppression and Punishment of Cheats.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all persons, who knowingly and designedly, by false pretence or pretences, shall obtain from any person or persons, money, goods, wares, merchandize or other things, with intent to cheat or defraud any person or persons of the same, shall, on conviction thereof before the Justices of the Supreme Judicial Court, be sentenced to pay a fine to the use of the State, not less than forty dollars, and not exceeding four hundred dollars; or be sentenced to be confined to hard labor, for a term not exceeding seven years, at the discretion of the Court before whom such conviction shall be had.

Cheating by false pretences.

Punishable in Supreme Jud. Court.

Supreme Jud. Court to have exclusive jurisdiction of all gross frauds at common law.

SEC. 2. *Be it further enacted,* That the Supreme Judicial Court shall have exclusive jurisdiction of all gross frauds or cheats at common law; and any person who shall, before said Court, be convicted of any such fraud or cheat, shall be sentenced by the said Court to receive such punishment, as is provided in and by the first section of this Act.

[Approved February 14, 1821.]

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CHAPTER XIV.

An Act respecting the wilful destruction and casting away of Ships and Cargoes; the custody of Shipwrecked Goods, and Trade and Navigation.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any owner of, captain, master, officer, or other mariner belonging to, any ship or vessel, shall, within the body of any County of this State, wilfully cast away, burn, sink, or otherwise destroy, the ship or vessel of which he is owner, or to which he belongs, or in any wise direct or procure the same to be done, with intent or design to prejudice any person or persons, that hath underwritten, or shall underwrite any policy or policies of insurance thereon, or, of any merchant or merchants, that shall load goods thereon; or of any owner or owners of such ship or vessel; every person so offending, being thereof lawfully convicted, before the Supreme Judicial Court of this State, shall be deemed and adjudged a felon, and shall be sentenced to imprisonment for life, or for a term not less than five years, at the discretion of the Court: *Provided nevertheless,* That nothing herein contained shall be construed to bar or prevent the party injured from having and maintaining his action for the damages, sustained thereby.

Punishment for wilfully destroying a vessel, or causing it to be done.

Party injured may also have his action for damages.

Punishment for fitting out a

SEC. 2. *Be it further enacted,* That if any owner of any ship or vessel shall equip, or fit out such ship, or vessel, within

this State, with intent that the same should be wilfully cast away, burnt, or otherwise destroyed, to the prejudice of any owner of any goods, laden on board said ship or vessel, or of any underwriter upon any policy, or policies of insurance upon such ship or vessel, or upon any goods laden thereon, and shall be thereof convicted before the Supreme Judicial Court of this State, such offender shall be sentenced to pay a fine not exceeding five thousand dollars, or be punished by solitary imprisonment for a term, not exceeding three months, and confinement to hard labor for a term, not exceeding five years.

vessel, with intent to be wilfully cast away.

Sec. 3. *Be it further enacted*, That if any owner of any ship or vessel, or of any goods laden on board such ship or vessel, shall make out and exhibit, or cause to be made and exhibited any false or fraudulent bills of parcels, invoices, or estimates of any such goods, laden or pretended to be laden on board such ship or vessel, with intent to defraud any underwriter upon any policy or policies of insurance upon such ship or vessel, or upon any goods laden thereon; every person, so offending, and being thereof lawfully convicted, shall be sentenced to pay a fine not exceeding five thousand dollars, or be punished by solitary imprisonment, for a term not exceeding three months, and confinement to hard labor, for a term not exceeding five years.

Punishment for making out false invoice, &c. of cargoes, to defraud underwriters.

Sec. 4. *Be it further enacted*, That if any captain, mate or mariner of any ship or vessel, shall make out and swear to any false affidavit, or protest; or if any owner of any such ship or vessel, or of any goods laden thereon, shall procure such false affidavit, or protest, or, knowing the same to be false, shall exhibit the same, with intent to deceive and defraud any underwriter upon any policy of insurance upon any such ship or vessel, or any goods laden thereon, every person convicted thereof before the Supreme Judicial Court aforesaid, shall be punished in the manner prescribed in the third section of this Act.

Punishment for making any false affidavit or protest.

Sec. 5. *Be it further enacted*, That the Governor, with the advice of Council, be, and he is hereby authorized to appoint, in the several counties of this State, a sufficient number of COMMISSIONERS, removeable at the pleasure of the executive, of WRECKS and LOST GOODS, all of whom shall be commissioned and sworn to the faithful performance of their duty, and shall give bond to the Judge of Probate for the county in which they reside, with sufficient sureties to the acceptance of said Judge, for the faithful discharge of their trust. And the same remedy may be had, on said bonds, to any owner, agent, or other person interested in said property, as is had on bonds, given to Judges of Probate, for the faithful administration on estates.

Governor to appoint Commissioners of wrecks in the several counties.

who are to be sworn.

And to give bond to Judge of Probate;

same remedy thereon, as on administration bond.

Sec. 6. *Be it further enacted*, That any Commissioner, appointed in pursuance of this Act, immediately on receiving

Commissioners to take charge

of wrecked
goods,

and take an in-
ventory, and
make oath
thereto, when
required by
owner,

and deliver the
same to owner,
on payment for
services, ex-
penses and cus-
tom house du-
ties.

Compensation
to be settled by
referees, if not
agreed by the
parties inter-
ested.

Appeal from
decision of
referees to S.
Jud. Court.

information of any shipwreck, finding of any goods or shipwrecked property of any kind, to the amount of one hundred dollars, or upwards, on any of the shores, or waters, within this State, shall immediately repair to said property, and in case the same is unattended by any owner, or agent, shall take charge of the same for the lawful owner; and in the best way and manner in his power, preserve and secure the same; and said Commissioner shall have all the power and authority of a fireward to preserve and secure the same, and compel assistance for that purpose; and it shall be the duty of said Commissioner to take an inventory of the same, and when required by the owner, or agent of said property, or any insurance company, or underwriter, or other person interested in said property, shall make oath that the same is the whole property which has come to his custody, and shall immediately deliver the same to the lawful owner, agent, or other person legally authorized to receive it: *Provided*, he is paid or secured to be paid, such reasonable compensation for his services and expenses, and such custom house duties, as may be due from said property, or which may have been previously paid by said Commissioner; and said Commissioner and the owner, or agent, shall have power to agree on the proper compensation to be allowed for said services and expenses: but in case they shall not agree, said Commissioner shall receive such sum, as shall be awarded by referees, mutually chosen by the parties; said Commissioner to choose one referee, the owner, agent, or other person interested, another, and the two thus chosen, shall choose a third; and the referees thus appointed, and the parties thus appointing them, shall proceed in all respects as is required by "An Act for rendering the decision of civil causes as speedy and as little expensive as possible;" and if either party shall be dissatisfied with the award of the referees aforesaid, notice shall be given to the opposite party and an appeal shall lie to the Supreme Judicial Court, next to be holden in and for the county, in which such property shall be found; and the Supreme Judicial Court shall have power to hear and determine the case, in the same manner, as if the cause came before them on an appeal from the Circuit Court of Common Pleas; and no owner or agent, or other person interested in said property, shall be holden to pay any charge to any other person for services or expenses, in taking or securing said property, than the Commissioners aforesaid, unless it be that property taken and secured before the arrival of said Commissioner; in which case said Commissioner shall, upon due hearing of all parties interested, determine the compensation to be received as aforesaid, and from his award in writing there shall be no appeal, unless the sum demanded and allowed by said Commissioner shall exceed the sum of fifty dollars; in which case an ap-

peal shall lie to the Supreme Judicial Court, to either party aggrieved by the doings of said Commissioner ; and similar process shall be had by said Court as is had in cases carried by appeal from the Circuit Court of Common Pleas : and in case any person or persons shall, after the arrival of the Commissioner aforesaid, intermeddle with, take, secrete, or detain any property shipwrecked or found as aforesaid, but as he or they are authorized and directed by the Commissioner, owner, or agent, or other person interested, he or they shall forfeit and pay the sum of one thousand dollars, for each and every offence, to be recovered by an action of debt in any Court proper to try the same ; and the said Commissioner, owner, agent, or other person interested, or either of them, are hereby authorized to bring said action and receive said penalty to their own use.

Penalty for se-
creting ship-
wrecked prop-
erty ;

or intermed-
dling with it
after the arri-
val of a Com-
missioner.

Sec. 7. *Be it further enacted,* That it shall be the duty of the Commissioners aforesaid, immediately on their arrival at any wreck or goods found as aforesaid, to publish in the most expeditious manner, the facts they shall ascertain, that the knowledge of the event may come to the owner, agent, or person interested, as soon as may be ; and in all cases they shall publish the particulars of said shipwreck, or goods found, in the nearest newspaper to said shipwreck, or goods found, on penalty of fifty dollars, to be recovered by an action of debt, in any Court proper to try the same, at the suit of the owner, agent, or other person interested, who are hereby authorized to bring said action and receive the penalty recovered, to their own use ; and it shall and may be lawful for said Commissioners to dispose of so much of said property, at public auction, within thirty days from the taking the same into custody, as shall be sufficient to pay all duties, due for the same, to the Custom House, and shall forthwith pay, or give security to the Custom House officer, for the discharge of the same ; and in case the property so taken as aforesaid is perishable, and cannot be retained in possession for one year, without essentially lessening its value, and no owner, agent, or other person, interested in the same, shall appear to claim it, for the space of sixty days, it shall be the duty of said Commissioners to advertise said property in the public newspapers, and sell the same at auction to the best advantage, and if no owner, agent or other person, interested in said property, shall appear, in one year to claim said property, it shall be the duty of each of said Commissioners to present an inventory of said property, received by him as aforesaid, or if sold, an account of sales to the Treasurer of this State, and to make oath, that the same is the whole property which has come to his possession, duties paid to the Custom House excepted, if said duties are paid ; and shall pay over to the Treasurer aforesaid the whole balance remaining in his hands for the use of the State : and the Treas-

Commissioners
on their arrival
at any wreck
to publish an
account of
facts ;

penalty for
neglect.

Commissioners
may sell suffi-
cient of the
property at
auction to pay
duties,

and in certain
cases may sell
the whole prop-
erty.

If no owner
appear, within
one year, the
Commissioner
to present an
inventory, or
account of
sales, to State
Treasurer on
oath.

Commissioner to receive reasonable compensation from Treasurer.

Attorney General to prosecute Commissioner for delinquency.

Extent to which owners of vessels are liable for embezzlement by master or mariners.

urer aforesaid is hereby authorized to make said Commissioner such reasonable compensation for his services and expenses, as shall be just and equitable, to be ascertained in case of disagreement by said Commissioners and Treasurer, in the same way and manner, as is provided for in this act, when said Commissioners and owners, or agents, shall not agree respecting such services and expenses: and when any Commissioner, appointed in pursuance of this Act, shall neglect to inform the Treasurer of this State, of property, taken by him as aforesaid, for sixty days, after the expiration of the year, he may have held the same; or if so informing said Treasurer, he or they shall neglect to pay over the property aforesaid, to the Treasurer aforesaid, the Attorney General of this State is hereby authorized and directed to commence a proper legal process for the same, at the next term of the Supreme Judicial Court in the County where said Commissioner dwells, and shall pursue the same to final Judgment and execution, and pay the sums recovered as aforesaid, to the Treasurer of said State: and whereas it is of the greatest consequence to this State, and to the United States, to promote the increase of the number of ships and vessels, and to prevent any discouragement to merchants and others from being interested and concerned therein; and whereas it has been held that owners of ships or vessels, are answerable for goods, wares, and merchandize, shipped on board the same, although the said goods, wares, and merchandize should be embezzled, lost or destroyed, by the masters or mariners of said ships and vessels, without the knowledge or privity of the owner or owners by means whereof merchants and others may be discouraged from adventuring their fortunes, as owners of ships or vessels, which will necessarily tend to the prejudice of the trade and navigation of this State: Therefore,

Sec. 8. *Be it further enacted,* That no person or persons who is, are, or shall be owner or owners, in part or in whole, of any ship or vessel shall be subject, or liable to answer for, or make good to any one or more person, or persons, any loss or damage, by reason of any embezzlement, secreting or making way with, by the master or mariners, or any of them, of any goods, wares, or merchandize, or any property whatsoever, which shall be shipped, taken in, or put on board any ship or vessel, or for any act, matter, or thing, damage, or forfeiture done, occasioned, or incurred by the said master or mariners, or any of them, without the privity or knowledge of such owner or owners, further than the value of the interest which such owner, or owners have, or had, at the time of such shipment in the ship or vessel, with all her appurtenances, and the full amount of his interest in the freight due, or to grow due, for and during the voyage wherein such embezzlement, secreting, or making way with, as aforesaid, or

other malversation of the master or mariners, shall be made, committed, or done, any law, usage or custom to the contrary notwithstanding.

Sec. 9. *Be it further enacted*, That if several freighters or proprietors of any such goods, wares, or merchandize, or any property whatever, shall suffer loss or damage, by any of the means aforesaid, in the same voyage, and the value of the ship or vessel and all her appurtenances, and the amount of the freight due, or to grow due, during such voyage, shall not be sufficient to make compensation to all and every of them, then such freighter, or proprietor shall receive satisfaction thereout in average, in proportion to their respective losses and damages: and in every such case, it shall, and may be lawful to and for such freighters, or proprietors, or any of them, in behalf of himself and all other such freighters and proprietors, or to, or for the owners of such ship or vessel, in behalf of himself and all the other part owners of such ship, or vessel, to exhibit a bill in the Supreme Judicial Court for a discovery of the total amount of such losses and damages, and also of the value of such ship or vessel, appurtenances and freight, and for an equal distribution and payment thereof, amongst such freighters and proprietors in proportion to their losses and damages, according to the rules of equity: and the said Supreme Judicial Court is hereby vested with full power and authority to entertain, hear, determine, and decree, in such cases, in the same manner as Courts of equity would have authority to do.

Where vessel, cargo and freight are insufficient to make compensation, in case of several freighters, or proprietors, what proceedings are to be had.

Bill for discovery may be filed in Sup. Jud. Court.

Sec. 10. *Be it further enacted*, That the charterer of any vessel, (in case he shall navigate such vessel at his own expense,) shall be considered the owner, within the meaning of this act; and, in case any loss or damage shall happen to any person or persons, by any of the causes or circumstances mentioned in the eighth Section of this Act, and such loss or damage shall be compensated from the freight, or the proceeds of the sale of such vessel, or both, in manner as herein before provided; then the owner or owners of such vessel or vessels shall have a right to recover the value of such vessel or vessels, of the person, or persons, to whom such vessel or vessels shall have been chartered, as aforesaid.

Charterer to be considered as owner within the meaning of this Act, in case.

[Approved Feb. 27, 1821.]

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CHAPTER XV.

An Act to protect the Sepulchres of the Dead.

Sec. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person, not being authorized by the Board of health, or the Selectmen of any town in this State, shall knowingly and wilfully dig up, remove or carry away, or aid or assist in digging up, remov-

Punishment for digging up or removing dead bodies.

ing or carrying away any human body, or the remains thereof, such person or persons, so offending, shall, on conviction of such offence, in the Supreme Judicial Court of this State, be imprisoned not more than one year, or fined, not more than one thousand dollars, according to the nature and aggravation of the offence.

for concealing
any such body.

SEC. 2. *Be it further enacted*, That if any person or persons knowingly and wilfully receive, conceal, or dispose of any human body, or the remains thereof, which shall have been dug up, removed, or carried away in the manner described in the first Section of this Act, he or they shall be subject to the same forfeitures and penalties, as in said Section is provided, on conviction thereof in the Court aforesaid: *Provided however*, That nothing in this Act shall be so construed as to effect the power or authority in the Courts of the United States, or of this State, or of any person acting under the authority of the same, in removing or disposing of the bodies of persons executed pursuant to any sentence of such Court.

Proviso.

Fines, how to
be appropriated.

SEC. 3. *Be it further enacted*, That all fines, accruing under this Act, shall enure, one half to the informer, and one half to the town in which the offence is committed,

[Approved Feb. 14, 1821.]

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CHAPTER XVI.

An Act to prevent the arrest of Dead Bodies.

Punishment for
taking dead
bodies on
mesne process
of execution.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That if any Sheriff, Coroner or Constable, shall take the body of any deceased person, by virtue of any writ, on mesne process or execution, upon conviction of such offence, before the Supreme Judicial Court, or the Circuit Court of Common Pleas, within the County, in which such offence shall have been committed, he shall be fined not more than five hundred dollars, or imprisoned for a time not exceeding six months.

[Approved March 10, 1821.]

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CHAPTER XVII.

An Act to prevent Routs, Riots, and Tumultuous Assemblies, and to suppress Insurrections.

Routs, riots
and unlawful
assemblies.

to disperse
when com-
manded by a
Justice, or
Sheriff, &c.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any number of persons of twelve or more shall be unlawfully, riotously, or tumultuously assembled, and shall not immediately disperse themselves, after having been by any Sheriff, Deputy Sheriff or Justice of the Peace of any County, or any Constable of any Town, commanded so to do, in the name of this State,

each and every person of such assembly shall be punished by solitary imprisonment, not exceeding one year, and afterwards be confined to hard labor for a term, not exceeding one year, or fined in a sum, not exceeding five hundred dollars, to the use of this State; any or all of the above punishments, according to the aggravation of the offence.

Punishment for disobedience.

SEC. 2. *Be it further enacted,* That if any person or persons shall disguise himself or themselves, with intention to obstruct the execution of the laws of this State, or to intimidate or interrupt any Sheriff, Deputy Sheriff, Surveyor or other person, in the legal discharge of any office or appointment, under the laws of this State, every such person so disguised shall, on conviction, be fined in a sum, not exceeding five hundred dollars, or be imprisoned, not exceeding one year, or both, according to the aggravation of the offence.

Punishment for being disguised with intent to obstruct the execution of the laws—intimidate officers and others.

SEC. 3. *Be it further enacted,* That whenever an insurrection shall have taken place, in this State, to obstruct the course of Justice, or the due execution of the laws, the Governor of this State is hereby empowered to detach, and call into actual service, such part of the Militia of the State, as, in his opinion, shall be adequate to suppress the same.

In case of Insurrection, Governor may call out the militia.

[Approved March 5, 1821.]

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CHAPTER XVIII.

An Act to prevent Gaming for Money or other Property.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all notes, bills, bonds, judgments, mortgages, or other securities or conveyances, given, granted, drawn, entered into, or executed by any person or persons whatsoever, where the whole, or any part of the consideration of such conveyances or securities, shall be for any money, or other valuable thing, won by gaming or playing at cards, dice or any other game or games, or by betting on the side or hands of any person gaming, or for the reimbursing or repaying any money, knowingly lent or advanced for any gaming or betting, or lent and advanced, at the time and place of such play, to any person or persons, so gaming or betting, or that shall, during such play, so play or bet, shall be void and of no effect; and that where such mortgages, securities or other conveyances, shall be of lands, tenements or hereditaments, or shall be such as incumber or affect the same, such mortgages, securities or other conveyance shall enure, and be to the sole use and benefit of such person or persons, as should or might have, or be entitled to such lands, tenements, or hereditaments in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead; and that all grants or conveyances to be made for the preventing of such

All securities given for money won by gaming declared void.

Conveyances of real estate given as above shall enure to the same uses as if the grantor were dead.

lands, tenements or hereditaments from coming to, or devolving upon such person or persons, hereby intended to enjoy the same, as aforesaid, shall be deemed fraudulent, void, and of no effect.

Persons losing money, &c. by gaming may sue and recover the same of the persons winning.

SEC. 2. *Be it further enacted*, That any person or persons, who shall at any time, or sitting, by playing at cards, dice, or any other game or games, or by betting on the sides or hands of such as do game, lose to any one or more person or persons so playing or betting, any sum or sums of money, or any other valuable thing, 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 to sue for and recover the money or goods, so lost and paid or delivered, or any part thereof, or damages to the full value of the same, from the respective winner or winners thereof, with costs of suit, by action to be commenced within three months next after the losing, paying or delivering the same, in which it shall be sufficient for the plaintiff to allege, in an action of *assumpsit*, that the defendant had received, to the plaintiff's use, the money so lost and paid; and in an action of trover for the goods so lost and delivered, that they came to the hands of the defendant, without mentioning in the declaration the particular manner and occasion of the goods or monies being lost; and in case the person or persons, who shall lose such money or other thing as aforesaid, shall not, within the time aforesaid, really and truly without covin or collusion, sue, and with effect prosecute, for the money or other thing, so by him or them lost and paid or delivered, as aforesaid, it shall and may be lawful to and for any person or persons to sue for and recover treble the value of the money, goods or chattels, with full costs of suit, by action of debt upon this statute, against such winner or winners as aforesaid, one moiety thereof to the use of the person or persons, that will sue for the same, and the other moiety to the use of the poor of the town where the offence shall be committed.

In case the person losing shall not, within 3 months, sue for the same, any other person may recover treble the value.

Persons convicted of winning at one sitting three dollars or more and receiving the same, or security for it, shall forfeit double the amount.

SEC. 3. *Be it further enacted*, That any person who shall be convicted, on an indictment of the Grand Jury, before the Circuit Court of Common Pleas, or the Supreme Judicial Court, of winning, at any one time or sitting, of any person or persons, by gaming or betting as aforesaid, in money, goods or chattels to the value of three dollars or upwards, and of receiving the same or security therefor, shall forfeit double the amount or value of the money, goods or chattels, so won and received, to the poor of the town, where the offence is committed.

Suits brought against persons winning how to be conducted.

SEC. 4. *Be it further enacted*, That in suits brought by the person losing money, goods or chattels against the person winning the same, when it shall appear from the declaration, that the goods, said to be lost, came to the hands of the defendant by gaming; or the money he had received was by

gaming, then and in such case, if the plaintiff shall offer to make oath, and if required by the Court, where the trial is, shall actually swear to the losing the money, goods or chattels, by gaming with the defendant, at the time and place alleged, judgment shall be rendered for the plaintiff to recover damage, to the amount of the goods or money the defendant has received of the plaintiff, by gaming, with costs of suit, unless the defendant will swear that he did not receive of the plaintiff the money, goods or chattels for which he is sued, or any part of them by gaming; and when the defendant discharges himself on oath as aforesaid, he shall recover of the plaintiff his reasonable costs: *Provided nevertheless,* Proviso. That nothing in this Act shall be so construed as to prevent the supporting and proving any declarations, on the aforesaid actions, in the same manner as other declarations are proved, but it shall be considered as optional with the plaintiff either to proceed in proving his declaration, in the way specially provided in this Act, or in the same way other declarations are proved; any thing herein to the contrary notwithstanding.

SEC. 5. *Be it further enacted,* That if any person shall play at cards, dice or billiards, or with any other implements used in gaming, in any tavern or house of entertainment, or place licensed for retailing spiritous liquors, or in any of the out houses, yards, gardens, or appendages of the same, or shall in any of the houses, or licensed places aforesaid, expose to view any of the implements aforesaid, or shall be seen sitting at any table therein, with any of the said implements before him, and shall be convicted thereof before any Justice of the Peace, or any Circuit Court of Common Pleas, on the presentment of a Grand Jury, the person so offending shall forfeit and pay a sum, not less than one, nor more than ten dollars, to the use of the poor of the town where the offence shall be committed.

Penalty for playing at cards, dice or billiards at any house of entertainment.

[Approved February 27, 1821.]

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CHAPTER XIX.

An Act for the restraining the taking of excessive Usury.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That no person or persons upon any contract hereafter made, shall take, directly or indirectly, for loan of any monies, wares, merchandise or any other commodities above the value of six dollars, for the forbearance of one hundred dollars for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time; and that all bonds, contracts, mortgages and assurances made for the payment of any money lent, or covenanted to be lent, upon or for usury, whereupon or whereby there

No person shall take more than at the rate of six per cent. interest.

Usurious bonds, mortgages, &c. to be void.

shall be reserved or taken above the rate of six dollars in the hundred as aforesaid, shall be utterly void; and that any person or persons, who shall upon any contract, take, accept and receive, by way and means of any corrupt bargain, loan or exchange, or by covin or deceitful conveyance, or by any other ways or means, for the forbearing or giving day of payment for one whole year, of and for their money, or other thing or things above the sum of six dollars for the forbearing of one hundred dollars for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time, shall forfeit and lose for every such offence the full value of the goods and monies, or thing or things so lent, exchanged, bargained, sold, or agreed for, to be recovered by indictment or action of the case, one moiety thereof to the use of this State, and the other moiety to him or them, who prosecutes for the same, any law to the contrary notwithstanding.

Penalty and mode of recovery.

In suits on a usurious security, Defendant may prove the usury by his oath,

SEC. 2. *Be it further enacted,* That when any person or persons shall be sued on any bond, contract, mortgage or assurance for the payment of any monies, wares, merchandise or other commodities, whereby or wherein any sum is given, secured or taken for the forbearing or giving day of payment for a longer or shorter time, then, if the creditor be alive, and the debtor or debtors shall come into Court, where the said cause is to be tried, and shall offer to make oath, and if required by the Court, shall actually swear to the same, that there is taken, reserved or secured by such bond, contract or assurance, above the rate of six dollars in the hundred, for the forbearance of the property actually lent or sold, whether it be in money or other things, for one year, and so after that rate for a greater or lesser sum, or for a longer or shorter time, or that the creditor or creditors have received more than at the rate of six dollars in the hundred, for the loan or forbearance of the monies or other things actually lent or sold; such bond, contract, mortgage or assurance shall be utterly void; and the debtor fully and absolutely discharged from the payment of any monies, goods or other things lent, exchanged, bargained, sold or agreed for as aforesaid, *unless* the creditor or creditors will swear that he, she or they have not, directly nor indirectly, wittingly taken or received more than after the rate of six dollars in the hundred, for forbearance or giving day of payment; and by such bond, contract, mortgage or assurance, there is not reserved, secured or taken more than after the rate of six per centum, for forbearance or giving day of payment, for the goods, monies, or other things actually lent or sold, any law, usage or custom to the contrary notwithstanding: *Provided,* nothing in this Act shall extend to the letting of cattle, or other usages of the like nature in practice amongst farmers, or maritime contracts among merchants, as bottomry, insurance, or course of exchange, as hath heretofore been practised.

unless creditor will swear the security is not usurious.

This act not to extend to certain contracts.

[Approved March 20, 1821.]

CHAPTER XX.

An Act to prohibit certain Officers of Courts from buying Promissory Notes and other demands, for the purpose of making a gain or profit in the collection thereof.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall, with an intent thereby to procure himself to be retained as an Attorney, or employed as a Justice of the Peace, Sheriff, Deputy Sheriff, Coroner or Constable, in the collection of any note, account or other demand whatever, by a suit at law, or with an intent thereby to procure and obtain any promissory note, account, or other demand for the purpose of making to himself any gain or profit from the writs or fees, arising in the collection thereof, by a suit at law, directly or indirectly loan or advance any sum or sums of money; or shall promise to loan or advance any sum or sums of money; or shall forbear and give day of payment; or shall promise to forbear and give day of payment of any sum of money due on any demand left with such person to be by him collected; or shall pay or assume to pay any debt of any person whatever; or shall purchase any goods or chattels, or shall give or promise any valuable consideration whatever, with an intent thereby to procure and obtain any promissory note, account, or other demand, for the purpose of making to himself any gain or profit, from the writs or fees arising in the collecting thereof, by a suit at law; every person so offending shall forfeit and pay a sum, not more than five hundred, nor less than twenty dollars, for each and every offence, to be recovered by indictment in the Supreme Judicial Court; in which case the forfeiture shall enure to the State; or by action before any Court, proper to try the same; in which case the forfeiture shall accrue, one moiety to him or them, who shall first sue and prosecute for the same, and the other moiety to the use of the County where such action may be prosecuted.

No Attorney, Justice, Sheriff, Coroner or Constable to loan or advance money, &c. to obtain demands for suit or collection, with intent thereby to make profit, &c.

Punishment.

Appropriation of penalty.

[Approved February 19, 1821.]

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CHAPTER XXI.

An Act to prevent Bribery and Corruption.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall directly or indirectly, give or engage to pay, any sum of money, or other valuable consideration to another, in order to induce such other person to procure for him, by his interest, influence, or any other means whatsoever, any office or place of trust, within this State, and be thereof convicted, shall forfeit a sum not exceeding three hundred dollars, nor less than fifty dollars, at the discretion of the Court which shall have cog-

Penalty for giving a bribe.

nizance of the same; and be rendered forever after incapable of sustaining any office or place of trust, within this State.

Penalty for receiving a bribe.

SEC. 2. *Be it further enacted*, That if any person shall receive of another, any sum of money, or other valuable consideration, as a reward for procuring or to procure any office or place of trust within this State, for any other person, and be thereof convicted, shall forfeit a sum not exceeding three hundred dollars, nor less than fifty dollars, at the discretion of the Court which shall have cognizance of the same; and if such offender be in any such office, he shall on the conviction, be disabled from holding the same, and be forever after incapable of sustaining any office or place of trust within this State; and for the more easy conviction of such offenders:

Either offending party informing and prosecuting the other, shall be freed from the penalty.

SEC. 3. *Be it further enacted*, That if either the parties offending as aforesaid, shall give information upon oath, against the other offending party, and shall duly prosecute said information; such informer shall be freed from every of the penalties aforesaid. And all offences against this Act shall be heard, tried and determined before the Supreme Judicial Court; and all pecuniary penalties accruing thereby, shall be one third thereof to the informer, and the other two thirds to the State.

Appropriation of penalties.

[Approved March 15, 1821.]

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CHAPTER XXII.

An Act for the protection of the Personal Liberty of the Citizens, and for other purposes.

Punishment for transporting any inhabitant from one part of this State to another, except, &c.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That if any person shall transport or carry, or cause to be transported or carried, any subject of this State, or other person lawfully residing and inhabiting therein, to any part or place without the limits of the same, by land or water, without his consent or voluntary agreement; or in order to remove such person from one part of the State to another part of the same, except for the purpose of defending the same in time of war, agreeable to the Constitution, or except such person be sent by due course of law, to answer for some criminal offence committed in some other of the United States of America; every person so offending, and every person aiding and abetting the same, being duly convicted thereof before the Supreme Judicial Court, shall be punished by fine not exceeding two thousand dollars, and imprisonment not exceeding two years, or by solitary imprisonment for a term not exceeding three months, and confinement to hard labor for a term not exceeding five years; or any one or more of those punishments, at the discretion of the said Court, and be further liable to the action of the party grieved.

Sec. 2. *Be it further enacted*, That every master or commander of any outward bound ship or vessel, that shall hereafter carry or transport out of this State, any person under the age of twenty-one years, or any apprentice, or any indented servant, to any parts beyond sea, without the consent of his parents, master, or guardian, shall forfeit and pay the sum of two hundred dollars; one moiety to the use of this State, and the other moiety to him or them that shall sue for the same; and be further liable for the damages sustained by the parent, master, or guardian, in a special action of the case.

No master of vessel may transport minors, &c. out of State, without consent of parents, &c.

Sec. 3. *Be it further enacted*, That if any person within this State shall hereafter enlist or cause to be enlisted, into the army of the United States, any minor under the age of twenty-one years, knowing him to be such minor, without the consent in writing of his parent, guardian and master, and such minor shall within six months after his enlistment be removed out of this State, so that he cannot be had before the Judicial Tribunals of this State, by virtue of a writ of *habeas corpus*, the person so enlisting such minor, or so causing him to be enlisted, on conviction thereof, before the Supreme Judicial Court, shall forfeit and pay a fine not exceeding five hundred dollars, or be imprisoned for a term not exceeding one year.

Punishment for enlisting minors without consent of parents, &c. in writing, into U. S. army, knowing them to be minors and sending them out of the State.

Sec. 4. *Be it further enacted*, That if any person, knowing any one to be a minor under the age of twenty-one years, shall persuade him to depart from this State, with intent to enlist into the army of the United States, without the consent of his parent, guardian and master, on the conviction thereof, before the Supreme Judicial Court, shall forfeit and pay a fine not exceeding five hundred dollars, or be imprisoned for a term not exceeding one year.

Punishment for persuading a minor, knowing him to be such, to depart from State with intent so to enlist him.

Sec. 5. *Be it further enacted*, That all fines and forfeitures, incurred by virtue of the third and fourth sections of this Act, shall be recovered by indictment, or information, in the Supreme Judicial Court, to the use of the State; *Provided*, That the said Court, in which any such fine or forfeiture shall be recovered, may award to the parent, guardian, or master of such minor, such part of such fine or forfeiture, so recovered, not exceeding the one moiety thereof, as they in their discretion, shall think proper; *Provided also*, That all persons concerned shall be entitled to all the privileges and subject to all the penalties and requisitions, given and incurred in an Act, entitled "An Act directing the process in *habeas corpus*," where the same do not contravene the provisions of this Act.

Fines, &c. how recovered and may be appropriated.

Persons concerned may have the benefit of *habeas corpus* Act.

Sec. 6. *Be it further enacted*, That if any master or other person, having charge of any vessel, shall therein bring into, and land, or suffer to be landed in any place within this State any person, before that time convicted in any other State, or in any foreign country, of any infamous crime, or any for which he hath been sentenced to transportation, knowing of such conviction, or having reason to suspect it, or any person

Punishment for knowingly bringing into the State by sea, any persons convicted of infamous crimes, or of infamous character, &c.

Appropriation
of penalty.

of a notoriously dissolute, infamous, and abandoned life and character, knowing him or her to be such, shall, for every such offence, forfeit the sum of four hundred dollars, one half thereof to the use of the State, and the other half to the use of any person, being a citizen of, and residing in this State, who shall prosecute and sue for the same by action of debt as aforesaid. [Approved February 24, 1821.]

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CHAPTER XXIII.

An Act against selling unwholesome Provisions.

Punishment for
selling un-
wholesome pro-
visions.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall sell any diseased, corrupted, contagious, or unwholesome provisions, whether for meat or drink, knowing the same, without making it known to the buyer, and being thereof convicted before the Circuit Court of Common Pleas, in the County where such offence shall be committed, or the Justices of the Supreme Judicial Court, he shall be punished by fine, imprisonment, or by solitary imprisonment for a term not exceeding three months, and confinement to hard labor for a term not exceeding five years, and binding to the good behaviour, or one or more of these punishments, to be inflicted according to the degree and aggravation of the offence, if such conviction be had in the Supreme Judicial Court; and if such conviction be had before the Circuit Court of Common Pleas, shall be punished by fine not exceeding one hundred dollars, and binding to good behaviour.

Conviction in
S. J. Court or
C. C. Pleas.

[Approved February 20, 1821.]

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CHAPTER XXIV.

An Act for the Prevention and Removal of Nuisances.

Selectmen, with
two Justices
may assign places
for slaughter
houses, distilleries, &c.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Selectmen of every town in this State, where the Selectmen thereof, together with any two Justices of the Peace in the same County, shall judge such regulation to be necessary, shall from time to time, as occasion shall be, assign some certain places for the exercising of any of the trades or employments of killing creatures for meat, distilling of spirits, trying of tallow or oil, currying of leather, and making earthen ware, and forbid and restrain the exercise of either of them in other places not so approved and allowed; and all assignments of such houses or places by Selectmen, with the assent of two or more Justices, for the exercise of any of the occupations aforesaid, shall be entered in the town book where such Selectmen respectively belong; and also made known by having notifications thereof posted up in some public places in the same town.

Such assign-
ments to be en-
tered on town
book and notice
thereof posted.

SEC. 2. *Be it further enacted,* That if any distiller, tallow chandler, manufacturer of oil, currier, butcher, or potter, shall make use of any house or place, other than such as are or may be assigned and permitted, in consequence of this Act, for the exercise of the employments aforesaid, or any of them, the person so offending shall forfeit and pay a fine of twenty dollars, one half thereof for the use of this State, and the other half part for the use of him or them that shall prosecute and sue therefor, by action of debt, in the Circuit Court of Common Pleas; and if convicted on the presentment of a Grand Jury in said Court, or Supreme Judicial Court, the whole penalty shall enure to the use of the State; and in either case the offender shall also enter into recognizance, in such sum as the same Court shall order, not to improve such building for either of the said purposes, for the term of three years then next; and in default of entering into such recognizance, to be committed to the common gaol; or such building may be taken down by the order of the same Court, as being a common nuisance; and the materials, or such part of them as may be necessary, sold at public auction, to defray the expense and charges; and in case the materials shall be insufficient, the residue of the charges to be levied by distress and sale of the offender's goods and chattels.

Penalty for carrying on any such business except in places so assigned.

Mode of recovery and appropriation of the penalty.

Offender to recognize not to pursue the business, &c. for three years, or be committed—

or the buildings may be taken down as a nuisance, and the materials sold.

SEC. 3. *Be it further enacted,* That when any house, assigned for the exercising of either of the aforesaid trades or employments, becomes a nuisance by reason of offensive and ill stench proceeding from the same, or becomes otherways hurtful or dangerous to the neighborhood or travellers, it shall and may be lawful to and for the Circuit Court of Common Pleas within the County, to cause inquiry to be made thereinto by a Jury, and to suppress such nuisance by prohibiting and restraining the further use thereof for the exercise of either of the aforesaid trades or employments, under a fine not exceeding ten dollars a month, to the use of the poor of the town; or by causing such nuisance to be removed or prevented, as the Justices of said Court, in their discretion, shall think expedient and necessary. And it shall also be lawful for any person or persons, who may be aggrieved by reason of such offensive and ill stench, to give notice thereof to the proprietor or occupant of such house so deemed to be a nuisance; and if the proprietor or occupant shall not forthwith remove the same nuisance, and if upon trial as hereinafter provided, the same shall be considered and deemed a nuisance, the owner, proprietor, or occupant of such house, shall forfeit and pay the sum of twenty dollars, for each and every month which the said nuisance shall continue, after such notice as aforesaid; to be recovered by action of the case, by any person who shall first sue for the same; and in such action it shall be lawful for the defendant to tender the general issue, and give any special matter in evidence: And,

When any house, assigned as aforesaid becomes a nuisance, it may be suppressed by the C. C. Court. Pleas.

Persons aggrieved by such nuisance may notify owner or occupant, and if on trial found to be a nuisance—penalty of 20 dollars per month, if not removed.

if, upon such trial, it shall appear to the Jury, who shall try the same cause, that the said house so complained of, is not a nuisance, it shall be their duty to acquit the defendant, and he shall be entitled to his costs.

Persons injured may recover damages.

SEC. 4. *Be it further enacted*, That any person or persons, who may be injured by any such nuisance, either in his comfort or the enjoyment of his estate, may have and maintain his special action on the case, for the injury and damage which he or they may sustain, by reason of such nuisance; in which action it shall and may be lawful for the defendant to plead the general issue, and give any special matter in evidence.

Fences on public landing places to be considered nuisances.

SEC. 5. *Be it further enacted*, That all fences or buildings set up and erected on lands now used and improved as public landing places, or such as may be hereafter laid out and appropriated to that use, without lawful permission therefor, shall be esteemed nuisances, and may be abated as such. And whereas the laws now in force are inadequate to so speedy a removal of nuisances as the exigencies of the public may require: Therefore,

Two Justices, quorum unus, may inquire by a Jury into all nuisances,

SEC. 6. *Be it enacted*, That any two Justices of the Peace, *quorum unus*, shall be, and they hereby are authorized to inquire, by a Jury, as is hereinafter directed, into all nuisances erected, or which may hereafter be erected by any person or persons; and if it be found, upon such inquiry, that a nuisance shall have been erected, created, or continued by any person or persons, then, that such Justices shall cause the same to be abated and removed.

and cause them to be abated.

Complaint in writing to be made to such Justices,

SEC. 7. *Be it further enacted*, That any person or persons may make out his or their complaint in writing, directed to any two Justices of the Peace, *quorum unus*, of any existing nuisance; and they shall as soon as such complaint is exhibited to them, make out their warrant, under their hands and seals, directed to the Sheriff of the same County, commanding him, in behalf of the State, to cause to come before them, twelve good and lawful men of the same County, who shall be drawn in equal proportion out of the Jury Box, by the Selectmen of the three towns next adjoining to the town in which such nuisance may be, at a meeting of such Selectmen, to be holden forthwith for that purpose, upon the requisition of such Sheriff, and they shall be empowered to inquire into the nuisance complained of, which warrant shall be in the form following, viz: [Form of Warrant.]

who may issue their warrant to Sheriff to empanel a Jury.

Form of the warrant.

[SEAL.] H—ss. To the Sheriff of the County of _____,
Greeting.

Whereas complaint is made to us, the subscribers, two of the Justices of the Peace, within and for the County of _____, *quorum unus*, by _____ of _____ in the same County, that _____ of _____ upon the _____ day of _____, at _____, with force and arms, did unlawfully erect or cause to exist, a nuisance of the following descrip-

tion, viz: [here particularly describe the nuisance;] and the same nuisance unlawfully and unjustly, and with like force and arms, doth still keep up and continue. You are, therefore, in behalf of the State, commanded to cause to come before us, upon the _____ day of _____, at _____, in the same County, twelve good and lawful men of your County, each one of whom having freehold of the yearly value of ten dollars, to be empannelled and sworn to inquire into the nuisance afore described. Given under our hands and seals, this _____ day of _____, in the year of our Lord _____.

R. S. } Justices of the Peace,
N. O. } *quorum unus.*

And the said Justices shall make out their summons to the party complained against, in the form following:

Person complained of to be notified.

[Form of the Summons.]

State of Maine.

H—ss. To the Sheriff of the County of _____, or either of his Deputies,

Form of Summons.

Greeting.

We command you, that you summon _____, to appear before the subscribers, two of our Justices of the Peace, within and for our said County of _____, *quorum unus*, at a place called _____, in D_____, in the said County, at _____ o'clock in the _____ noon; then and there to answer to the complaint of _____ to them exhibited; wherein it is stated that [here recite the complaint;] and you are to make a return of this writ, with your doings therein, unto our said Justices, upon or before the said _____ day of _____, Witness our said Justices, the _____ day of _____, in the year of our Lord _____.

R. S.

N. O.

Which summons shall be served upon the party complained against, by reading the same in his hearing, or by a copy thereof, left at his usual place of abode, fourteen days exclusively, before the day of trial; and if the party shall not appear to defend, the Justices shall proceed to the inquiry in the same manner as if he were present; and when the Jury shall appear, the Justices shall lay before them the exhibited complaint, and shall administer the following oath, viz: [Foreman's oath.] You, as Foreman of this Jury do solemnly swear, that you will well and truly try whether the complaint of _____, now laid before you, be true, according to your evidence. So help you God. 'The other Jurors' oath. The same oath which your Foreman hath taken, on his part, you and each of you shall well and truly observe and keep. So help you God. And if the Jury shall find the complaint to be true, then they shall return their verdict in the form following: [Form of the Verdict.] At a Court of inquiry, held before R. S. and N. O. Esquires, two of the Justices of the Peace within and for the said County of

Mode of serving.

Justices' Proceedings.

Foreman's Oath.

The other Jurors' Oath.

Form of the Verdict.

_____, *quorum unus*, at D_____, in the said County of _____, upon the _____ day of _____, in the year of our Lord _____, the Jury upon their oaths do find, that _____ is a nuisance, and that the same, on or before the _____ day of _____, at _____, with force and arms, unjustly and unlawfully was erected, or caused to exist, by _____ of _____; and that the said _____, with like force and arms, unjustly and unlawfully, still continues and keeps up the same nuisance. Wherefore the Jury find, upon their oaths aforesaid, that the said nuisance ought to be abated and removed without delay. And if by accident or challenge, there shall happen not to be a full Jury, the Sheriff shall fill the panel, *de talibus circumstantibus* as in other causes. And if the Jury, after a full hearing of the cause, shall find the complaint laid before them supported by evidence, they shall all sign their verdict, in form aforesaid; otherwise the defendant shall be allowed his legal costs, and have his execution therefor, under the hands and seals of said Justices.

SEC. 8. *Be it further enacted*, That if the Jury shall return their verdict, signed by the whole panel, that the complaint is supported, the Justices shall enter up judgment for the complainant to have the nuisance abated and removed, and shall award their writ accordingly in form following:

[Form of the Writ of Removal.]

State of Maine.

Form of Writ
of removal.

H—ss. To the Sheriff of our County of _____, or to either of his Deputies,

Greeting :

Whereas, at a Court of Inquiry for abatement and removal of a nuisance, held at D_____, in our County of _____, upon the _____ day of _____, in the year of our Lord _____, before _____, Esqrs. two Justices of the Peace for our said County of _____, *quorum unus*, the Jurors empannelled and sworn by our said Justices, did return their verdict in writing, signed by each of them, that the _____ aforesaid, [described as follows, as in the verdict] is a nuisance; and that the same, on or before the _____ day of _____, at _____, with force and arms, and unjustly and unlawfully was erected and caused to exist, by _____ of _____; and that the said _____, with like force and arms, unjustly and unlawfully still continues and keeps up the same nuisance; Whereupon it was considered by our said Justices, that the said nuisance be abated and removed: We therefore command you, that, taking with you the force of the County, if necessary, you cause the said nuisance forthwith to be abated and removed; and also that you levy of the goods, chattels or lands of the _____ the sum of _____, being costs taxed against him in the trial aforesaid, together with _____, being the sum estimated by the said Justices as necessary costs, which will arise in the abatement and removal of said nuisance, together with thirty-three cents more for this writ, and also your own lawful fees.

And for want of such goods, chattels, or lands of the said _____, by you to be found, you are to take the body of the said _____, and him commit to our gaol in L____; in our said County of H____, there to remain until he shall pay the sums aforesaid, together with all fees on the service of this writ, or until he is delivered by order of law; and make return of this writ, with your doings thereon, within thirty days next coming. Witness our said Justices at D____ aforesaid, the _____ day of _____, in the year of our Lord _____,
 R. S.
 N. O.

Provided nevertheless, That the party complained against, as aforesaid, may, in person or by attorney, appear before the said Justices, and may there give in evidence, on the trial aforesaid, under the general issue, any special matter or thing of which he could avail himself under any special plea, in the regular Courts of law: *Provided also*, That when judgment shall be entered up against him upon the verdict of the Jury aforesaid, he may there appeal from the judgment of the said Justices, to the next Supreme Judicial Court, to be holden in the same County; which appeal, when so entered, shall stop all further proceedings of the said two Justices, and no writ on said judgment for abatement and removal shall issue, except as hereinafter directed: And it shall be the duty of the person appealing, as aforesaid, from the judgment of the said Justices, to procure attested copies of all the papers in said complaint, under the hands of the said Justices, and to enter his appeal at the next Supreme Judicial Court; and if he shall fail of so doing, the judgment of the said two Justices shall be in full force against him; and they are hereby authorized and empowered, in such case, to issue their writ for abatement and removal, in the same manner, as if no appeal had been entered.

Respondent may give special matter in evidence under general issue;

and appeal to Sup. J. Court.

Proceedings before the Justices stayed by entry of appeal.

Appellant to produce copies and enter his appeal,

or the judgment of the Justices shall be in full force, and they may abate the nuisance.

Sec. 9. *Be it further enacted*, That the said Supreme Judicial Court, be, and they hereby are authorized to take cognizance of said complaint and judgment, and to try by the Jurors returned to serve in their said Court, on the Jury of trials, the truth of the facts alledged in said complaint, under the issue aforesaid, and if the said Jury shall find by their verdict, the facts alledged in said complaint to be true, the said Court are further authorized to cause and order the said nuisance to be abated and removed, and to award against the party complained of, such sums as may be necessary to defray the expense of removing said nuisance. But if the Jury aforesaid shall find, that the facts alledged in said complaint are not supported, the party complained of shall recover against the complainant his legal costs, and execution shall issue accordingly.

Proceedings on the appeal in Sup. J. Court.

Sec. 10. *Be it further enacted*, That the same costs shall be allowed by the said two Justices and the Supreme Judi-

Same costs to be allowed as in Courts of law.

cial Court, to parties and witnesses, as are allowed in the regular Courts of law; and that the said two Justices, *quorum unus*, shall have the same fees, and be allowed the same sums for the trial aforesaid, as are allowed to Justices in the process of forcible entry and detainer.

[Approved March 8, 1821.]

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CHAPTER XXV.

An Act for the prevention of damage by Fire, and the safe keeping of Gun Powder.

Selectmen to make regulations as to the keeping of gun powder in certain towns.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Selectmen of each town within this State, containing not less than fifteen hundred inhabitants, be, and they hereby are, authorized and empowered to make rules and regulations, from time to time, in conformity with which, all gun powder which is or may be within such town, shall be kept, had or possessed therein; and no person or persons shall have, keep or possess within such town, any gun powder, in any quantity, manner, form or mode, other than may be prescribed by the rules and regulations aforesaid.

Penalty for violating such regulations.

SEC. 2. *Be it further enacted,* That any person or persons who shall keep, have or possess any gun powder, within any town, contrary to the rules and regulations which shall be established by the Selectmen of such town, according to the provisions of this Act, shall forfeit and pay a fine of not less than twenty dollars, and not exceeding one hundred dollars, for each and every offence, to be recovered by action of debt in any Court proper to try the same.

Mode of recovery.

Powder kept contrary to regulations may be seized and libelled.

SEC. 3. *Be it further enacted,* That all gun powder which shall be had, kept or possessed, within any town, contrary to the rules and regulations which shall be established by the Selectmen of such town, according to the provisions of this Act, may be seized by any one or more of the Selectmen of such town, and shall within twenty days next after the seizure thereof, be libelled, by filing with any Justice of the Peace in such town, a libel, stating the time, place and cause of seizure, and the time and place when and where trial shall be had before said Justice, and a copy of said libel shall be served by the Sheriff, or his deputy, on the person or persons, in whose possession the said gun powder shall have been seized, by delivering a copy thereof to each such person, or leaving such copy at his or her usual place of abode, seven days at least, before the time which shall be specified in said libel, for the trial thereof, that such person may appear, and show cause why the gun powder, so seized or taken, should not be adjudged forfeit; and if any person shall appear to show cause why the same should not be adjudged forfeit, such ap-

Proceedings on such libel.

pearance shall be entered on record, by said Justice; and if the gun powder, seized as aforesaid, shall be adjudged forfeit, the person or persons; whose appearance shall have been recorded as aforesaid, shall pay all costs of prosecution; and execution shall issue therefor: *Provided however*, That the person or persons, whose appearance shall have been recorded, may appeal from the judgment rendered by said Justice of the Peace, to the next Court of Common Pleas to be holden for the County where such town is situated: and the party so appealing, before such appeal shall be allowed, shall recognize, with sufficient surety or sureties to the libellant, to prosecute his said appeal and to pay all such costs as may arise after said appeal; and no further proceedings shall be had upon the judgment appealed from; and in case the party appealing shall neglect to enter his appeal, the Court appealed to, may, upon complaint, proceed to affirm the judgment of the Justice, with additional costs.

Appeal from Justice's judgment.

after proceedings.

SEC. 4. *Be it further enacted*, That any person who shall suffer injury by the explosion of any gun powder, had or possessed, or being within any town, contrary to the rules and regulations which shall be established in such town, according to the provisions of this Act, may have an action of the case in any Court proper to try the same, against the owner or owners of such gun powder, or against any other person or persons, who may have had the possession or custody of such gun powder, at the time of the explosion thereof, to recover reasonable damages for the injury sustained.

Persons damaged by explosion of powder illegally kept, may obtain redress.

SEC. 5. *Be it further enacted*, That it shall, and may be lawful for any one or more of the Selectmen of any town to enter any building, or other place, in such town, to search for gun powder, which they may have reason to suppose to be concealed or kept, contrary to the rules and regulations which shall be established in such town, according to the provisions of this Act, first having obtained a search warrant therefor according to law.

Selectmen may enter buildings to search for powder.

SEC. 6. *Be it further enacted*, That when any stove, chimney or stove pipe, within any town containing not less than fifteen hundred inhabitants, shall be defective, or out of repair, or so constructed or placed, that any building, or other property shall be in danger of fire therefrom, the Selectmen of said town shall give notice, in writing, to the possessor or possessors of such stove, chimney or stove pipe, to remove or repair the same; and if such possessor shall for the term of six days after the giving of such notice, unnecessarily neglect to remove, or effectually repair such stove, chimney or stove pipe, such possessor shall, for each and every such neglect, forfeit and pay a fine of not less than ten dollars, nor more than fifty dollars, to be recovered by action of the case, in any Court proper to try the same.

Penalty for suffering stoves, chimnies or stove pipes to be defective, &c.

Action of case.

SEC. 7. *Be it further enacted*, That the fines, forfeitures

Appropriation
of fines, &c.

and penalties, which shall arise under this Act, shall accrue, one moiety thereof to the use of the town within which the offence shall be committed, and the other moiety to the use of the person who shall prosecute or sue for the same.

Above regula-
tions not to be
in force till
published by
Selectmen, &c.

SEC. 8. *Be it further enacted*, That the rules and regulations, which shall be established in any town, according to the provisions of this Act, shall be of no force or effect, until such rules and regulations, together with this Act, shall have been published by the Selectmen of such town, three weeks successively, by printing in some newspaper printed within the County, or by posting up attested copies in three several public places in said town.

[Approved March 19, 1821.]

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CHAPTER XXVI.

An Act to prevent damage from firing Crackers, Squibs, Serpents and Rockets, within this State.

Crackers,
squibs, &c. not
to be fired with-
out license.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall offer for sale, set fire to, or throw any lighted cracker, squib, rocket or serpent within this State, without the license of the Selectmen of the several towns, respectively, first obtained therefor, he shall forfeit, for every such offence, the sum of five dollars; one moiety to the use of the poor of that town, in which the offence shall be committed, and the other moiety to the use of the prosecutor; to be recovered by action of debt, or by information before any Justice of the Peace of the County, in which the offence shall be committed, with the costs of suit.

Punishment.

[Approved Feb. 20, 1821.]

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CHAPTER XXVII.

An Act more effectually to secure Fire Engines from being injured.

Persons wan-
tonly injuring
fire engines.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall wantonly or maliciously, spoil, break, injure, damage or render useless, any engine, or any of the apparatus thereto belonging, prepared by any town, society, person or persons, for the extinguishment of fire, and shall be convicted thereof, before the Supreme Judicial Court, he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment, not exceeding two years, at the discretion of the Court; and be further ordered to recognize, with sufficient surety or sureties, for his good behaviour for such term as the Court shall order.

punished on
conviction in
S. J. Court.

[Approved March 2, 1821.]

CHAPTER XXVIII.

An Act for the prevention of Lotteries not authorized by law, and to prohibit the sale or purchase of Tickets in this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That no person or persons shall, within this State, make any lottery, or aid or assist in making any lottery, or advertise and make public any scheme for a lottery within this State, unless such lottery shall be granted under the authority of this State or of the Congress of the United States.

No person to make a lottery, &c. &c. unless granted by Congress or the Legislature of this State.

SEC. 2. *Be it further enacted,* That no person or persons shall, within this State, sell, give or otherwise dispose of any ticket or tickets, or part of any ticket, in any lottery not authorized by the laws of this State or of the United States.

No person may dispose of tickets in any lottery not so granted.

SEC. 3. *Be it further enacted,* That no person or persons shall, within this State, purchase or receive any ticket or tickets, or part of any ticket, in any lottery not authorized by the laws of this State, or of the United States.

nor purchase any ticket in a lottery, not so authorized.

SEC. 4. *Be it further enacted,* That it shall not be lawful for any person within this State to have in possession any ticket or paper purporting to be the number of any ticket or part of any ticket, of any lottery not granted or authorized by this State, or the United States, with intent to sell, negotiate or dispose of the same, or in any way or manner to advertise or make public, or aid or assist in advertising or making public, any scheme or class of any lottery not granted or permitted to be drawn by this State or the United States.

No person shall have in his possession, with intent to sell, negotiate or dispose of tickets in a lottery not so authorized.

SEC. 5. *Be it further enacted,* That any person or persons who shall offend in any of the particulars aforesaid, shall forfeit and pay for each and every offence, a sum not less than fifty dollars, nor more than one thousand dollars, to be recovered by action to and for the use of any person who shall sue for the same, in any Court of competent jurisdiction.

Penalty for the violation of this Act;

how recovered.

SEC. 6. *Be it further enacted,* That this act shall take effect and be in force, from and after the first day of May next.

Limitation.

[Approved March 15, 1821.]

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CHAPTER XXIX.

An Act for preventing abuses in distilling of Strong Liquors, with Leaden Heads or Pipes.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall presume to distil or draw off any spirits or strong liquors through leaden heads, worms or pipes, upon legal conviction thereof, before any Court of competent jurisdiction, shall forfeit and pay a sum of three hundred dollars,

Penalty for distilling through leaden heads, pipes and worms.

Worms, or heads not to be made of base metal.

SEC. 2. *Be it further enacted,* That no brazier, pewterer, or other artificer whatsoever, shall presume to make any worm or head, (for distilling,) of coarse and base pewter, or such as hath any mixture of lead in it, under the penalty of three hundred dollars.

Towns may choose Assay Masters to inspect and try heads and worms.

SEC. 3. *Be it further enacted,* That in each town within this State, where the distilling trade is carried on, it may be lawful for the inhabitants thereof, at their annual town meeting for choice of town officers, to choose two or more Assay Masters, whose business it shall be to inspect and make trial of any such heads and worms, as shall be suspected by them; and if, upon their assaying and trial of them, they be found to be made of lead, or of other base metal, or to have an alloy of lead or other base metal in them, they shall give notice thereof to the distiller or owner thereof, who is hereby forbidden to make any further use thereof in distilling, under the aforesaid penalty of three hundred dollars.

Assay Masters may enter still-houses, &c. to examine.

SEC. 4. *Be it further enacted,* That the Assay Masters or Inspectors are hereby empowered to enter into any Still-house or place, where such utensils are suspected to be kept, and to cut off so much of them as shall be needful to make an assay or trial of them. And every distiller shall be obliged to produce a certificate, under the hands of the Assay Masters, for the time being, for all the pewter heads and worms which they shall make use of in distilling; that they have been tried and are approved of by them for good pewter, and that they have put their mark and number upon them; for which mark a stamp shall be forthwith prepared at the town charge: For which certificate and every assay made by them, they shall be allowed by the distiller or owner of such heads and worms, the sum of *one dollar*. The said certificate, with mark and number to be entered in the Town Clerk's book, for which service the Town Clerk shall be allowed ten cents.

Certificate to be produced of Assay Masters.

Fees for certificate and assay.

Certificate to be entered with Town Clerk.

Penalties, how recovered and appropriated.

SEC. 5. *Be it further enacted,* That all forfeitures and penalties arising by virtue of this Act, shall be the one half to the poor of the town, where the offence is committed, and the other half to him or them, that shall inform and sue for the same. And further, that all Assay Masters, chosen to that office, shall make oath as follows, viz: I, A. B. do solemnly swear that I will, to the best of my skill, prove and make trial of all worms and still heads, within the town of C. that are used, or designed to be made use of, in distilling, that shall come to my knowledge, for which there is no certificate in the Town Clerk's book, and will make a true and faithful report thereof to the Town Clerk, for the time being. So help me God.

Assay Master's oath.

[Approved March 15, 1821.]

CHAPTER XXX.

An Act relating to the punishment of Convicts.

Sec. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That, whenever any person convicted of any crime or offence whatever, shall be duly sentenced therefor to solitary imprisonment and confinement to hard labor by any Court of this State or of the United States, the Court before whom such conviction shall be had, may order the sentence to be executed in the common gaol or house of correction of the County in which the offence shall have been committed. And the keeper of such gaol or house of correction is hereby authorized and required to execute such sentence of solitary imprisonment, by confining the convict in one of the cells of the gaols or house of correction, if any such there be, and if there be none, then in the most retired and solitary part of the prison or house of correction; and during the time of such solitary confinement, the convict shall be fed on bread and water only, unless other food shall be necessary for the preservation of his or her life; and no intercourse shall be allowed with such convict, except for the conveyance of food or other necessary purposes.

Sec. 2. *Be it further enacted,* That the keeper of the gaol or house of correction, to which such convict shall be committed, after the term of solitary imprisonment, shall furnish the convict with tools and materials to work with, in any suitable manner in which his or her time can be usefully and profitably employed, either in the gaol or house of correction, or within the close yard thereof in the day time; and such convict, when set to work in the yard, shall be confined with a log and chain, or in such other manner, as shall prevent his or her escape, without unnecessarily producing bodily pain, or interrupting his or her labor. And it shall be the duty of the Sheriff in each County to oversee the execution of all such sentences, and to make such rules and regulations, from time to time, as may best effect the purposes of this Act, and to cause the same to be duly executed: and all such rules and regulations shall be reported to the Court of Sessions of the County within which the gaol or house of correction is situated, and they may be altered or repealed by said Court, as they shall see fit. And it shall be the duty of the keeper of such gaol or house of correction, to report to the said Court at every session thereof within his County, the names and condition of all such convicts in the gaol or house of correction, and the manner in which they are treated and employed. And if any convict during the time for which he or she is sentenced to hard labor, shall refuse or neglect, without any reasonable excuse therefor to labor as aforesaid, when tools and materials for that purpose are furnished, such convict so long as he or she shall

Sentence of imprisonment to be executed in county gaol.

Gaoler directed.

Treatment of convicts in solitary confinement.

Gaoler to furnish tools, &c.

Convicts to wear log and chain in certain cases.

Duty of Sheriff.

Rules of gaol to be submitted to court of sessions.

Gaoler to report.

Refractory convicts to be punished.

so refuse, shall be kept on bread and water, and be confined to solitary imprisonment in the manner provided in the first section of this Act.

SEC. 3. *Be it further enacted,* That the keeper of every gaol or house of correction, to which any such convicts shall be committed, shall cause to be kept a true account of the labor of every such convict, and of the articles manufactured or produced by each, and all other proceeds of his or her labor; and also of the cost of the materials furnished to each convict, and of all other charges and expenses attending the execution of this Act; and he shall also cause the articles manufactured by each convict or other produce of his or her labor to be sold, and like account of the proceeds of such sales to be kept; all which accounts, from time to time, shall be reported and presented to said Court in the County, in which the gaol or house of correction is situated. And at the expiration of the term for which any such convict shall have been sentenced, if it shall appear that the proceeds of his or her labor have been more than sufficient to pay for the cost of the materials, with which he or she may have been furnished, and for his or her maintenance in the gaol or house of correction, and for all other charges and expenses incurred in keeping such convict confined and employed in manner aforesaid, the residue of such proceeds shall be paid over to such convict for his or her own use: *Provided,* That said Court if it see fit, at any time during the confinement of such convict, when it shall appear that the proceeds of his or her labor are more than sufficient for the purposes aforesaid, may order the residue of said proceeds or any part thereof to be paid over to the use of the family of such convict, if any he or she have; and in such case the balance only of such proceeds, if any remain at the time of the discharge of such convict, shall be paid to him or her in manner aforesaid. And all charges and expenses incurred in maintaining such convicts, and keeping them employed, excepting such as may be reimbursed by the proceeds of their labor, shall be paid by the State. And the accounts of the gaoler or keeper of the house of correction in that behalf being first settled by the Court aforesaid in the Counties respectively, in which the gaol or house of correction is situated, the said Courts respectively are hereby authorized to order such sums, as may, from time to time, be necessary to enable the gaoler or keeper of the house of correction to provide such tools and materials as aforesaid to be advanced and paid to him out of the Treasury of the County in which the gaol or house of correction may be situated, such gaoler or keeper of the house of correction to be accountable in manner abovementioned for the expenditure of the same, and to repay the amount thereof into the said County Treasury out of the proceeds of the labor of such convicts, or out of

Gaoler to keep an account of the proceeds of labor,

and report the same to the court of sessions.

If proceeds of labor exceed the cost of materials and expenses.

Balance to be paid the convict,

or to his family.

Charge of convicts to be paid by the State.

Courts may order funds to be advanced for materials.

the monies received by him in that behalf from the treasury of the State.

SEC. 4. *Be it further enacted,* That if any such convict shall be unruly or shall disobey any of the regulations established as aforesaid, for the government of the convicts in the gaol or house of correction, to which he or she is committed, it shall be lawful for the Sheriff of the County in which the gaol or house of correction may be, after due inquiry into the circumstances of the case, to order such unruly or disorderly convict to be kept in solitary imprisonment, and to be fed on bread and water only, in the manner provided in the first section of this Act, for a term not exceeding ten days, for every such offence. And it shall be the duty of the gaoler or keeper of the house of correction to furnish every such convict, who may be capable and willing to read, with a copy of the Bible and with such moral and religious tracts, as may be suited to their condition, when he can procure the same from any Bible Society or from other well disposed persons; and also to permit any Minister of the Gospel, who may be disposed to aid in the reformation of such convicts and to instruct them in their moral and religious duties, to have access to them when in solitary imprisonment, and at all other times, when not employed in labor according to the provisions of this Act.

Refractory convicts may be punished.

Convicts may be furnished with the bible &c.

And ministers may have access to them.

SEC. 5.* *Be it further enacted,* That when any gaol or house of correction shall, hereafter, be erected in any county, suitable apartments shall be made therein for the purpose of solitary imprisonment, and yards shall be laid out adjoining thereto of sufficient dimensions for the employment of all such convicts, and enclosed with a fence sufficiently high and strong to prevent escapes and all access to or intercourse with such convicts by any persons from without the prison. And it shall be the duty of the Court of Sessions in every county in which there is now a gaol or house of correction, suitable for the confinement of such convicts forthwith to order such yards to be laid out and enclosed as aforesaid, adjoining to such gaol or house of correction. And any county which shall for the space of two years after such order neglect to make such yard or fence according to the provisions of this Act, shall forfeit and pay to the use of the State the sum of five hundred dollars to be recovered on information or indictment before the Supreme Judicial Court when sitting within or for any adjoining county.

*5th section repealed March 19, 1821.

Gaols hereafter to have cells and work yards.

Penalty for neglect.

SEC. 6*. *Be it further enacted,* That whenever it shall appear to the Court, at the time of passing such sentence as aforesaid, that there is no gaol or house of correction in the county where the offence may have been committed, suitable for the confinement of such convict according to the provisions of this Act, such Court may order the sentence to be executed in any neighbouring county in which there may be

*6th section repealed March 19, 1821.

When there is no suitable gaol in a county, sentence may be executed in

a neighboring county.

a gaol or house of correction, suited to that purpose, and every such convict shall be confined and kept at work in the gaol or house of correction, to which he shall be so committed in like manner in all respects as if the sentence had been passed in the county in which the gaol or house of correction is situated.

Repeal of former act.

SEC. 7. *Be it further enacted*, That an Act relating to the punishment of convicts, who may be sentenced to solitary imprisonment and confinement to hard labor adopted by the Constitution of this State be and the same is hereby repealed. [Approved June 27, 1820.]

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CHAPTER XXXI.

An Act repealing part of an Act relating to the punishment of Convicts.

Repeals two sections of former act.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the fifth and sixth sections of an Act entitled, "An Act relating to the punishment of convicts," passed on the twenty-seventh day of June last, be, and the same are, hereby repealed.

Regulations respecting solitary imprisonment.

SEC. 2. *Be it further enacted*, That until more suitable and permanent provision respecting prisons can be made, in case of any conviction, on which the convict shall be punished by solitary imprisonment and confinement to hard labor, the Court before whom such conviction may be had, shall order such punishment to be by solitary imprisonment so far as the situation of the prison, the state of the convict, and the circumstances and aggravation of the offence shall render proper.

[Approved March 19, 1821.]

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CHAPTER XXXII.

An Act respecting Conditional Pardons.

WHEREAS in the course of human events it sometimes happens that crimes for which the perpetrators are legally sentenced to suffer the punishment of death, are attended with alleviating circumstances :

Governor with advice of Council may grant conditional pardons.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever any person, who has been, or shall hereafter be sentenced by the Justices of the Supreme Judicial Court, to suffer the punishment of death, shall make application to the Governor for pardon, and the Governor shall think proper, by and with the advice and consent of the Council, to grant such pardon, on condition that the person thus sentenced be imprisoned or confined to hard labor during his or her natural life, or for a certain term of years, in the condition of such pardon to be expressed, the Governor be, and hereby is authorized in order to

carry the same into effect, to issue his warrant or warrants, directed to all proper officers; and the said officers shall be holden to serve, execute and obey the same, in the same manner as if such imprisonment or confinement had been the punishment awarded in the original sentence.

[Approved February 28, 1821.]

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CHAPTER XXXIII.

An Act to prevent and punish Trespasses.

Sec. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall cut down, destroy or carry away any tree or trees whatever, placed or growing for use, shade or ornament; or any timber, wood or underwood, standing, lying or growing on land not his own; not having the consent of the owner thereof; or shall throw down or open any bars or gates, fence or fences, and leave the same down or open; or shall injure, mar or deface any fence or fences, belonging to, or enclosing lands not his own; or shall dig up or carry away any stones, ore, gravel, clay, sand, turf or mould, roots, fruit, or plants; or cut down or carry away any sedge, grass, hay or corn, wherein he hath no interest, standing, lying or being on any land not his own; or shall take or carry away from any wharf or landing place, whereof he is not a proprietor or owner, any goods whatever, wherein he hath no interest, without the leave of some person who has interest therein; or shall break the glass, or any part of it, in any building not his own; the person so offending, shall forfeit and pay for each tree or stick of timber so cut down, destroyed or carried away; and for each and every other offence, a fine not less than one dollar, nor more than seven dollars, to the use of the State, to be recovered on complaint before any Justice of the Peace in the county where the offence shall be committed, and shall be liable to answer in damages to the party injured: *Provided*, That nothing in this Act shall be construed, to prohibit the surveyors of highways from taking stones and gravel from uninclosed lands for the repairing of the highways.

Description of
Trespasses—

Penalty for
committing—

liable also in
damages to party
injured.

Proviso as to
surveyors of
highways.

Sec. 2. *Be it further enacted*, That if any person shall wilfully break, deface or destroy any mile stone or public monument, unless properly authorized so to do, the person so offending shall forfeit and pay for each offence, a fine not less than seven dollars, nor more than fifty dollars to the use aforesaid; to be recovered on indictment before the Circuit Court of Common Pleas in the county where the offence shall be committed, and be further liable to answer in damages as aforesaid.

Penalty for de-
stroying mile
stones or mon-
uments.

Sec. 3. *Be it further enacted*, That any person who shall commit any of the offences abovementioned, secretly, in the

Penalty for
committing any

of the above offences secretly, by night, or in disguise.

Counties, towns and parishes may sue for damage done to their buildings or property.

Penalty for entering on another's grass land, orchard, &c. without leave, with intent to destroy fruits, grass, &c.

how recovered.

Penalty for a person carrying away from any orchard or grass land, without leave of owner, any grass, fruit, &c.

liable also in damages.

Penalty for cutting or mutilating fruit or ornamental, or shade trees,

how recovered.

night time, or in disguise, shall forfeit and pay a fine to the use of the State, not less than ten dollars, nor more than sixty dollars for each offence, to be recovered on indictment.

SEC. 4. *Be it further enacted*, That when any trespasses shall be committed on any buildings or enclosures belonging to any county, town or parish, the county, town, and parish Treasurer, for the time being, shall be and hereby are severally authorized to sue for the damage done to the public building or enclosures of their county, town or parish respectively; and where any public buildings are owned partly by the town and partly by the county, in that case the county or town Treasurer, whoever may first institute an action, may prosecute for damages thus sustained. And where any public building is owned by any school district the town Treasurer may sue therefor in manner aforesaid.

SEC. 5. *Be it further enacted*, That if any person shall enter upon any grass land, orchard or garden without permission from the owner thereof, with intent to cut, destroy, take or carry away, any grass, hay, fruit or vegetables, with intent to injure or defraud such owner, each person so offending shall forfeit and pay, for every such offence a sum not less than two dollars, nor more than ten dollars to the use of the State, to be recovered on complaint before any Justice of the Peace of the County in which the offence shall be committed; and the persons so offending shall also be liable in damages to the party injured.

SEC. 6. *Be it further enacted*, That if any person having entered upon any grass land, orchard or garden, shall take therefrom, without permission of the owner thereof, and with the intent to injure and defraud such owner, any grass, hay, fruit, vegetable or shrub, cultivated thereon for ornament or use, such person so offending shall forfeit and pay for each offence, to the use of the State, a sum not less than five, nor more than fifty dollars, to be recovered by indictment or information before the Circuit Court of Common Pleas, in the county where such offence shall be committed, and the person so offending, shall be also liable to the party injured, in a sum equal to three times the value of such grass, hay, fruit, vegetable or shrub, to be recovered by action of the case in any Court of competent jurisdiction.

SEC. 7. *Be it further enacted*, That any person who having entered upon any grass land, field or orchard, shall, without permission of the owner thereof, and with the intent to injure him, break, bruise, cut, mutilate, injure or destroy, any fruit tree, tree for ornament or shade, or shrub cultivated thereon, for ornament or use, and which shall be standing or growing thereon, such person so offending, shall forfeit and pay to the use of the State, a sum not less than ten dollars, nor more than one hundred dollars, to be recovered by indictment or information, in manner as is provided in the second section of this Act.

Sec. 8. *Be it further enacted,* That if any person, shall commit any of the trespasses mentioned in this Act, on the Lord's day or in the night time, that is to say, between sun-setting and sunrising, he shall be liable to double the penalties and forfeitures, the same to be prosecuted for, and recovered in manner as before provided; and all prosecutions for breaches of this Act, shall be commenced within one year from the time the offence shall be committed, or the penalties or forfeitures shall have accrued, and not afterwards.

Penalty for committing such wrongs on Lord's day or by night.

Limitation of prosecutions.

[Approved March 19, 1821.]

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CHAPTER XXXIV.

An Act to prevent the waste and destruction of Timber and Cord Wood.

Sec. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That any person seized of a freehold estate, or of a remainder or reversion in fee simple, or fee tail, in a lot or tract of wood land or timber land in this State, whereon the trees shall have come to an age and growth fit to be cut, may prefer a petition to the Supreme Judicial Court, holden in any county, representing the state and condition of such trees, and praying that the same may be felled and sold, and the proceeds thereof invested for the use of the persons interested in such wood land; and the said Court may thereupon order due notice to be given to all persons known to be interested therein, to appear and show cause, if any they have, why the prayer of such petition should not be granted; and after hearing the parties, if any shall appear, may appoint one or more persons to examine said wood land, or timber land, and if from their report or other evidence which shall be exhibited to the Court, it shall appear that the trees upon said land are of an age and growth fit to be cut, and likely to deteriorate in value, the said Court may, and they are hereby empowered to license and order, on such terms and conditions as said Court shall require, the whole, or such part of such trees, as they shall think proper, to be felled and sold, and the money arising from the sale thereof to be brought into Court subject to their further order.

Persons seized of freehold estate or remainder or reversion in fee simple or fee tail may apply to Supreme Judicial Court for leave to cut timber and cord wood.

Notice to be ordered.

Court may appoint persons to examine and report.

And may, if thought proper, grant leave on such terms as they may direct.

Sec. 2. *Be it further enacted,* That the said Court shall and may appoint one or more commissioners, whose duty it shall be to superintend and direct, the felling of said trees, and the sale of the same, and to account to said Court for the proceeds thereof, and also to give bond to the Clerk of said Court, or such other person as the Justices of said Court shall appoint, for the faithful performance of the trust. And the said Court may, and they are hereby further empowered, to cause the net proceeds of said trees after paying all

Court to appoint Commissioners to superintend the cutting and selling the trees and account for proceeds to the Court.

Proceeds may be invested in

other lands, stocks, &c.

Income to be paid among persons interested.

Court may appoint trustees to take and hold stocks, &c.

Trustees to give bond.

necessary expenses and charges, to be invested in other real estate in this State, or in public stocks, at their discretion, to be holden to the same uses and subject to the same limitations as such wood land or timber land; and the income and profits thereof, to be paid to the person or persons entitled to the income and profits of said wood land or timber land, or to be paid and apportioned to and among the several persons interested in the same estate, in such portions as to the said Court shall appear just and equitable; and also to appoint one or more Trustees to take and hold such estate or stock for the uses aforesaid; and such Trustees to remove and others to appoint in their stead, when and so often as the security and good management of the property shall require it: which Trustees shall also give bond, with good and sufficient sureties, to said Clerk or other person, as aforesaid, for the faithful execution and performance of the said trust.

[Approved February 28, 1821.]

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CHAPTER XXXV.

An Act to prevent Tenants in common, Joint Tenants and Coparceners, from committing waste, and for other purposes.

Grants, devises, &c. of lands to two or more to be estates in common and not joint tenancy,

unless clearly expressed or designed to be otherwise.

Provide, as to estates already vested.

No tenant in common to cut or carry away timber, &c. from the land without giving notice in writing to all the co-tenants 40 days previous.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all gifts, grants, feoffments, devises and other conveyances of any lands, tenements and hereditaments, which have been or shall be made to two or more persons, whether for years, for life, in tail or in fee, shall be taken, deemed and adjudged to be estates in common and not in joint tenancy, unless it has been or shall be therein said that the grantees, feoffees or devisees, shall have or hold the same lands, tenements or hereditaments jointly, or as joint tenants, or in joint tenancy, or to them and the survivor or survivors of them, or unless other words be therein used, clearly and manifestly showing it to be the intention of the parties to such gifts, grants, feoffments, devises, or other conveyances, that such lands, tenements and hereditaments should vest, and be held as joint estates and not as estates in common: *Provided nevertheless*, Where any estate has already vested in the survivor or survivors, upon the principle of joint tenancy, it shall be held in like manner as it would have been held, if this Act had never been passed; any thing therein to the contrary notwithstanding.

SEC. 2. *Be it further enacted*, That if any person holding any lands in common and undivided, shall cut down, destroy or carry away any trees, timber, wood or underwood whatsoever, standing or lying on such lands, or shall dig up or carry off any stone or ore, or any other valuable matter or make any other strip or waste thereon, without first giving notice in writing under his or their hands, unto all the persons in-

terested therein, or to their agents, factors or attornies, forty days beforehand, setting forth that he or they have occasion for, and shall enter upon and improve such lot or lots of lands lying in common as aforesaid, he shall forfeit and pay treble damages, to be recovered by any one or more of the persons interested in the same lands, who may prosecute and sue for the same, in an action of trespass in his or their own names, as well on the behalf of the other co-tenants, except the defendant, without being held to name them in the writ, as of him or themselves, one moiety of the aforesaid penalties to be for the use of such person or persons who shall sue for the same, and the other to and for the use of all the co-tenants excepting the defendant, in proportion to their respective interest, in the land where the trespass hath been committed.

Penalty for so doing, and how to be recovered and appropriated.

SEC. 3. *Be it further enacted,* That when any writ of partition shall be brought and served at the suit of any one or more persons so interested in any lot or lots of land, tenements, or hereditaments, or a petition shall be pending in Court for a partition of the same, no person, or persons, having a right or interest in any such lands, tenements or hereditaments, or holding any part or share of the same in common as aforesaid, while such suit or petition is depending, shall or may cut down, destroy or carry away any trees, timber, wood or underwood, stone or ore, or other valuable matter whatsoever, standing, growing or lying on, or belonging to such lands, or shall otherwise hurt or damage any such lands, tenements or hereditaments, until partition can be made of the same according to law; on pain that the person or persons so offending shall incur the like forfeitures, to be recovered in like manner and for such uses as are before mentioned and declared.

While writ or petition for partition is pending, no person interested in the lands, &c. shall cut or destroy timber, &c. &c.

Penalty for so doing.

SEC. 4. *Be it further enacted,* That if any person or persons shall commence and prosecute any action of ejectment, or other real action, for recovering possession of any lands and real estate, unjustly withheld from him or them by any person, and such person in possession or any other persons pending such action, and after the service of the writ therein, shall make strip or waste by cutting, felling or destroying the wood, timber, trees or poles standing or growing on such land sued for; he or they making such strip or waste, shall for every such offence, forfeit and pay to the party aggrieved, treble damages, to be recovered by action in any Court proper to try the same, after the plaintiff or defendant has recovered his title and possession of such estate sued for.

Penalty for defendant's making strip or waste while a real action is pending against him;

how recovered.

[Approved March 15, 1821.]

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CHAPTER XXXVI.

An Act directing the mode of transferring Real Estates by Deed.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all deeds or other

All deeds, &c. to be signed,

sealed, acknowledged by the grantor and recorded.

No conveyance, &c. or lease for more than seven years shall be good against any but grantor and his heirs, unless so acknowledged and recorded.

Mode of proving deed when grantor is dead or out of State, &c.

Mode of proving when witnesses are also dead.

When grantor refuses to acknowledge a deed, what proceedings are to be had and the effect thereof.

conveyances of any lands, tenements or hereditaments, lying within this State, signed and sealed by the party granting the same, having good and lawful right or authority thereunto, and acknowledged by such grantor or grantors, before a Justice of the Peace in this State, or before a Justice of the Peace or magistrate in some other of the United States of America, (or in any other State or Kingdom wherein the grantor or vendor may reside at the time of making and executing the deed,) and recorded at length in the registry of deeds in the county where such lands, tenements, or hereditaments lie, shall be valid to pass the same without any other act or ceremony in the law whatsoever. And no bargain, sale, mortgage or other conveyance in fee simple, fee tail, or for term of life, or any lease for more than seven years from the making thereof, of any lands, tenements or hereditaments, within this State, shall be good and effectual in law to hold such lands, tenements or hereditaments, against any other person or persons, but the grantor or grantors, and their heirs only, unless the deed or deeds thereof be acknowledged and recorded in manner aforesaid: *Provided nevertheless*, That when any grantor or lessor as aforesaid shall go beyond sea, or be removed out of this government, or be dead, before the deed or conveyance by him executed, shall be acknowledged as aforesaid, in every such case the proof of such deed or conveyance, made by the oath of one or more of the witnesses, whose names may be thereunto subscribed, before any Court of record within this State; or in case one or all of such witnesses have also deceased, that the proof of the signature of such grantor or grantors, and of such subscribing witness or witnesses, made by the oath of two witnesses before any Court of record, within this State, shall be equivalent to the party's own acknowledgment thereof before a Justice of the Peace, as aforesaid.

Sec. 2. *Be it further enacted*, That if any grantor or lessor of any lands, tenements or hereditaments, shall refuse to acknowledge any deed or other conveyance as aforesaid, it shall be lawful for such grantee or lessee to leave a copy of such deed or lease, compared with the original by the Register, in the Register's office, and such copy so left shall be deemed sufficient caution to all persons against purchasing or extending execution thereon for the space of forty days from the time of leaving such copy. And any Justice of the Peace in the same county, after such refusal, at the request of the grantee or lessee, his heirs, executors, administrators or assigns, may issue a summons for such grantor or lessor to appear, (if he see cause,) at a certain time and place therein mentioned, to hear the testimony of the subscribing witnesses thereunto; which summons shall be served by the proper officer, seven days at the least before the time therein assigned for proving the deed; and at such time and place,

whether the grantor or lessor be present or not, it being made to appear by the oath of one or more of the witnesses thereunto subscribed, that they saw the said grantor, (or lessor,) voluntarily sign and seal the deed, and that they subscribed their names as witnesses thereunto at the same time, such proceedings, and a certificate thereof, under the hand of the Justice, annexed to the deed, (wherein the presence or absence of the adverse party shall be noted,) shall be equivalent to the acknowledgment of the grantor before a Justice of the Peace: *Provided*, That nothing in this Act shall be construed to bar any widow of any vendor or mortgagor of lands, or tenements, from her dower or right in, or to such lands or tenements, who did not join with her husband in such sale or mortgage, or otherwise lawfully bar, or exclude herself from such dower or right.

Provide as to widow's dower.

SEC. 3. *Be it further enacted*, That no title or estate, in fee simple, fee tail, for term of life, or any lease for more than seven years from the making thereof, of any lands, tenements, or hereditaments within this State, shall be defeated or incumbered by any bond or other deed, or instrument of defeasance, in the hands or possession of any person, but the original party to such bond, deed, or other instrument, or his heirs, unless such bond, deed, or other instrument of defeasance be recorded at large in the Registry of Deeds, in which the original deed referred to in the said bond, deed, or other instrument of defeasance, shall have been recorded.

No estate in fee, &c. to be defeated by any bond of defeasance as to any but original party thereto, unless such defeasance is recorded.

SEC. 4. *Be it further enacted*, That it shall be lawful for any person or persons, who shall be seized and possessed of any lands, tenements, or hereditaments within this State, in fee tail, being of full age, by deed duly executed before two or more credible subscribing witnesses, acknowledged before the Supreme Judicial Court in any county, or the Circuit Court of Common Pleas in the county where such lands lie, or before any Justice of the Peace in this State, or before a Justice of the Peace or Magistrate in some other of the United States of America, or in any other State or Kingdom wherein the grantor or vendor may reside at the time of making and executing the deed, and recorded in the record of deed for such county, for a good or valuable consideration, *bona fide*, to give, grant, sell and convey such lands, tenements, or hereditaments, or any part thereof in fee simple, to any person or persons capable by law, of taking and holding real estates, in this State; and such deed so executed, acknowledged and recorded, shall be sufficient and effectual in law, to bar all estates tail in such lands, tenements or hereditaments; and all right and title of the tenant or tenants in tail, and their issue in tail, and of all others claiming under, and by force of the original gift or grant which created such estate tail in and to such lands, tenements or heredita-

Tenant in tail may convey in fee by deed signed before two witnesses, acknowledged and recorded;

legal effect of such conveyance.

ments, and all reversions and remainders, expectant upon the determinations of such estates tail, and to pass, and to vest the absolute inheritance in fee simple of such lands, tenements, or hereditaments, in such purchasers or grantees, without any fine or common recovery, made or suffered, or any other act or ceremony whatever, any law, custom or usage to the contrary notwithstanding.

Effect of such conveyance by tenant of the freehold and remainder man,

SEC. 5. *Be it further enacted*, That in all cases whatever, where an estate tail in remainder in lands and tenements, together with all remainders and reversions expectant on the determination thereof, might by law be barred by a common recovery, duly suffered, by the tenant of the freehold and remainder man joining therein, such estate tail, with all such remainders and reversions expectant on the determination thereof, shall be as effectually barred, to all intents and purposes, by the deed or deeds of the tenant of the freehold and of the remainder man, as the same could be barred by the suffering such common recovery; and the person or persons, to whom such deed or deeds shall be so made shall hold the lands and tenements so conveyed, to such uses as may be therein expressed, in the same manner as though such uses had been so expressed in the deeds made, declaring the uses for which such common recovery might have been suffered: *Provided*, That such deed or deeds made for the purposes aforesaid, be duly executed, acknowledged and recorded as provided in this Act.

if executed as before mentioned.

All lands held in fee tail liable to debts of tenant, as lands in fee simple.

SEC. 6. *Be it further enacted*, That all lands, tenements, or hereditaments, in this State held, or that may be held in fee tail, general or special, shall be and are hereby declared to be liable and subject to the payment of the debts of the tenant in tail, in the same way and manner as other real estates are liable and subject, as well after the decease, as in the life time of such tenant in tail.

Pews in meeting houses—real estate.

SEC. 7. *Be it further enacted*, That all pews and rights in houses of public worship, shall be hereafter considered and deemed in law, to be real estate; but nothing in this Act shall be construed to affect in any manner the titles to any such pews and rights heretofore considered or acquired, as of personal estate.

Deeds of pews may be recorded by the town clerk.

SEC. 8. *Be it further enacted*, That all deeds and conveyances of, and executions extended on such pews and rights, may be recorded by the Clerk of the town or plantation wherein the same is situated; and being so recorded shall have the same effect in law, as if the same had been recorded in the Registry of Deeds.

[Approved Feb. 20, 1821.]

CHAPTER XXXVII.

An Act for the Partition of Lands or other Real Estate.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all persons having or holding, or that hereafter shall have or hold any lands, tenements, or hereditaments, as tenants in common, joint tenants, or coparceners, may be compelled by writ of partition at the common law, to divide the same: and whereas the partition of lands and other real estate among the persons interested, though much desired and of great advantage, is often hindered and delayed by reason that infants are interested, or that the parties concerned are numerous and live remote from each other, and sometimes in parts beyond seas, and are some of them unknown:

Tenants in common, &c. may sue for partition at common law.

SEC. 2. *Be it therefore enacted,* That any person or persons interested with others in any lot, tract of land, or other real estate, making application, (either by themselves or their agents, attornies, or guardians,) to the Supreme Judicial Court or Circuit Court of Common Pleas of the county in which such land or other real estate lies; the said Courts are severally authorized and empowered to cause partition to be made of such lands or other real estate, and the share or shares of the party or parties applying for the same, to be set off and divided from the rest. The partition to be made by five or three freeholders under oath, to be appointed by the said Court, who shall order the partition, and a return of such partition, to be made into the Clerk's office of the said Court; and the partition or division so made being accepted by the said Court, which ordered the division to be made, and there recorded, and also recorded in the Registry of Deeds, in the county where such estate lies, shall be valid and effectual to all intents and purposes.

Persons interested in common, &c. may petition Courts for partition—

to be made by 3 or 5 freeholders—

SEC. 3. *Be it further enacted,* That neither of the said Courts shall proceed to order such partition, until it shall appear to them respectively, that the several persons interested in such estate and living within the State, or the attornies of such as are absent, and have attornies residing in the State, have been duly notified of such petition, (by being personally served with a copy thereof or a copy left at their dwelling house, or last place of abode, or that the substance of the petition shall have been inserted three weeks successively in one or more of the public newspapers,) and have had an opportunity to make their exception to the granting the same.

accepted and recorded—effect thereof.

Notice to be given before partition is ordered.

SEC. 4. *Be it further enacted,* That when the facts alleged, in any petition for partition hereafter to be preferred, are controverted by any of the tenants in common, the answer or objection to the petition, shall be made in writing, in the form of a plea, to which the petitioner may reply or demur, to the end the matter in dispute may be reduced to an issue in law

When facts are contested, a trial to be had in usual form.

or fact, and receive a determination by the Court or a Jury, in the manner other issues are determined: And in case the issue be determined in favor of the petitioner, judgment shall be entered up by the Court, that partition be made by disinterested freeholders, and proceed to appoint them accordingly: And also that the petitioner recover against the adverse party the costs attending the trial, and may issue execution for said costs in the form prescribed by law as in other cases. But if on such pleading it be determined that the petitioner holds a less share or proportion in common and undivided than he has in his petition alleged, the adverse party shall recover against the petitioner his reasonable cost; notwithstanding judgment may be rendered in favor of the petitioner to have an assignment of such part of the real estate in severalty, as he in fact holds in common and undivided.

If petitioner own less than he claims, respondent entitled to costs.

Appeal from C. C. Pleas, and effect thereof.

SEC. 5. *Be it further enacted,* That either party may appeal from the judgment of the Circuit Court of Common Pleas, that partition shall be made, to the Supreme Judicial Court, before the appointment of freeholders to make partition: But if no appeal is made until after the return of the freeholders, and the judgment of the Court thereon, the judgment that partition shall be made, shall not by such appeal be again called in question. And the Supreme Judicial Court shall, upon the complaint of the appellee, (in case the appellant shall fail to enter or prosecute his appeal,) affirm the former judgment, and cause such other proceedings to be had thereon, as to have partition completed in the same way and manner as if the proceedings had been originally commenced in that Court.

In actions the appeal, &c. effect; same as in petitions.

SEC. 6. *Be it further enacted,* That in all actions of partition that shall be hereafter commenced, the same rule and regulations shall take place with respect to an appeal from an interlocutory judgment of the Circuit Court of Common Pleas, that partition shall be made, as is herein before prescribed upon the like judgment upon a petition for partition.

Before partition Court to appoint guardians for minors, and agents for absent persons interested.

SEC. 7. *Be it further enacted,* That before partition be made where any infants, persons *non compos mentis*, or otherwise incapacitated to take care of their estates, are interested, guardians shall be appointed for all such persons by the Court, if they live within this State, and if any person or persons interested in any such estate happen, (at the time when such application shall be made,) to have been beyond sea, or out of this State for the space of one year, and not returned; and having no sufficient attorney within the same; in such case the said Court to whom application shall be made for partition, shall appoint some discreet and disinterested person or persons, as agent or agents for such absent party or parties, to be advising on his or their behalf in making such partition; and due notice shall be given by the committee to all concerned, (that are known and within the State),

Committee to give notice before proceeding.

before such partition be made, that they may be present, (if they see meet,) at the time of making the same.

SEC. 8. *Be it further enacted,* That if any partner shall have a larger share set off than is such partner's true and real interest, or if any share set off should be more than equal in value to the proportion it was set off for, then and in every such case upon complaint to the Court which caused such partition to be made, within three years of the making thereof, by any aggrieved partner or partners, who at the time of making such partition were out of the State, and not notified thereof as aforesaid seasonably to be present at the same, the said Court shall cause partition thereof to be made anew. And in such new partition so much and no more shall be taken off from any share as such shall be adjudged more than the proportion of the whole it was designed for, estimating such lands or real estate as in the state they were in when first divided; and in case any improvements shall be made on the part that may by such new partition be taken off as aforesaid, the partner who made such improvements shall have reasonable satisfaction made him by the partner or partners to whose share the same shall be added, by the estimation of the freeholders employed in making such new partition, or the major part of them. And the Justices of the same Court who ordered partition, are also empowered to issue execution for such satisfaction, and for costs in such new partition, the same being first taxed and allowed in the said Court.

New partition to be made, in certain cases, on complaint.

Made of making it and adjusting claims.

SEC. 9. *Be it further enacted,* That when partition shall be made as aforesaid, if any one or more of the interested parties applying, shall neglect or refuse to pay their just proportion of the charges, which may attend such division, it shall and may be lawful for the said Court who ordered the partition, to issue an execution against the delinquent or delinquents interested, and applying as aforesaid: *Provided,* an account of such charge be first laid before the said Court who ordered the partition, and the just proportions of the persons interested, settled and allowed, they having been duly notified to be present at such settlement and allowance. And when any messuage, tract of land, or other real estate shall be of greater value than either party's purpart or share in the estate to be divided, and cannot at the same time be subdivided, and part thereof assigned to one, and part to another, without great inconvenience, the same may be settled or assigned to one of the parties, such party to whom the same shall be so assigned, paying such sum or sums of money to such party or parties, as by means thereof have less than their share of the real estate as the committee appointed to make partition, shall award.

Courts may compel petitioners to pay their share of costs.

Special assignment may be to one, in certain cases.

[Approved February 8, 1821.]

CHAPTER XXXVIII.

An Act respecting Wills and Testaments, and regulating the Descent of Intestate Estates.

Persons who may dispose of real and personal estate by will.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every person of the age of twenty-one years, and of sane mind, lawfully seized of any lands, tenements, or hereditaments, within this State, in his or her own right in fee simple, or for the life or lives of any other person or persons, and every person as aforesaid, being the owner of any personal estate, may give, dispose of, and devise said real and personal estate by his or her last will and testament in writing, to and among his or her children or others, as he or she may see fit.

Wills to be in writing and signed and attested, &c. by three witnesses.

SEC. 2. *Be it further enacted,* That all wills of any lands, tenements or personal estate shall be in writing and signed by the party so devising or bequeathing the same, or by some person in his presence, and by his express direction, and shall be attested and subscribed in the presence of the testator, by three credible witnesses, or the same shall be utterly void. And no will in writing, of lands, tenements, hereditaments or personal estate, nor any clause thereof, shall be revoked, except by a subsequent will or codicil in writing, or other writing, declaring the same, or by burning, cancelling, tearing, or obliterating the same by the testator, or in his presence and by his consent and direction; but all wills of lands, tenements, or personal estate, shall remain and continue in full force until the same be burnt, cancelled, torn or obliterated by the testator, or by his direction, in manner aforesaid, or unless the same be altered by some subsequent will or codicil, or other writing of the testator, signed in the presence of three witnesses, declaring such alteration.

Wills, &c. how revoked.

SEC. 3. *Be it further enacted,* That whenever any person shall hereafter, in and by his last will and testament, devise any lands, tenements or hereditaments, to any person for and during the term of such person's natural life, and after his death to his children or heirs or right heirs in fee, such devise shall be taken and construed to vest an estate for life only in such devisee, and a remainder in fee simple in such children, heirs or right heirs, any law, usage or custom to the contrary notwithstanding.

Devises for life and afterwards in fee tail, how construed.

SEC. 4. *Be it further enacted,* That notwithstanding this Act, any soldier being in actual military service, or any mariner, or seaman being at sea, may dispose of his moveables, wages and other personal estate, as he might have done before the making of this Act.

Soldiers, Mariners, &c. may dispose of personal estate, without formal will.

SEC. 5. *Be it further enacted,* That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of one hundred dollars, that is not proved by the oath of three witnesses, who were present at the making

Nuncupative wills, how proved in certain cases.

thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, to bear witness that such was his will, or to that effect, nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he or she had been resident for the space of ten days or more, next before the making of such will; except where such person was unexpectedly taken sick, being from home, and died before he or she returned to the place of his or her habitation.

SEC. 6. *Be it further enacted*, That no letters testamentary or probate of any nuncupative will shall pass the seal of any Court of Probate, till fourteen days after the decease of the testator be fully expired, nor shall any nuncupative will be at any time approved and allowed, unless due notice shall have been given to all persons interested.

—not till after fourteen days from death of testator, &c.

SEC. 7. *Be it further enacted*, That after six months shall have passed, after speaking any pretended testamentary words, no testimony shall be received to prove the same as a nuncupative will, unless the said words or the substance thereof, were reduced to writing within six days after the same testamentary words were spoken.

—nor after six months from making, unless, &c.

SEC. 8. *Be it further enacted*, That if any person hath attested, or shall attest the execution of any will or codicil, to whom any beneficial devise, legacy, estate, interest, gift or appointment of, or affecting any real or personal estate, (other than and except charges on lands, tenements or hereditaments, for the payment of any debt or debts,) shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him, be utterly void, and such person shall be admitted as a witness to the execution of such will or codicil, such devise, legacy, estate, interest, gift or appointment notwithstanding.

Legatees to witnesses of wills to be void, and legatees to be competent witnesses.

SEC. 9. *Be it further enacted*, That in case by any will or codicil already made or hereafter to be made, any lands, tenements or hereditaments, are or shall be charged with any debt or debts, and any creditor whose debt is so charged, hath attested or shall attest the execution of such will or codicil, every such creditor notwithstanding such charge shall be admitted as a witness to the execution of such will or codicil.

Creditors, in certain cases, competent witnesses to execution of wills.

SEC. 10. *Be it further enacted*, That if any person hath attested or shall attest the execution of any will or codicil, to whom any legacy or bequest is or shall be thereby given, and such person before he or she shall give his or her testimony concerning the execution of any such will or codicil, shall have been paid, or have accepted or released, or shall refuse to accept such legacy or bequest, upon tender thereof,

Legatees in certain other cases may be competent witnesses to wills, &c.

such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such legacy or bequest; *Provided always*, That the credit of such witnesses as aforesaid, shall be subject to the consideration of the Court or Jury before whom such witness or witnesses may be examined, or his or her testimony or attestation made use of in like manner, to all intents and purposes as the credit of other witnesses in all other causes ought to be considered of and determined.

Legatees dying before testator, to be considered legal witnesses.

SEC. 11. *Be it further enacted*, That in case any legatee as aforesaid, who hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil which shall hereafter be made, shall have died in the life time of the testator or before he or she shall have received or released the legacy or bequest so given him or her as aforesaid, and before he or she shall have refused to receive such legacy or bequest, on tender made thereof, such legatee shall be deemed a legal witness to the execution of such will or codicil notwithstanding such legacy or bequest.

No legatee, made hereby a competent witness, shall afterwards receive any benefit from such will by legacy or otherwise.

SEC. 12. *Be it further enacted*, That no person to whom any beneficial estate, interest, gift or appointment shall be given or made, which is hereby enacted to be null and void as aforesaid; or who shall have refused to receive any such legacy or bequest, on tender made as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he or she shall have been so examined, demand or receive any profit or benefit of or from any such estate, interest, gift or appointment, so given or made to him or her in and by any such will or codicil, or, demand, receive or accept from any person or persons whatsoever any such legacy or bequest or any satisfaction or compensation for the same in any manner whatever.

Legatee having his part taken on execution for testator's debts to be refunded by other devisees, &c.

SEC. 13. *Be it further enacted*, That when any testator in and by his last will and testament, hath given or shall give any chattels or real estate to any person or persons, and the same shall be taken in execution for the payment of the testator's debts, or shall be sold therefor as the law provides, in such case, all the other legatees, devisees and heirs, shall refund their average or proportional part of such loss to such person or persons from whom the bequest shall be so taken away, and he or they shall and may maintain a suit or action at law to compel such contribution.

Posthumous children provided for.

SEC. 14. *Be it further enacted*, That when any child shall happen to be born after the death of the father, without having any provision made in his will, every such posthumous child shall have right and interest in the estate of his or her father, in like manner as if the father had died intestate, and the same shall be assigned to him or her accordingly; and in every such case the Judge of Probate shall issue his warrant, as in case of intestate estates, to assign to such posthu-

mous child, a share in his or her father's estate equal to what he would have inherited, if his or her father had died intestate; and the same shall be taken in proportion from the devisees and legatees, who own the estate by virtue of such will.

Sec. 15. *Be it further enacted,* That any child or children, or their legal representatives, in case of their death, not having a legacy given him, her or them, in the will of their father or mother, shall have a proportion of the estate of their parents assigned unto him, her or them, as though such parent had died intestate: *Provided,* such child, children or grand children have not had an equal proportion of the deceased's estate bestowed on him, her or them, in the deceased's life time. And when any child, grand child or other relation, having a devise of real or personal estate, and such devisee shall die before the testator, leaving lineal descendants, such descendants shall take the estate, real or personal, in the same way and manner, such devisee would have done, in case he had survived the testator, any law, usage or custom to the contrary notwithstanding. Also the widow in all cases may wave the provision made for her in the will of her deceased husband, and claim her dower and have the same assigned her in the same manner as though her husband had died intestate.

Children, &c., not named in the will of their parents to inherit as in cases of intestacy—provided, &c.

Widow may wave provision in husband's will and claim her dower.

Sec. 16. *Be it further enacted,* That all such estate, real or personal, that is not devised or bequeathed in the last will and testament of any person, hereafter to be proved, shall be distributed in the same manner as if it were an intestate estate.

Estate not devised to be distributed as intestate.

Sec. 17. *Be it further enacted,* That when any person shall die seized of any lands, tenements, or hereditaments, or any right thereto, or entitled to any interest therein, in fee simple, or for the life of another, not having lawfully devised the same, the same shall descend in equal shares to his children, and to the lawful issue of any deceased child by right of representation; and when the intestate shall leave no issue, the same shall descend to his father; and when there shall be no issue nor father, the same shall descend in equal shares to the intestate's mother, if any, and to his brothers and sisters, and the children of any deceased brother or sister by right of representation; and if the intestate leave no issue, father, brother or sister, then the same shall descend to his mother, if any, but if there be no mother, then to his next of kin, in equal degree; the collateral kindred claiming through the nearest ancestor, to be preferred to the collateral kindred claiming through a common ancestor more remote; and the degrees of kindred, in all cases to be computed according to the rules of the civil law; and when there shall be no kindred the same shall escheat to the State, saving always to the intestate's husband his tenancy by the courtesy; and to his widow, her dower at the common law, unless she be lawfully barred of the same: *Provided however,* That when any child shall die under age, not having been married, his share of the

Intestate estate how to descend and be distributed.

Rules in regard to kindred, and mode of computing degrees.

Proviso as to children dying under age, &c.

inheritance that came from his father or mother, shall descend in equal shares to his father's or mother's other children then living respectively, and to the issue of such other children as are then dead, if any, by right of representation: *And provided further*, That when the issue or next of kin to the intestate, who may be entitled to his estate by virtue of this Act, are all in the same degree of kindred to him, they shall share the same estate equally, otherwise they shall take according to the right of representation.

Tenancy by the courtesy.

SEC. 18. *Be it further enacted*, That when a man and his wife shall be seized of lands, tenements, or hereditaments, in her right in fee, and issue shall be born alive of the body of such wife, that may inherit the same, and such wife shall die, the husband shall have and hold such estate during his natural life, as tenant by the courtesy. And the widow of the deceased shall in all cases, be entitled to her dower in the real estate, (where she shall not have been otherwise endowed before marriage,) and to a recovery of the same in manner as the law directs.

Dower of widows.

Personal estate how distributed, after payment of debts, &c.

SEC. 19. *Be it further enacted*, That when any person shall die possessed of any personal estate, or of any right or interest therein not lawfully disposed of by last will, the same, after allowing, to the widow, if any, her wearing apparel, according to the degree and estate of her husband, and such further necessaries as the Judge of Probate shall order, regard being had to the state of the family under her care, shall first be applied to the payment of the intestate's debts, with the charges of his funeral, and of settling his estate; and the residue, if any, shall be distributed among the same persons in the same proportion to whom the real estate shall by law descend: *Provided however*, That the husband of the intestate shall be entitled in all cases, to the whole of the said residue; and further that if the intestate shall leave a widow and issue, the widow shall be entitled to one third part of the said residue; or if there be no issue, to one half part thereof; or if there be no kindred to the said intestate, then she shall be entitled to the whole of said residue: *And provided further*, That when there shall be no husband, widow nor kindred to the intestate, the whole of the said residue shall escheat and enure to the State.

Proviso as to husband of intestate.

When no kindred to escheat to State.

[Approved March 20, 1821.]

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CHAPTER XXXIX.

An Act respecting Mortgages, and the Rights in Equity of Redemption.

Rights of redemption for 3 years after entry of mortgagee.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That where any mortgagee or vendee, claiming any lands or tenements granted upon condition by force of any deed of mortgage or bargain and sale

with defeasance, or any person claiming and holding under them, have lawfully entered and obtained, or shall lawfully enter and obtain, the actual possession of such lands or tenements, for the condition broken, the mortgagor or vendor, or other person lawfully claiming under them, shall have right to redeem the same, at any time within three years next after such possession obtained, and not afterwards; and upon payment or tendering of payment of the original debt and damages, with lawful interest and costs, or performing or tendering performance of such other condition, as the case may require, or such part thereof as was remaining unpaid or unperformed at the time of such entry, together with such further reasonable sums as may have been disbursed and expended in necessary repairs of fences and buildings, and for the advancing and bettering such estate, over and above what the rents and profits thereof, upon a just computation, shall amount to, to such mortgagee, vendee, or person lawfully claiming and holding under them, and in possession as aforesaid, within the time aforesaid; such mortgagee, vendee, or other person claiming, and in possession as aforesaid, to whom such tender has been, or shall be made, shall be obliged to accept such payment, or other performance of the condition, and thereupon to restore and deliver possession of such estate, and seal, execute, acknowledge, and deliver a good and sufficient deed in the law of release and quitclaim, and all his right therein, to the person making such tender, having lawful right to redeem the same, or cause satisfaction and payment to be entered in the margin of the record of such mortgage in the Register's office, and shall sign the same, which shall forever after discharge and release such mortgage, and perpetually bar all actions to be brought thereupon in any Court of Record. And if, on payment or tendering of payment, performing or tendering of performance as aforesaid, such mortgagee, vendee, or person lawfully claiming or holding under them, and in possession as aforesaid, doth or shall refuse or neglect to deliver possession, and release his right in such estate as aforesaid; such mortgagor, vendor, or other person lawfully claiming as aforesaid, may have his bill in equity, originally triable in the Supreme Judicial Court, or Circuit Court of Common Pleas in the County where the estate lies, and shall insert the same in a writ of attachment or original summons, returnable to the Court whose seal it shall bear, and shall cause such writ to be served on the adverse party, as other writs of attachment or original summons are by law to be served: *Provided however*, That the entry above described, shall be, by process of law, or by the consent in writing of the mortgagor or those claiming under him, or by the mortgagee's taking peaceable and open possession of the premises mortgaged, in presence of two witnesses.

Process in equity, in case mortgagee refuse to restore possession.

Proviso as to nature of mortgage's entry.

SEC. 2. *Be it further enacted*, That the Justices of either of Proceedings on

the mortgagor's bill in equity.

said Courts are hereby empowered and authorized to receive and hear every such cause, as shall be brought before them as aforesaid; and on consideration of the several pleas and allegations made by either party, (or by the party complaining, only in case the other party upon being duly called does not appear, but makes default,) to decree and enter up judgment therein, agreeably to equity and good conscience, and to award execution accordingly; and in case of the non-appearance of the party complained of, or of his refusal to accept such sum as the Court shall adjudge to be due, or to accept such other act or thing as the Court shall adjudge a reasonable and equitable performance of the condition of the deed, and thereupon to restore possession and execute a release as aforesaid, such sum being left in the custody of the Court on behalf and for the use of such party, or such other act or thing as the Court shall order and direct, being done by the complainant, judgment shall be entered up for the complainant to recover possession of such estate, and execution shall issue accordingly; and the Court may, at their discretion, award costs to either party, as equity may require: *Provided*, That nothing herein contained shall be construed to prevent an appeal from the judgment of any Circuit Court of Common Pleas, rendered upon any process given by force of this Act.

Proviso for appeal from C. C. of C. Pleas.

Judgment on mortgages to be conditional.

SEC. 3. *Be it further enacted*, That in all real actions, mortgage, or bargain and sale with defeasance, the judgment shall be conditional, that if the mortgagor or vendor, his heirs, executors or administrators, shall pay unto the mortgagee or vendee, his executors or administrators, such sum as the Court shall adjudge due, within two months from the time of entering up judgment, with interest, then no writ of possession shall issue, otherwise the plaintiff shall be entitled to his writ of possession in due form of law.

In suits for redemption assignees of the estate may be made parties, if necessary:

SEC. 4. *Be it further enacted*, That when it shall appear to the Court, in any suit, which is, or may be pending for the redemption of lands or tenements, granted and held upon condition, by force of any deed of mortgage, or bargain and sale with defeasance, that, by reason of any assignment or conveyance thereof, before the commencement of such suit, or for any other cause, it is necessary to the attainment of justice, that some other person claiming or holding by force of such conveyance, should be made party to the suit with the original defendant, the Court may, on motion, and upon such terms, with regard to costs, as they shall deem reasonable, order such person to be made a party to the suit, by serving him with an attested copy of the original bill in equity, and the motion and order thereon, in such manner as the Court may direct. And upon the appearance or default of the person so summoned, the suit shall proceed in the same manner as if he had been originally made a defendant.

Proceedings if they appear.

Court may enter decree and

SEC. 5. *Be it further enacted*, That when a decree shall be made for the redemption of any lands or tenements granted

and held as aforesaid, the Court shall have power to enter a decree or judgment, and to award execution against any defendant or defendants, jointly or severally, as the case may require, for such amount in damages, as shall, in equity and good conscience, be found due from him or them respectively, for the rents and profits received, over and above the sums reasonably expended in repairing and bettering the estate to be redeemed.

SEC. 6. *Be it further enacted,* That when any sum of money shall have been brought into Court, in any suit for the redemption of lands or tenements, granted and held as aforesaid, the Court shall have power to deduct therefrom such sum as the party for whose use it was brought in, may be justly chargeable with, by reason of rents and profits which he has received, or costs awarded against him in the same suit; and the amount so deducted, shall be restored to the party who brought in the same. And if any person to whom money is tendered, in order to redeem lands or tenements granted and held as aforesaid, shall receive of the person tendering the same, a larger sum than he is justly entitled to retain, he shall be held to account for the excess in manner aforesaid.

SEC. 7. *Be it further enacted,* That whenever any mortgagor, who shall have mortgaged any real estate to the State, his executors, administrators, heirs or assigns, shall pay into the treasury the full sum due on such mortgage, the Treasurer may, and it shall be his duty, to sign and seal a discharge of such mortgage, and a release and quitclaim to the estate therein mentioned to be granted; and to acknowledge the same before a Justice of the Peace; which deed being recorded in the Registry of Deeds for the county where such estate is situate, shall effectually discharge such mortgage to all intents and purposes: *Provided however,* That nothing in this Act shall be construed to authorize any mortgagor, his heirs, executors, administrators or assigns, to redeem any mortgaged premises, after the expiration of three years from the entry of the State by the Treasurer, or his substitute, or any other person thereto authorized by law upon the mortgaged premises, for the breach of the condition of the mortgage.

SEC. 8. *Be it further enacted,* That whenever there shall be a disagreement between the Treasurer for the time being, and the person applying to redeem any real estate mortgaged to the State, as to the sum equitably due on such mortgage, the person so applying and having a right to redeem such estate, may file a bill in equity for the redemption thereof, in the Supreme Judicial Court in the county of Cumberland, and the same Court shall cause an attested copy of such petition, with a summons thereon, to appear at the next term of said Court in said county, to be served fourteen days

issue executions jointly or severally.

Court may deduct from money brought in the amount received by mortgage for rents, &c. and restore it to the mortgagor.

State Treasurer may discharge a mortgage to the State.

No redemption, after end of 3 years from entry by treasurer.

In case of disagreement between treasurer and mortgagor, he may file bill in equity.

Proceedings
thereon.

Provide as to
costs and charges.

In case of mort-
gagee's death
before obtain-
ing possession,
his executor or
administrator
may dispose of
the property as
personal estate.

and may bring
action for mort-
gaged estate.

of which, when
recovered, they
shall be seized
to use of heirs,
&c.

Executors and
administrators
having so re-
covered seizin
of mortgaged
estate, may re-
ceive redem-
ption money and
discharge mort-
gage.

before the commencement thereof, on the Treasurer, who is hereby authorized in behalf of the State, to appear in said Court and answer to such petition; and the said Court within said county shall proceed to hear the parties, and shall determine and adjudge what sum is justly due on said mortgage to the State; and the Treasurer shall be empowered, and it shall be his duty to accept the sum adjudged by said Court, to be due on said mortgage, and upon receiving the same to discharge and release such mortgage in the manner prescribed in the third section of this Act: *Provided always*, That all the costs and charges of discharging such mortgage, and of the process for ascertaining the sum due on the same, shall be borne by the person or persons, applying to redeem the estate mortgaged, and not by the State or the Treasurer.

SEC. 9. *Be it further enacted*, That whenever any person or persons, to whom any lands, tenements or hereditaments may be mortgaged for the payment of debts, or the performance of any collateral promise or engagement whatsoever, shall decease before recovery of seizin and possession of the lands, tenements or hereditaments mortgaged, that then the debts due, on said deed or mortgage, and the lands, tenements or hereditaments, mortgaged by the same, shall be assets in the hands of executors or administrators, as personal estate, and the executors or administrators shall have the same control and power of disposal of all the estate which the said deceased had, in the lands, tenements and hereditaments mortgaged, as if they had been a pledge of personal estate; and executors or administrators may bring actions for recovery of seizin and possession of the lands, tenements and hereditaments mortgaged, as aforesaid; in which actions, it shall be sufficient to declare on the seizin and possession of the testator or intestate. And whenever executors or administrators shall recover seizin or possession of lands, tenements or hereditaments mortgaged as aforesaid, the executors or administrators, shall be seized and possessed of the estate so recovered to the sole use and behoof of the widow and heirs of the intestate, or such devisees of the testator to whom said estate may be devised.

SEC. 10. *Be it further enacted*, That after executors or administrators shall recover seizin and possession of any lands, tenements or hereditaments, mortgaged as aforesaid, if any mortgagor, his heirs, executors, administrators or assigns, shall within the time limited for redeeming the estate mortgaged, redeem the mortgaged premises, the executors or administrators shall be entitled to receive the said redemption money, and are hereby authorized, empowered and directed to discharge the said mortgaged premises by release, quitclaim or other legal conveyance.

SEC. 11. *Be it further enacted*, That in case the purchaser

of any right in equity to redeem mortgaged real estate taken and sold on execution and redeemed from such sale by the execution debtor or debtors, within one year next after the time of executing by the officer to the purchaser aforesaid, the deed thereof by the payment, by the debtor or debtors of such sum, as may by such sale, have been satisfied on such execution, with the interest thereof, deducting the rents and profits the purchaser or any under him, may have received over and above repairs made by the purchaser or any under him, shall have satisfied and paid the mortgagee, his heirs or assigns, the sum due on said mortgage, the mortgagor shall have the right to redeem such mortgaged estate of such purchaser, or any under him, at the time and in the way and manner he might have redeemed the same of the mortgagee, had no such sale been made, and at such time only.

Mode of redeeming an estate from the purchaser of a right in equity taken on execution.

[Approved Feb. 5, 1821.]

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CHAPTER XL.

An Act concerning Dower.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when the heir or tenant of the freehold, shall not within one month next after demand, assign and set out to the widow of the deceased her dower in all lands, tenements or hereditaments whereof by law she is or may be dowable, according to the true intentment of the law, then such widow may sue for and recover the same by writ of dower, of such heir, or tenant of the freehold.

Dower to be assigned within one month after demand—if not widow may sue:

SEC. 2. *Be it further enacted,* That upon rendering judgment for any woman to recover her dower in any lands, tenements or hereditaments, reasonable damages shall be awarded to her from the time of such demand and refusal: And a writ of seizin shall be directed to the Sheriff of the county or his deputy, who shall cause her dower in such estate to be set out to her by three disinterested freeholders of the same county, who shall be under oath to set out the same equally and impartially, without favor or affection, as conveniently as may be.

and in such suit she may recover damages also, from time of demand.

Sheriff, on writ of seizin to cause dower to be set off by 3 disinterested freeholders on oath.

SEC. 3. *Be it further enacted,* That of estates of which a woman is dowable, and where no division can be conveniently made by metes and bounds, dower shall be assigned in a special manner, as of a third part of the rents or profits to be computed and ascertained in manner as aforesaid.

Dower of rents and profits may be assigned of rents and profits.

SEC. 4. *Be it further enacted,* That the widow of any citizen of the United States, who may have been, or who shall be an alien at the time of intermarriage with such citizen, shall be entitled to dower in her husband's estate in this State in the same manner as other widows are by virtue of this Act.

Alien widow of a citizen dowable.

Where husband dies seized, widow entitled to one third of rents, income, &c. until dower shall be assigned.

SEC. 5. *Be it further enacted,* That in all cases, where any person has died or shall die, seized of any estate, leaving a widow who is lawfully entitled to dower therein, such widow shall be entitled to have and receive one undivided net third part of the rents, income and profits of such estate until the heir or heirs of such deceased person shall assign and set out to such widow her dower according to law, or until the same shall be actually assigned and set out to her under a judgment of Court, or on order of a Court of Probate.

Nature of the estate of which a widow may be endowed ;

SEC. 6. *Be it further enacted,* That the estate in which a widow shall have a right to claim dower by this Act, is all such lands, tenements and hereditaments of which the husband was seized, in fee, either in possession, reversion or remainder, at any time during the marriage, except where such widow, by her own consent, may have been provided for by way of jointure, prior to the marriage, or where she may have relinquished her right of dower by deed under her hand and seal. [Approved February 19, 1821.]

except where she may have released her dower.

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CHAPTER XLI.

An Act to provide for the Location of certain Reserved Lands.

Reserved lots may be located by the C. C. Com. Pleas on application of Assessors, &c.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That wherever in the grant of any township, or parts thereof heretofore made, or which may be made hereafter, there may be certain lots therein reserved for the use of said township, and for public uses, and the lots so reserved as aforesaid, shall not be located by the grantee or grantees of such township, or part thereof by the time the said township may be incorporated, it shall and may be lawful for the Justices of the Circuit Court of Common Pleas within the County where such land lies, on application made to them by the assessors of such town, or a major part of them, and no sufficient cause being shown to the contrary, to appoint a committee, by issuing their warrant under the seal of said Court, directed to three disinterested freeholders of said County, requiring them as soon as may be to locate the several lots in said township reserved as aforesaid, and to designate the several uses for which the said lots were respectively reserved in the original grant of the said town, or of the parts thereof ; the said lots to be of an average quality with the residue of lands in the said town.

be a committee of 3 disinterested freeholders,

designating the several uses for which they were reserved in the grant.

Committee to be sworn,

SEC. 2. *Be it further enacted,* That the said committee previous to their proceeding to execute the warrant aforesaid, shall be sworn to the faithful discharge of their duty by any Justice of the Peace within said County, a certificate thereof to be made on the back of said warrant ; and shall give notice of their appointment, and of the time and place of their meeting to execute said warrant, by causing the same to be pub-

and give notice.

lished in one or more newspapers printed in the State, and by posting up written notifications in two or more public places within the town where said land lies, at least thirty days prior to their making the location aforesaid.

Mode of giving notice.

SEC. 3. *Be it further enacted*, That the said committee shall make return of said warrant, under their hands and seals, or the hands and seals of a majority of them, with their doings therein, to said Circuit Court of Common Pleas, as soon as may be after their service is performed; and the same being accepted by the said Court, and being recorded in the office of the Registry of Deeds in said County within six months from the date of the said return, shall be the legal assignment of the said lots to the several uses for which they were reserved.

Committee to make return under their hands and seals as soon as may be.

Return accepted and recorded to be a legal assignment.

SEC. 4. *Be it further enacted*, That whenever any proprietor or proprietors of any grant of land shall locate such lots as may have been reserved for public uses, and make a return thereof to the said Circuit Court of Common Pleas, it shall be lawful for the said Court to confirm the same, and when so done, such lot shall be deemed legally located, and assigned for the uses intended and mentioned in the original grant of the same.

If location be made by any proprietor and returned to C. C. Com. Pleas—such Court may confirm it.

[Approved March 15, 1821.]

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CHAPTER XLII.

An Act for the better securing, and rendering more effectual, Grants and Donations to Pious and Charitable uses.

WHEREAS many grants and donations have heretofore been made by sundry well disposed persons, in and by such expressions and terms as plainly show it was the intent and expectation of such grantors and donors, that their several grants and donations should take effect, so as that the estates granted should go in succession; but doubts have arisen in what cases such donations and grants may operate so as to go in succession, for ascertaining whereof:

Preamble.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the deacons of all the several Protestant churches, not being Episcopal churches, and the church wardens of the several Episcopal churches, are, and shall be deemed so far bodies corporate, as to take in succession all grants and donations, whether real or personal made either to their several churches, the poor of their churches, or to them and their successors, and to sue and defend in all actions touching the same; and wherever the ministers, elders or vestry, shall in such original grants or donations have been joined with such deacons or church wardens as donees, or grantees in succession, in such cases, such officers and their successors together with the deacons or church wardens, shall be deemed the corporation for such purposes as aforesaid; and the minister or ministers of the several Protestant churches, of whatever denomination, are,

Deacons of Protestant churches, not episcopal, and church wardens of episcopal churches to be bodies corporate and take lands, &c. in succession, &c.

Ministers of all Protestant churches may

take lands, &c. in succession granted to the Ministry or use of the ministry.

How alienations of such property must be made to be legal and effectual.

Limitation of income of such estate.

and shall be deemed capable of taking in succession any parsonage land or lands, granted to the minister and his successors, or to the use of the ministers; and of suing and defending all actions touching the same; saving that nothing in this Act shall be construed to make void any final judgment of any Court of Common law or Probate; saving also that no alienation of any lands, belonging to churches hereafter made by the deacons, without the consent of the church, or a committee of the church for that purpose appointed, or by church wardens, without the consent of the vestry, shall be sufficient to pass the same; and that no alienation hereafter made by ministers of lands by them held in succession, shall be valid any longer than during such alienors continuing ministers unless such ministers be ministers of particular towns, districts or precincts, and make such alienation with their consent respectively; or unless such ministers so aliening be ministers of Episcopal churches, and the same be done with the consent of the vestry; and the several churches in this State, not being Episcopal churches, are hereby empowered to choose a committee to call the deacons or other church officers to an account; and if need be, commence and prosecute any suits touching the same, and also to advise and assist such deacons in the administration of the affairs aforesaid.

SEC. 2. *Be it further enacted,* That the income of the grants made, or to be made to any one such body politic for pious and charitable uses, shall not exceed the sum of six hundred dollars per annum.

[Approved March 2, 1821.]

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CHAPTER XLIII.

An Act for the better managing Lands, Wharves and other real estate, lying in common.

Any five proprietors may apply to a Justice to call a meeting—

either a Justice through the State, or of the county where the lands lie—

Such Justice may issue warrant to one of the proprietors to notify it to be holden at the time and place requested. Manner in which notice is to be given.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That when and so often, as any five or a major part of the proprietors of lands, wharves, or other real estate lying in common, in any part of this State, shall judge a proprietors' meeting to be necessary, they may make a written application to a Justice of the Peace through the State, or to a Justice of the Peace within the county where such estate lies, for a warrant for the calling of a meeting, expressing the time, place and occasion thereof; and such Justice is hereby empowered to grant a warrant for such meeting accordingly, directed to one of the proprietors asking the same, or to the proprietors' clerk, requiring him to notify the proprietors of the meeting, and the time, place and occasion of the same; which notification, in case such estate lies in any incorporated town, shall be given in

writing and posted up in some public place or places within such town fourteen days at least before the day appointed for the meeting, and for the like time before such meeting shall be advertised in one of the Portland newspapers, and in one of the newspapers, (if such there be,) printed in the county wherein such real estate lies; or in case such estate doth not, or shall not lie within any incorporated town, such written notification shall be given by advertising the same in any two of the said Portland newspapers and in one other newspaper, (if such there be,) printed out of Portland in the county where such estate lies, at least four weeks successively before such meeting; or such meetings may be otherwise warned by posting up written notifications in some public place in each and every town and plantation where any one or more of the said proprietors may reside, fourteen days at least before the time appointed for holding such meeting; and such and so many of the proprietors as shall assemble personally, or by their attornies, and meet accordingly, shall have power by a major vote to choose a moderator, a clerk, a treasurer, a collector or collectors of taxes, a committee or committees, and any other needful officers to manage their affairs; which clerk shall enter and record all votes and orders that from time to time shall be made and passed in the proprietors' meetings, who shall be sworn to the faithful discharge of his office; and to agree upon and appoint any other way or method of calling and summoning meetings for the future, that shall be most suitable and convenient to the proprietors; and also to pass votes or orders for the settling, or encouraging the settling, managing, improving, or dividing such common lands, wharves or other real estate not before severed and divided; and to annex penalties to the breach and non observance of such orders; *Provided*, such penalty doth not exceed three dollars for one offence: *Provided also*, that such orders so made, with penalties, annexed to them, be allowed and approved by the Court of Sessions for the county where such land or estate lies, and be not repugnant to the general laws of this State; in which case such orders shall have such force and effect as that such proprietors by their treasurer, agent or agents, may recover the penalty thereto annexed against the breakers or non observors thereof, in any Court proper to try the same; such penalty to be disposed of as the proprietors shall direct. And the votes shall always be collected and numbered according to the interest of the proprietors present where the same is known. And no other affair shall be acted on at any meeting of the proprietors, than what is expressed in the warrant or notification for such meeting.

What measures
the proprietors
may adopt
when met.

Proprietors to
vote according
to their interest.
No business to
be acted upon
unless expressed
in the war-
rant.

SEC. 2. *Be it further enacted*, That the moderator, chosen at any such meeting, shall be thereby empowered to manage and regulate the business of that meeting. And where

Power of the
moderator.

it shall so happen that any matter remains doubtful after a vote, the moderator is hereby directed and required to cause the same to be decided by the poll, if any one or more desire it; such polls to be numbered according to their interest.

Proprietors may prosecute and defend suits by agents and attorneys;

SEC. 3. *Be it further enacted,* That it shall and may be lawful for all proprietors in common and undivided lands, grants and other real estate, or interests whatsoever, to sue, commence and prosecute any suits or actions in any Court proper to try the same, either by themselves, or their agents, or attorneys; and in like manner to defend all such suits and actions as shall be commenced against them or any of them.

—and at any legal meeting may raise money for the purposes of the propriety;

SEC. 4. *Be it further enacted,* That it shall and may be lawful to and for the proprietors of any common and undivided lands or other real estate, or the major part of them according to the interest of the proprietors present, by themselves or their lawful attorneys, at any legal meeting to vote, grant or order the raising of any suitable sum or sums of money, that shall by them be thought sufficient for bringing forward, completing the settlement of, or managing or improving such lands and estate, and to carry on and prosecute or defend any actions or suits that may be brought by or against them; or for carrying on, managing, or effecting any other affair for the common good of such proprietors; and to levy and apportion such sum or sums, (raised for the ends and uses aforesaid,) upon the proprietors' several rights in such common and undivided lands or estates, equally and ratably, according to their several interests therein.

and assess the proprietary rights in common,

If assessments are not paid within the times appointed,

And every proprietor who shall neglect to pay to the collector or treasurer, or committee of such propriety, his proportion of such sum or sums of money as have been, or from time to time shall be duly granted and voted to be raised and levied upon the proprietors' rights and shares in such lands and estates, for the space of six months, with respect to those who live within this State, and twelve months with respect to those who live out of it, after such grant, and his or their proportion thereof shall have been posted and published in the several newspapers as in the case of notifications as aforesaid, then the committee of the proprietors, or the major part of such committee, may and are hereby fully empowered from time to time, at a public vendue, to sell and convey away so much of such delinquent proprietor's right or share in such common land or estate as will be sufficient to pay and satisfy his tax or proportion of such grant, and all reasonable charges attending such sale, to any person that will give most for the same, notice of such sale and of the time and place thereof being given by posting as aforesaid, and publishing the same in at least two of the newspapers aforesaid, five weeks successively before the time of such sale; and may execute a good deed or deeds of conveyance of the

and after due notice,

Committee may sell at auction so much as necessary of delinquent proprietors' rights, &c.

Notice of such sale being previously given.

Mode of notice.

Committee may give deeds &c.

lands or estate so sold unto the purchaser thereof, to hold in fee simple: *Provided nevertheless*, That the proprietor or proprietors whose right or share shall be so sold, shall have liberty to redeem the same at any time within twelve months after such sale, by paying the sum such right or share sold for, and charges, together with the further sum of twelve dollars for each hundred dollars produced by such sale, and so *pro rata* for any less or greater sum.

Proprietor may redeem within 12 months.

Terms of redemption.

SEC. 5. *Be it further enacted*, That the treasurer, assessors, collector or collectors, which at any time may be chosen by the proprietors of any common and undivided lands or other real estate, shall be sworn before a Justice of the Peace to the faithful discharge of their respective trusts, and in case no Justice of the Peace shall be present at the meeting of such proprietors, then any, or all the officers directed to be sworn by this Act, may be sworn by the moderator; and such treasurer is hereby empowered to demand, sue for, recover and receive all such sums of money, debts and dues, as shall at any time belong to the said proprietors, or be any ways due or coming to them, and make payment thereof according as he shall be lawfully ordered and directed by the proprietors, and render his reasonable account thereof on demand; and such treasurer shall continue in his office till the proprietors shall see cause to choose another.

Treasurer, Assessors, and Collectors to be sworn by a Justice.

or by a moderator in case, &c.

Treasurer may collect debts due proprietors, &c.

SEC. 6. *Be it further enacted*, That the proprietors of such undivided land or estate, where the same hath been heretofore stated and each one's proportion known, shall be, and hereby are empowered to order, manage, improve, divide, or dispose of the same in such way and manner as shall be concluded and agreed upon by the major part of the interested present at any legal meeting, the votes to be collected and accounted according to the interest. And any proprietor may vote as well by attorney specially appointed for that purpose, as in person: And the proprietors of all such undivided lands and estate not stated, nor the proportions known as aforesaid, shall be, and hereby are empowered to order, manage, improve, divide or dispose of the same, as hath been or shall be concluded and agreed on by the major part in number of such proprietors present at any such meeting: *Provided always*, That the meetings of proprietors that may be notified, or which may hereafter be held by adjournment or adjournments agreeable to former laws, shall not be affected by the passing of this Act: But such meetings and the transactions regularly made thereat shall be as valid to every intent and purpose as though this Act had never been made.

Proprietors may divide and dispose of their lands, &c.

Proprietor may vote by attorney.

Saving as to meetings holden by adjournment.

SEC. 7. *Be it further enacted*, That notwithstanding the final division of any lands, wharves or other real estate lying in common, and which had been, or shall have been held and improved as a proprietary, the last proprietors or hold-

After final division—last proprietors to continue a corporation, &c.

until their debts are paid and collected,

and be liable to be sued as before such division,

—may call and hold meetings and transact business—

Provided they shall not so continue to act more than ten years. Proprietors may avail themselves of statute of limitations.

Clerk last chosen to continue in office until records are lodged with town clerk.

When lands lie in several towns Court of Sessions to decide with what clerk they shall be lodged;

which clerk may certify copies thereof.

Proprietors may in certain cases recall their records—and cause clerk to make a record of their proceedings.

ers in common, shall continue in their corporate capacity, until all debts and taxes due, to such proprietary, are collected and received, and until all their contracts and agreements, made prior to such final division, shall be performed; and are and shall be liable and capable, in and by the same name and capacity as before such division, to sue and be sued, and by their agents to pursue and defend, in all matters and demands respecting such proprietary, until final judgment and execution; and shall and may call and hold meetings, and choose all necessary officers, and may vote, assess, levy and collect all reasonable rates and assessments, in like manner, form and proportion, as before such division such proprietary could or might have done: *Provided nevertheless*, That the proprietors aforesaid shall not continue to act in their corporate capacity for more than ten years after the final division of their lands or other real estate; nor shall any suit brought against them be sustained, unless commenced within six years from the time such right of action shall accrue; any thing in this Act to the contrary notwithstanding.

SEC. 8. *Be it further enacted*, That the last clerk chosen by the proprietors of any common and undivided land, or other real estate in this State who are or have been, or may hereafter be empowered by law to hold meetings, choose a clerk and other officers, shall continue to execute the office of clerk to which he was appointed, notwithstanding the final and total division of such lands and estate, as fully, to all intents, constructions and purposes whatsoever, as though there had been no such division made, and until the same records shall be lodged with the clerk of the town in which the land lies; and when the lands lie in several towns, they may be lodged with the clerk of such town, as the Court of Sessions, upon application to them made for that purpose, shall order and direct; and the clerk with whom they may be lodged, and his successors in office shall be fully authorized to authenticate any copies therefrom, as from the records of the town of which he is clerk.

SEC. 9. *Be it further enacted*, That where, after such final division of any lands or other real estate, which have been or shall have been held as a proprietary, the proprietors making such division have ordered and delivered or shall order and deliver the record of their proprietary into the custody of the town clerk in which such land or other real estate, or part thereof, may lie; the proprietors who shall hold any meeting for the purposes before mentioned, may recall the said record, and may cause the clerk then appointed, and sworn, or the town clerk to whom such records, have been committed, to record all votes and proceedings which shall be had at any meeting as aforesaid and copies of the same may be certified as by law is provided for certifying any other part of such record.

[Approved March 15, 1821.]

CHAPTER XLIV.

An Act for regulating Fences, and general and common Fields.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That in every town within this State, there shall be chosen annually by the inhabitants thereof, at the time of their meeting for the choice of town officers, two or more judicious and discreet freeholders, being inhabitants of the same town, to be Fence Viewers, to be sworn as other town officers are sworn, to the faithful discharge of the duties of their office.

Every town to choose annually two or more fence viewers.

SEC. 2. *Be it further enacted,* That all fences of four feet high, and in good repair, consisting of rails, timber, boards, or stone walls; and also brooks, rivers, ponds, creeks, ditches and hedges, or other matter or thing equivalent thereto, in the judgment of the Fence Viewers, within whose jurisdiction the same shall lie, shall be accounted legal and sufficient fences; and the respective occupants of lands inclosed with fence, shall keep up and maintain partition fences between their and the next adjoining inclosures, in equal halves, so long as both parties continue to improve the same; and in case either party shall neglect or refuse to repair or rebuild the fence, which of right he ought to maintain, the aggrieved party may forthwith apply to two or more Fence Viewers of such town, duly chosen and sworn, to survey the same; and upon their determination that the fence is insufficient, they shall signify the same in writing, to the occupant of the land, and direct him to repair or rebuild the same within six days; and if the same fence shall not be repaired or rebuilt within the said term of six days, it shall be lawful for the complainant, that improves the lands adjoining, to make up, amend or repair the deficiency; and when the same shall be completed and adjudged sufficient by two or more of the Fence Viewers, and the value thereof, together with the Fence Viewers' fees ascertained in writing, the complainant shall have a right to demand and receive of the occupant, lessor or freeholder of the land where the fence was deficient, as aforesaid, at his election, double the sum thus ascertained as aforesaid, for the expense of amending, surveying and viewing the fence; and in case of neglect or refusal to make payment thereof, for the space of one calendar month after demand made of the person against whom he shall make his election, he may sue for and recover the same, by a special action of the case in any Court proper to try the same, and interest, one per cent. per month until judgment shall be rendered therefor.

What shall be considered as legal fences.

Occupants of adjoining inclosures to maintain partition fences.

Proceedings in case of neglect.

Party neglecting, to pay double the adjudged value.

and after one month, liable to suit and 12 per cent. interest.

Fence viewers to assign in writing the shares of partition fences each occupant is to repair.

SEC. 3. *Be it further enacted,* That when any dispute shall arise about the respective occupant's right in partition fences, and his or their obligation to maintain the same, upon application made by either party to two or more Fence

Viewers of such town where the lands lie, they are hereby empowered, after due notice to each party, to attend at time and place if they see cause, to assign to each party his share thereof, in writing: which assignment, being recorded in the Town Clerk's office, shall be binding upon such persons and the succeeding occupiers of the respective lands, and they obliged always thereafter to maintain their part of said fence: and in case any of the parties shall refuse, or neglect to erect, keep up and maintain the part to such party assigned, the same may be done by the aggrieved party, in the manner before in this Act provided, and for which he shall be entitled to double the sum ascertained, in manner as aforesaid, and to be recovered in like manner. And all divisional fences between man and man shall be kept in good repair throughout the year, unless the occupiers of the lands on both sides shall otherwise agree.

Assignment to be recorded.

Proceedings in case of refusal to build or repair.

Divisional fences to be kept in good repair unless otherwise agreed.

Fence viewers to decide in writing how or on which side of a stream a divisional fence shall be built.

Proceedings in case of neglect to build fence accordingly.

When persons owning in severalty have improved in common, and one wishes to improve in severalty what proceedings are to be had.

SEC. 4. *Be it further enacted,* That when lands belonging to, or occupied by different persons, and subject to be fenced, are bounded upon, or divided from each other by any brook, pond or creek, which of itself is not a sufficient fence in the judgment of the Fence Viewers, and it is in their opinion impracticable, without unreasonable expense, for the partition fence to be made in the middle or other part thereof, being the true boundary line between them; if, in such case, the occupant of the land on one side shall refuse or neglect to join with the occupant of the land on the other side, in making a partition fence on one side or the other, or shall disagree respecting the same, then two or more Fence Viewers of the town or towns wherein such lands lie, on application to them made, shall forthwith view such brook, river, pond or creek; and, if they shall determine the same not to answer the purpose of a sufficient fence, and that it is impracticable to fence at the true boundary line; they shall judge and determine how, or on which side thereof the fence shall be set up and maintained, or whether partly on one side and partly on the other side, as to them shall appear just, and reduce such their determination to writing, having first given notice to the parties to be present at such assignment: and if either of the parties shall refuse or neglect to make up and maintain the part of the fence to such party belonging, according to the Fence Viewers' determination in writing, as aforesaid, the same may be done and performed, as in this Act is before provided, and the delinquent party subject to the same costs and charges to be recovered in like manner.

SEC. 5. *Be it further enacted,* That where any lands belonging to two persons in severalty, shall have been improved in common, without a partition fence between them, and one of the occupants shall be desirous to improve his part in severalty, and the other occupant shall refuse or neglect, on demand,

to divide the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, it shall be in the power of the party desiring it, to have the same divided and assigned by two or more of the Fence Viewers of the same town, in the way and manner in this Act provided; and the same Fence Viewers may, in writing, assign a reasonable time, having regard to the season of the year, for making up the fence; and if the occupant complained of shall not build and erect his part of the fence within the time so assigned, it shall and may be lawful for the other party, after having made up his own part of the fence, to make up the other's part, and recover therefor double the sum it shall cost, with the fees of the Fence Viewers, in the way and manner in this Act before provided.

SEC. 6. *Be it further enacted*, That when one party shall cease to improve his land, or shall lay his inclosure, before under improvement, in common, he shall not have a right to take away any part of the partition fence that to him belongs, adjoining to the next inclosure that is improved: *Provided*, The party continuing to improve will allow and pay therefor, so much as two or more Fence Viewers shall, in writing determine the reasonable value thereof. And whenever any lands which have laid unimproved and in common, shall be afterwards inclosed or improved by depasturing, the occupant, lessor or freeholder thereof shall pay for the one half of each partition fence standing upon the divisional line between the same land and the land of the inclosures of any other occupant or proprietor, the value and part thereof to be ascertained, in writing, in case they shall not agree between themselves, by two or more of the Fence Viewers of the same town wherein such land lies; and in case such occupant, lessor or proprietor as aforesaid, shall neglect or refuse to pay for a moiety of the partition fences, for the space of thirty days after demand made, the value having been ascertained as aforesaid, the proprietor of the fence may have and maintain in form aforesaid, an action of the case for such value and the costs of ascertaining the same. And in all cases where the line upon which partition fence is to be made or divided is the boundary line of one or more towns, or partly in one town and partly in another town, a Fence Viewer shall be taken from each town.

SEC. 7. *Be it further enacted*, That when a water fence, or fence running into the water is necessary to be made, the same shall be done in equal halves, unless by the parties otherwise agreed: and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall be had, as in other cases of the like kind respecting fences out of the water, in this Act mentioned: *Provided*, That nothing in this Act contained shall extend to house lots, the contents of which do not ex-

When one party shall cease to improve his land, before under improvement, and lay it in common—the partition fence shall remain,

on payment of value, &c. by the owner of the adjoining inclosure.

When lands which have laid unimproved and in common shall be inclosed or improved—proceedings to be had.

Where towns' lines, &c. are boundaries, a fence viewer to be taken from each town.

Water fences to be maintained equally by parties.

Proceedings in case of neglect.

Provide as to house lots not exceeding half an acre.

ceed half an acre ; but if the owner or owners of such lots shall improve, his neighbor shall be compellable to make and maintain one half of the fence between them, whether he improve or not ; or to make void any written agreement respecting the making or maintaining partition fences.

Penalty if
fence viewers
neglect their
duty.

SEC. 8. *Be it further enacted,* That any Fence Viewer duly chosen and sworn, who, on due notice given him and being requested by any person interested to view any fence complained of, as insufficient, shall neglect forthwith to attend the same, shall forfeit and pay the sum of three dollars, to him or them who shall sue for the same, within forty days after such neglect, and each Fence Viewer shall be paid one dollar a day, fifty cents for half a day, and under that twenty-five cents, for the time he shall be engaged in the business of his office, by the person employing him. And in case the complainant shall neglect to pay the Fence Viewers their legal fees, within thirty days after the service done, they may severally recover, by an action of the case, double the amount of such fees ; and each Fence Viewer may be a witness for or against his companion in such suit.

Proprietors of
general and
common fields
may have annual
meetings in
March, and
agree on mode
of improving,
&c.

SEC. 9. *Be it further enacted,* That in any and every town or plantation in this State, where several allotments of lands are inclosed and fenced in one general field, or where they have been so inclosed, fenced and improved, or where all the proprietors of any land shall hereafter see cause to inclose, fence and improve the same in such manner, such proprietors may, some time in March, annually, and from time to time, as they judge proper, meet together to make such rules and adopt such modes of improvement, as they shall think just and equitable and most for the general benefit ; and the proprietor or proprietors of each lot respectively, during the time of his or their pasturing, planting, mowing or otherwise improving his or their part in such general field, shall make and maintain his or their respective part of the whole fence, according to the quantity of acres of land contained in his or their allotment, until the major part of the propriety, at a meeting of such proprietors legally warned for that purpose, shall see cause to alter the form of their improvement. And the whole general fence shall be measured, and each proprietor's part set out and apportioned by two or three discreet indifferent persons, appointed and sworn for that purpose, by any Justice of the Peace for the said county, unless the major part of the propriety agree, and proportion the same among themselves. And when the proportion of each proprietor in such general fence is adjusted and determined, the same shall be entered upon record by the Clerk of the propriety ; and where there is no such Clerk, by the Clerk of the town wherein the land lies, any law, usage or custom to the contrary notwithstanding. And the charge arising by dividing and setting off the several parts of such

Each proprietor's
proportion of a general
fence being
determined, to
be recorded.

Expense to be
borne by pro-

fence, to and among the proprietors of lands inclosed and fenced in one general field, and also the charge of making and maintaining of such fence, as cannot justly be set off to any particular proprietor or proprietors, as his or their part, shall be borne by the several proprietors, in proportion to their respective interests in such field.

Proprietors in proportion to their interest, &c.

SEC. 10. *Be it further enacted,* That whenever the fence around any general and common field, belonging to any freeholder, occupant, or improver of any land in such field, shall become deficient and need repairing, the owner thereof shall immediately repair such defective fence, after being duly notified of such deficiency by any Fence Viewer of the town wherein such field lieth; and in case the owner thereof shall neglect to repair such defective fence, for the space of three days, after due notice given thereof by any Fence Viewer as aforesaid, it shall and may be lawful for any freeholder or occupier of any lands in such fields, to repair such defective fence; and when the same shall be completed and adjudged sufficient, by two or more of the Fence Viewers of the town wherein such fence lieth, and the value thereof, together with the Fence Viewers' fees, ascertained in writing, by them subscribed, the person who shall make up or repair such deficient fence, shall have right to demand and receive of the occupier, lessor or freeholder of the land, who ought to make up or repair the same, at his election, double the expense of making or repairing, surveying and viewing, such fence; and in case of neglect or refusal to make payment thereof for the space of one month, after notice and demand made of the person against whom he shall make his election, to satisfy him therefor, he may sue for and recover the same by a special action of the case, with cost of suit, in any Court proper to try the same. And whereas it often happens that fences around general and common fields are blown down, carried away, or otherwise destroyed by sudden floods or tempests, and it is necessary the same should be immediately repaired to prevent the destruction of the grain and crops growing therein :

Proceedings whenever fence round a common field belonging to any occupant, &c. is deficient, &c.

SEC. 11. *Be it therefore enacted,* That whenever any such fence shall be thus suddenly blown down, carried away, or destroyed, and the crops of grain or grass therein growing, shall be thereby exposed to be immediately destroyed, the occupant or freeholder of the same, to whom the same fence belonged to repair, shall immediately repair the same; and in case of neglect for the space of twenty-four hours, after notice given him thereof by any Fence Viewer as aforesaid, it shall and may be lawful for any freeholder or occupier of any lands in such fields, to set up and sufficiently repair such fence; and when the same shall be completed and adjudged sufficient by two Fence Viewers or more, as aforesaid, and the value thereof, together with the Fence Viewers' fees, as-

Proceedings when fences round common fields are blown down, &c.

certained in writing as aforesaid, the person who shall set up or repair the same, shall have right to demand and receive of the occupier, lessor or freeholder of the land, who ought to make up and repair such fence, at his election, double the sum thus ascertained as aforesaid, for the expense of setting up, repairing, surveying and viewing the same; and in case of neglect or refusal to make payment thereof, for the space of one month as aforesaid, after demand made of the person against whom he shall make his election to receive the same, he may sue for and recover the same, with costs of suit, in manner as is before directed.

Any person owning lands in a general field, may inclose the same at his own expense,

provided he must maintain his share of the general fence.

Mode of calling meetings of proprietors of general fields.

SEC. 12. *Be it further enacted*, That any person now owning, or who may hereafter own any lands lying within the limits of any general and common field within this State, shall have the right to inclose his own land, at his own expense; and at all seasons of the year, to have the exclusive and separate right of using and improving his own land so inclosed with a good and sufficient fence: *Provided*, That such proprietor shall be held to maintain his proportion of the general fence around said field.

SEC. 13. *Be it further enacted*, That for the better enabling such proprietors to call a meeting for the ends aforesaid, it shall be in the power of any Justice of the Peace for the county where such lands lie, upon application to him made by any two of the proprietors of such general fields, to issue out a warrant for such meeting; which warrant, and also the notification of the meeting, shall express the business thereof, and shall be directed to one of the proprietors asking the same, or to the proprietors' Clerk, requiring him to notify the proprietors of the meeting, and the time, place and occasion of the same; which notification, in case such field lies in any incorporated town, shall be given in writing to each proprietor therein, or posted up in some public place or places within such town, fourteen days, at least, before the day appointed for such meeting, or in case any of the proprietors do not reside in said town, the notification shall, for the like time be advertised in any two of the Portland newspapers, and in one other newspaper, (if such there be,) printed in the County where such estate lies, at least four weeks successively before such meeting; or such meetings may be otherwise warned by posting up written notifications in some public place in each and every town and plantation where any one or more of the said proprietors may reside, fourteen days, at least, before the time appointed for holding such meeting.

Proprietors at such meetings may raise money, elect officers, &c. for assessing and collecting monies.

SEC. 14. *Be it further enacted*, That the proprietors of such general fields respectively shall be and are hereby fully authorized and empowered, in a proprietors' meeting for that purpose regularly convened, by a major vote of the proprietors then present, (the vote to be collected according to the interest of the proprietors,) to agree upon and pass one or

more votes for the raising and collecting such sum or sums of money from time to time, as they shall judge necessary for defraying the charges aforesaid, and for carrying on, or managing any common affairs relating to such proprietors; and that they be alike empowered to choose three or five assessors for the assessing and apportioning such sum or sums so agreed on, and voted upon the proprietors of such fields, according to their several interests therein; and to appoint a collector or collectors to gather in and collect the same; which collector or collectors shall be, and are hereby fully empowered to levy and collect the sum or sums, so set and apportioned for such proprietors to pay, in the same manner as constables of towns within this State are empowered to levy and collect the public rates or taxes; and to pay in the same to the proprietors or their Clerk, who is hereby empowered to grant warrants, for the levying and collecting such assessment at such time as shall be by them appointed for the payment thereof: and such Clerk shall be accountable to the proprietors therefor; the person or persons so assessing the said proprietors, and the collector or collectors that shall be so appointed for the gathering and collecting the sum or sums so granted and agreed upon by the said proprietors to be assessed and collected as aforesaid, shall be under oath for the true and faithful performance of their services respectively; which oath shall be administered to them as the law provides for swearing town officers: *Provided nevertheless,* That any such proprietor, who apprehends himself aggrieved, or overrated in the making or apportioning such assessment, shall have liberty to apply to the Justices of the Court of Sessions in the respective counties where such fields lie, for relief; and in such case the said Justices are hereby fully empowered to grant relief accordingly; and their judgment shall be final.

SEC. 15. *Be it further enacted,* That the proprietors aforesaid, or the major part of such of them as shall be present at a meeting legally warned for that purpose may choose Hay Wards or Field Drivers, who shall be under oath, and shall have the same powers as if they had been chosen by a town.

May choose hay wards and field drivers— who are to be sworn.

SEC. 16. *Be it further enacted,* That if any proprietor in any common or general field shall put, or cause to be put therein any horse, cattle, sheep or other creature, over and above the number allowed him, or before the day agreed upon; or keep them longer there than the time set and limited by a major vote of the proprietors, he shall be deemed a trespasser; and his creatures so put in shall be proceeded with by any of the proprietors as creatures taken damage feasant, to all intents and purposes, as much as if he owned no land within such general field.

Penalty for putting cattle, &c. into such fields before the time appointed: or more than their proportion.

SEC. 17. *Be it further enacted,* That when and so often as any trespass or trespasses, shall be done in any common or

Made of estimating damage.

as done, or
trespasses, &c.

general field, by reason of the insufficiency of the fence belonging to any person owning the adjoining land, the party or parties injured shall forthwith procure two sufficient persons of good repute to view and adjudge of the damage done, giving notice of such trespass to the owner or claimer of the horse, cattle, sheep or other creature, that did the same, (if he be known and resident in the same town, or near thereto,) that he may be present, and nominate one of the appraisers of such damage, if he see cause: and the damage shall be answered according to such appointment. And where damage happens through the insufficiency of the fence, the owner or occupant of the land to which the defective fence belongs, shall be liable to answer and make good all such damage.

Lines to be run
and boundaries
marked once in
two years.

SEC. 18. *Be it further enacted,* That each proprietor of lands lying unfenced, or in any common field, shall, once in two years, on six or more days warning, previously given him by the proprietor or proprietors of the land next adjoining, run the lines, and make or keep up the boundaries between their respective lands, by sufficient mete stones, on pain that every party so neglecting or refusing shall forfeit the sum of two dollars to the party moving or requesting to run the line; the conviction of such neglect or refusal being had before any Justice of the Peace within the same County, who is hereby empowered to hear and determine the case.

Penalty for
neglect.

Major part of
proprietors
may dissolve
and discontinue
such common
and general
field.

SEC. 19. *Be it further enacted,* That it shall and may be lawful to and for the proprietors who own the major part of the interest or property in any common or general field, at a legal meeting to be warned for that purpose, to dissolve and discontinue such field; six months being allowed to elapse before such discontinuation.

Provision for
common fields
under existing
rules and orders.

SEC. 20. *Provided always, and be it further enacted,* That nothing contained in this Act shall prevent or hinder the proprietors of any such common field already fenced, from making and maintaining their fences according to rules and orders formerly agreed on by them at any meeting legally warned.

Proprietors to
vote in their
meetings ac-
cording to
their interest.

SEC. 21. *Be it further enacted,* That at every meeting of such proprietors the votes shall, by the Moderator, be collected and counted according to the interests of the proprietors present, where such interests are known. And whereas it often happens that horses, cattle, and other creatures are clandestinely turned into general fields, or, being unruly, break into the same in places where the fence is good and sufficient according to law; and when, in such cases, proprietors of general fields, impound horses, cattle or other creatures, the owners replevy them because the fence inclosing the general field is deficient in some distant place from that where the horses, cattle or other creature entered the same, and in consideration of such deficiency judgment is unreasonably recovered against such proprietors:

SEC. 22. *Be it therefore further enacted,* That whenever

horses, cattle or other creatures, shall be clandestinely turned into any general field, or, being unruly, break into the same, and shall be taken and impounded by a proprietor thereof and a writ of replevin shall be purchased by the owner of the horses, cattle or other creatures so impounded, for the purpose of replevying them, it shall be in the power of the Court of Justice, before whom the action shall be brought, to give judgment in favor of the proprietor of the general field, upon his producing satisfactory evidence to the said Court of Justice, that the horses, cattle or other creatures replevied as aforesaid, where either clandestinely turned into the general field, or broke into the same in a part thereof, where the fence was good and sufficient according to law, some other parts of the fence inclosing the general field being deficient, notwithstanding: And whereas it often happens in fencing general fields, for the conveniency of fencing considerable quantities of rocky and barren land not capable of tillage, are taken into such fields, the owners of which may be obliged to make fence, and also pay taxes equally with the other proprietors whenever an assessment is made by the proprietors of such field; which is very unjust:

Damages may be recovered if cattle are clandestinely turned in, or break in where the fence is good—although other parts of the fence be deficient.

Sec. 23. *Be it therefore further enacted,* That all lands now lying in general fields, or that hereafter, may be taken into the same, that are so rocky or barren that the owners thereof have never improved them, either by mowing, ploughing, or feeding, such owners shall not be obliged to make, on account of such lands, any part of the fence in compassing such general fields; nor shall they be taxed for them in any rate or tax, raised by the proprietors of such field, until they shall make improvement thereon. And whereas the minor part of the owners or proprietors of common fields, in some instances, have been and may be desirous of a partition of such field into two or more distinct fields, from a persuasion that their shares or lots might, (if separated and fenced off from the rest,) be improved much more to their advantage, in some manner different from that agreed on by the majority: To the end therefore that such of the owners as are or may be so minded, may not be unreasonably restrained by the rest from having such partition:

Barren and rocky lands to be excluded in estimating expenses of fences, and from taxes.

Sec. 24. *Be it enacted,* That when any three or more of the owners or proprietors of lots in any common or general field, lying within one general fence or inclosure, shall make application, in writing, under their hands, to the proprietors of such field, (at any meeting legally warned for that purpose,) to have the lots or shares of the owners or proprietors so applying, or theirs with other lots or shares, (taken together,) to make one entire field, to be separated from the rest by one common fence, and to be improved as a distinct and separate, but common field; in such case, if the proprietors, who have the greater part of the interest among those who are present

When three or more owners in general field wish to improve their lots separate from the general field—proceedings in such cases.

Case of Proprietors refusing.

Court of Sessions to appoint a Committee to make partition.

at such meeting, shall withhold or refuse their assent to such division or partition, it shall and may be lawful for the Justices of the Court of Sessions for the said county, upon application made to them, to appoint a committee of five freeholders within the said county, (under oath,) to make the partition prayed for, if it shall appear to such committee to be expedient, and to assign to each field its part or proportion of the divisional fence in consequence of such partition, to be made, kept up and maintained by the proprietors of the respective common fields; and the return being made under the hands of the major part of such committee, and accepted by the said Court of Sessions, the fields so separated shall be considered as distinct and separate common fields, and the owners or proprietors of each field a distinct and separate propriety, as fully to all intents and purposes whatsoever, as the owners or proprietors of such general field were considered before such partition was made: *Provided*, That no order for partition be made, or committee appointed, until the rest of the proprietors have been duly notified of such application, and opportunity given them to make their objections thereunto; which notice shall be given by serving the Clerk of such proprietors with a copy of such written application, thirty days at least before such order or appointment be made; and every committee that shall be appointed and employed as aforesaid, shall make return of their doings, in writing, under their hands, unto the said Court, as soon after as may be, for acceptance and confirmation: and the proprietors, whose interest shall be so set off, as well as the remaining proprietors, shall have and enjoy all the powers and privileges which the proprietors of general fields are by law vested with.

Proviso for notice to the proprietors.

When major part of the proprietors of a tract of land, consisting of several allotments, wish to inclose the whole in a general field—what proceedings are to be had.

SEC. 25. *Be it further enacted*, That when the major part, in interest, of the proprietors of any tract of land, consisting of several allotments, shall be desirous of inclosing, fencing and improving the same in one general field, they may apply to the Circuit Court of Common Pleas in the county where such land lies; and when such land lies in different counties, then to the Supreme Judicial Court to be holden in either; and on such application the said Court shall notify the proprietors concerned in said land to appear at the same Court, at the same or the next term thereof, in such manner and form as the Court shall judge proper; and if on hearing the said proprietors, it shall be deemed for their general benefit by the said Court, they shall decide that such land shall be fenced, inclosed and improved in one general field; and after such tract of land shall be so established as a general field, the first meeting of the proprietors may be called, on application to a Justice of the Peace, in the manner provided by this Act, at any time in the year; and at such first meeting, the proprietors of such field may agree upon the manner of calling and notifying future meetings, as well the annual as

special meetings, of such proprietors; and such proprietors shall be entitled to all the rights and privileges, and subject to all the duties, to which proprietors of general and common fields are. [Approved February 24, 1821.]

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CHAPTER XLV.

An Act for the support and regulation of Mills.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That where any person hath already erected, or shall erect any water mill, on his own land, or on the land of any other person, by his consent legally obtained, and to the working of such mill it shall be found necessary to raise a suitable head of water; and in so doing any lands shall be flowed not belonging to the owner of such mill, it shall be lawful for the owner or occupant of such mill to continue the same head of water to his best advantage, in the manner and on the terms herein after mentioned.

Owners of water mills built on their own land, &c. may raise a sufficient head of water, paying damages, &c.

SEC. 2. *Be it further enacted,* That if any person shall sustain damages in his lands by their being flowed as aforesaid, he may complain to the Circuit Court of Common Pleas of the County wherein the lands so flowed, shall be situated; and the said Court shall order the complainant to notify the owner or occupant of the mill complained of, by serving him with an attested copy of such complaint, (together with such order thereon,) fourteen days at least, before the then next term of said Court, that he may then appear and show cause, if any he have, why a warrant should not issue in the manner, and for the purposes prayed for in such complaint; or such complainant may, fourteen days at least, before the sitting of the Court, to which he intends to prefer his complaint, cause the owner or occupant of such mill to be served with an attested copy of such complaint.—And such service or notification, certified by the proper officer, shall be deemed sufficient evidence of proper notice.

Person injured by the flowing of his lands may complain to the C. C. Com. Pleas.

Court to order notice to owner of mill to appear at next term—

or complainant may 14 days before Court, cause owner to be notified.

Mode of notifying.

SEC. 3. *Be it further enacted,* That if any owner or occupant of any mill shall plead to such complaint, and in his plea shall deny the complainant's title to the lands said to be damaged by flowing, or shall claim a right to flow such lands without payment of damages, or for an agreed composition; the Court shall order a trial of the issue which may be joined by the parties, by a jury at the bar of said Court; or if the issue be an issue in law, shall determine the same themselves, reserving to each party the liberty of appealing to the Supreme Judicial Court, as in other cases.

If certain facts stated in the complaint be disputed—trial to be had in Court.

SEC. 4. *Be it further enacted,* That if the owner or occupant of a mill, notified as aforesaid, shall not appear, or appearing shall not show sufficient cause, the Court in which said complaint may be pending as aforesaid, may issue a

On default or trial, Court may issue a warrant to Sheriff to empanel a Jury.

Mode of proceeding to select and empanel the jury—

penalty for non attendance of jurors.

Officer may return talesmen, in case—

Jury to be sworn.

Duty of the jury and effect of their verdict.

Facts which they are to certify in their verdict.

Verdict to be accepted by the Court.

Parties may agree on a committee instead of a jury.

with the same powers, &c.

and same proceedings to be had.

warrant to the Sheriff of the same county, or either of his Deputies directing him to empanel a jury of twelve good and lawful men; and the officer to whom the warrant shall be directed, shall in writing require of the Selectmen of the three towns nearest to that in which the land injured is situated, (if so many there be within the same county,) to return a number of jurors, (not less than two, nor more than six from any one town,) to serve on the pannel; which jurors shall be drawn from the jury box, notified and returned as in other cases, excepting that the town need not be assembled, and that notice to the persons drawn, one day previous to the time appointed for their attendance shall be sufficient; and if any person so returned shall unnecessarily fail to attend, he shall forfeit and pay a sum, not exceeding ten dollars, at the discretion of the Court to whom the verdict shall be returned, to be divided among the jurors who do attend; and if, from accident or challenge there shall not be a full jury, the officer shall return some suitable person or persons to supply the deficiency; which jury shall be sworn to make a true and faithful appraisement of the yearly damages done to the complainant by so flowing his lands, and how far the same may be necessary. And said jury shall try the cause; and their verdict being returned by the officer to the same Court, and there allowed and recorded, shall be a sufficient bar to any action to be brought for any such damages. And if said jury shall find, and so return in their verdict, that no damage is done to the complainant by flowing his land, as aforesaid, the respondent shall recover his costs. And when the said jury shall so inquire of the said yearly damages, they shall also inquire and make return, in their said verdict, what portion of the year the said lands ought not to be so flowed; and during such portion of the year as the said jury shall certify in their verdict, that the public convenience and the circumstances of the case do not justify such flowing; and the said verdict being accepted by the Court, this Act shall in no manner authorize the said owner or occupant of such mill so to flow the said lands of others. And it shall be in the power of said Court to assess such sum to the officer for his services, as they may judge reasonable.

Sec. 5. *Be it further enacted,* That the parties to said complaint may agree upon a committee of three persons, to be appointed by the Court in which said complaint may be pending; which committee after giving seasonable notice to the parties, of the time and place of meeting, shall have the same powers and be sworn in the same manner, as the jurors aforesaid. And said committee shall make their report in the same manner, as the said jury are required to make their verdict; and the said report being returned to the same Court, and there allowed and recorded, shall have the same effect as the verdict aforesaid.

SEC. 6. *Be it further enacted,* That such verdict or report and judgment thereon so recorded, shall be the measure of the yearly damages, until the owner or occupant of such mill, or the owner or occupant of such lands so flowed, shall on a new complaint to the said Court of the county, and by the form of process before prescribed, obtain an increase or decrease of the said damages. And the party entitled to any such yearly damages, whether the party to the record, his heirs, executors, administrators, or assigns may have an action of debt, grounded on such record, to recover the same. And the party prevailing in any complaint or action aforesaid, shall be allowed his full legal costs, though the damages so assessed or debt recovered shall not amount to the sum of twenty dollars.

Such verdict or report and judgment to be the measure of yearly damages till altered on a new complaint.

Who may have an action of debt for such damages.

Costs, how taxed.

SEC. 7. *Be it further enacted,* That if any person, whose lands shall be flowed as aforesaid, shall, on his filing his complaint for ascertaining or increasing his damages, or on bringing his action of debt as aforesaid, move the said Court to direct the owner or occupant of such mill to give security for the payment of the said damages from time to time, as they shall become due; and in that case, the said owner or occupant of such mill shall neglect or refuse to give such reasonable security as the said Court shall order, he shall have no benefit of this Act, but shall be liable to be sued for so flowing the lands of the complainant or plaintiff, in the same manner as though this Act had not been passed.

If, on motion of party injured, owner of mill will not give security for such damages, he is to have no benefit of this Act.

SEC. 8. *Be it further enacted,* That if the complainant shall fail to prosecute his complaint, in any stage of the proceedings, or the issue joined shall be determined against him, the respondent shall recover his costs as in other cases.

Costs for respondent when prevailing.

SEC. 9. *Be it further enacted,* That the owner or occupant of any mill-dam may tender to the owner or occupant of such lands as may be flowed by the erection of such mill-dam, any sum of money instead of the yearly damages he may be entitled to receive from the owner or occupant of such mill-dam, by virtue of this Act, within one month after the past year's damages shall have become due. And if the owner or occupant of such lands shall not accept the same, but shall present a new complaint to obtain an increase of said damages, he shall not be entitled to costs thereon unless he shall obtain an increase of the sum so tendered.

Owner of mill may make a tender of yearly damages, &c. effect thereof.

SEC. 10. *Be it further enacted,* That the owner or occupant of lands so flowed, may also offer the owner or occupant of such mill-dam, to receive of him any proportion of the sum established as his yearly damages, by reason of the said flowing, within one month after the past year's damages shall have become due. And if the owner or occupant of such mill-dam shall not agree to the same, but shall present a complaint to obtain a decrease of said damages, he shall not be entitled to costs thereon, unless he shall obtain a sum to be

Owner of lands flowed may also offer to receive less than yearly damages established,

effect of such offer.

by him paid, as damages, less than the sum which the owner or occupant of such lands offered to receive of him.

Limitation of complaint for increase or decrease of damages.

SEC. 11. *Be it further enacted,* That no complaint shall be presented for an increase or decrease of said yearly damages, until the expiration of one month after the same shall have become due.

Meetings of mill proprietors how to be called.

SEC. 12. *Be it further enacted,* That when any mill, worked by wind or water, the under works or appurtenances thereof shall want repairs, or to be rebuilt in whole or in part, in the opinion of the major part in interest, of the proprietors; it shall be lawful for any one or more of the proprietors thereof to call a meeting of the whole, at said mill, to consult and agree about repairing or rebuilding the same, in whole or in part; which notice to the said proprietors may be in substance as follows, to wit:

Form of notice.

To A. B. of _____ in the county of _____, addition _____ Greeting.

You are hereby notified, that our mill in _____ wants repairs, or to be rebuilt, in order that the same may be of use to the concerned; and a meeting of the proprietors thereof will be held at the same mill, on the _____ day of _____, at _____ o'clock in the _____ noon, when and where your attendance is requested. Dated at _____ on _____.

Which notification, signed by one or more of the proprietors, or a true copy thereof given to any other proprietor, or left at his place of last and usual abode not more than thirty, nor less than ten days, before the day of the said meeting, shall be deemed sufficient notice, and may be proved by the testimony of any disinterested witness, who gave or left the same, or saw it done.

After notice the majority may proceed to rebuild or repair,

SEC. 13. *Be it further enacted,* That if any proprietor so notified shall neglect to attend the said meeting; or being met shall neglect or refuse to agree with the major part in interest, of the proprietors of such mill, for repairing or rebuilding the same, in whole or part, so as to make the same serviceable, to pay his part of the charges of doing the same; the rest of the proprietors, being the major part in interest, may cause the same to be done; and shall be reimbursed and paid such sum or sums as they, or any of them, shall advance thereon beyond their respective proportions, with interest for the same in the mean time, out of the said mill or the profits thereof; and if said sums so advanced shall not be reimbursed or paid by the profits of said mill, or by the proprietors neglecting and refusing as aforesaid, within six months after the said repairs and buildings shall be completed, it shall be lawful for the proprietors so advancing said sums, to charge, in addition to the same, one per centum a month on the amount so advanced, from and after said six months, till the same shall be reimbursed or paid as aforesaid; and their lien on such mill for the purpose of being reimbursed such

and shall be reimbursed out of mill profits;

if not so reimbursed or paid — what proceeds shall be had.

repairs, shall continue notwithstanding the proprietor so neglecting or refusing, may decease, or may alien their interest in such mill: *Provided*, That nothing in this Act contained shall be construed to make void any particular contract, made or to be made, for the repairing or rebuilding any mill or mills.

Proviso—this act not to affect special contracts as to such mills.

SEC. 14. *Be it further enacted*, That where any part or parts of such mill, shall at the time of such notice and meeting, be held and possessed by any minors, feme covert, tenant for years, in dower, by courtesy, for life, in tail, mortgager or mortgagee; then the guardians of such minors legally appointed, husband of such feme covert in her right, such tenant, mortgager or mortgagee in possession, shall be deemed, for all the purposes of this Act in so repairing or re-building such mill, the proprietor or proprietors thereof, and such guardians, husbands and persons having in possession such limited estates therein, shall be notified, vote and contribute accordingly; and all advances so made by them respectively, for and on account of such minors, heirs of such married woman, those in remainder or reversion, or the other party in the mortgage, if not adjusted and paid by agreement, shall be recoverable in a special action on the case, with interest.

Guardians, husbands and mortgagees, in certain cases to be considered as owners, within this act, and notified accordingly.

SEC. 15. *Be it further enacted*, That every miller shall be provided with scales and weights to weigh corn, grain and meal to and from the mill, if required; and if he shall neglect to keep such scales and weights, or refuse so to weigh corn, grain and meal, when required, he shall be fined for each neglect or refusal not exceeding five dollars, to be recovered, with costs by action of debt, by the party suing to his use, before any Justice of the Peace of the County wherein the offence shall be committed.

Millers to be provided with scales and weights.

SEC. 16. *Be it further enacted*, That the toll for grinding all sorts of grain shall not exceed one sixteenth part thereof. [Approved February 8, 1821.]

Amount of toll not to exceed one sixteenth.

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CHAPTER XLVI.

An Act directing the manner of Conveyance to be used by Counties, in Purchasing and Disposing of Lands.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That whenever any County in this State shall purchase any lands, whereon to erect a courthouse, or gaol, or for any other purposes authorized by law, the deed or deeds of the grantor or grantors duly executed, acknowledged, and registered, made to the inhabitants of the County, making the purchase, to have and to hold to the said inhabitants, their successors and assigns forever, shall be good and valid, to all intents and purposes, to vest in the said inhabitants and County, their successors and assigns, in fee simple, all the right, title, interest and estate whatever which

Deeds made to the inhabitants of a county, their successors and assigns to be good and valid.

the grantor or grantors in such deed or deeds had, at the execution thereof, in the lands contained therein.

Deeds of different forms for the benefit of counties confirmed.

SEC. 2. *Be it further enacted,* That all grants and conveyances heretofore made to the inhabitants of any County, or to their Treasurer, committee, or any other person or persons, and by whatever form of conveyance for the use and benefit of such County in any manner whatever, shall be deemed and holden to be the property of such County; and all such conveyances shall have the same force and effect as if they had been made to the inhabitants of such Counties by their respective corporate names.

Certain courts may appoint agents to convey county lands, &c.

SEC. 3. *Be it further enacted,* That the Court which by law may have the powers in relation to County Lands, may by their order of record, appoint an agent or agents, to sell and dispose of any real estate of said County, and the deed or deeds of such agent or agents under their proper hands and seals, for and in behalf of the inhabitants of such County, duly acknowledged and registered shall be sufficient to all intents and purposes to convey to the purchaser or purchasers, all the right, title, interest and estate whatever, which the County may then have to the premises so conveyed.

Sup. Judicial Court to exercise all necessary powers of Court of Equity, as to lands, &c. holden in trust, for, or to use of a county.

SEC. 4. *Be it further enacted,* That in all cases where any real estate may be holden in trust, for the use and benefit of any County by any conveyance whatever, and no convenient and effectual remedy may exist at common law, to enforce the execution of such trust, the Supreme Judicial Court shall have full powers and process, and they are hereby empowered to enforce the execution of such trust, according to the course of proceedings in equity.

[Approved March 15, 1821.]

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CHAPTER XLVII.

An Act for the settlement of certain equitable claims arising in Real Actions.

Jury in certain cases to ascertain the value of improvements and of the land without them.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled,* That when any action has been or may hereafter be commenced against any person for the recovery of any lands or tenements, holden by such person by virtue of a possession and improvement, and which the tenant or person, under whom he claims, has had in actual possession for the term of six years, or more, before the commencement of such action, the Jury, which try the same, if they find a verdict for the demandant, shall, (if the tenant so request,) also inquire, and by their verdict ascertain the increased value of the premises, by virtue of the buildings and improvements made by such tenant, or those under whom he may claim; and, (if the demandant require it,) what would have been the value of the demanded premises, had no buildings or improvements been made by such tenant, or those under whom he

may claim; and if during the term in which such verdict shall have been given, the demandant shall make his election on record, in open Court, to abandon the demanded premises to the tenant, at the price estimated by the Jury as aforesaid, then no judgment for possession shall be rendered on the verdict, but judgment for the sum so estimated; and after one year, a writ of execution may issue for the same sum with one year's interest thereon and costs of suit, unless the tenant shall, within one year after the rendition of said judgment, pay into the Clerk's office of said Court, for the use of the demandant, one year's interest of the said sum, together with one third part of the said sum, and the costs of suit, if taxed, in which case the said writ of execution shall further stay; and if the tenant shall within two years after the rendition of said judgment further pay into the Clerk's office as aforesaid, one year's interest of two third parts of the said sum, together with one other third part of the said sum, then the said writ of execution shall further stay: otherwise may issue for two third parts of the said sum, and one year's interest thereon; and if the tenant shall within three years after the rendition of said judgment, pay into the Clerk's office as aforesaid, the remaining third part of the said sum, and one year's interest thereon, having made the several payments aforesaid, the writ of execution shall be perpetually stayed, otherwise it may issue for the said one third part of the said sum and one year's interest thereon; and the said demanded premises shall be held for the security of the sum so estimated, and interest thereon, and costs of suit, until sixty days after a writ of execution might have issued as aforesaid, liable to be taken in execution, in like manner as real estate or equities of redemption attached on mesne process, notwithstanding any intermediate conveyance, attachment or seizure upon execution, and the demandant may cause his writ of execution, when issued as aforesaid, to be extended on the said premises, in like manner and with like effect in all respects, as executions may by law be extended on real estate; or he may cause the same premises, or so much thereof as will satisfy said execution and costs, to be taken and sold upon the said execution in like manner and with like effect in all respects, as equities of redemption may by law be taken and sold on execution; and the tenant and his heirs shall have a good title to the demanded premises, against the demandant and his heirs forever, except the liability aforesaid. But should the tenant or his heirs afterwards be evicted therefrom, by a higher or better title of any claimant or claimants, if he shall have duly notified the original demandant, or his heirs, to aid him in the defence of such suit, and admitted him to aid accordingly, in case of his appearing and offering to aid, such tenant or his legal representative shall be entitled to receive and recover back the same money, with the lawful interest thereof from him, her or them, who shall have had the use

Demandant may abandon judgment and execution in such case.

Lien on the demanded premises.

May be extended on,

or sold.

If the tenant is afterwards evicted he may recover back the money paid.

If the demandant does not abandon writ of seizin to be stayed one year.

and benefit thereof in an action for money had and received to the use of such tenant or his legal representative; and if the demandant shall not so make his election on record as aforesaid, no writ of seizin or possession shall issue on a judgment founded on such verdict, unless the demandant shall, within one year from the rendition thereof, have paid into the Clerk's office of the same Court, or to such other person as the Court may for that purpose appoint, for the use of the tenant, or the person or persons justly entitled thereto, such sum with the interest thereof, as the Jury shall have assessed for buildings or improvements as aforesaid; and a new action for the recovery of the same premises shall not be sustained in any Court, unless the demandant shall first have paid to the tenant, all such costs as would have been taxed for him had he prevailed in the first suit: *Provided nevertheless*, That nothing herein contained, shall extend to any action which is or may be commenced by any mortgagee, his heirs or assigns, against any mortgagor, his heirs or assigns.

Proviso.

Tenant not to cut wood in certain cases.

SEC. 2. *Be it further enacted*, That no tenant against whom judgment shall be rendered in any case, where the value of the buildings and improvements shall have been ascertained as aforesaid, shall unnecessarily cut any wood, or take any timber from off the premises recovered against him, her or them, or make any strip or waste thereof; and such tenant shall be liable to answer therefor in the same way and manner he would have been, had judgment for possession been rendered on the verdict, and possession actually been delivered in execution of such judgment.

If the tenant has in possession more than is demanded, provision in such case.

SEC. 3. *Be it further enacted*, That if the tenant, or person under whom he claims, shall have had in actual possession for the term of six years, or more, before the commencement of such action, any land or tenements more than shall be demanded, and by the tenant be defended in said action, lying in the same tract or parcel therewith, to recover which the demandant had, at the time of the commencement of his action, as high and as good a title as he had to recover the demanded premises, such tenant may request that the Jury may by their verdict ascertain the same, and if the Jury shall find, that the demandant had as high and as good a title to recover such lands or tenements not demanded or any part thereof, as he had to recover the demanded premises, they shall not proceed to ascertain any other point by their verdict, and the Court shall thereupon render judgment that the demandant take nothing by his writ, and that the defendant recover his costs: *Provided*, That if such request be made in any such action now pending or which may hereafter be pending, the Court may permit the demandant without costs so to amend his declaration as to include all the lands or tenements possessed and defended by the tenant in manner aforesaid, of which the demandant had as high and as good a title as he had of the premises originally demanded in the action.

Proviso.

Sec. 4. *Be it further enacted,* That in any such action, the tenant or his attorney may in any stage of the process, and as often as the writ shall be amended as aforesaid, offer and give notice in open Court at what sum he consents, that the increased value of the premises, by virtue of the buildings and improvements shall be assessed, and also at what sum he consents that the value of the demanded premises, or such part thereof, as is by him defended, shall be estimated without the buildings and improvements, which notice shall be entered on the record of the Court; and if the demandant consent to the same, judgment shall be rendered on said consent of the parties in the same manner, as if the like sums had been found by the Jury in a verdict for the demandant; but if the demandant shall not consent to the said offer and shall proceed in the suit, and the Jury by their verdict shall not reduce the value of the buildings and improvements below the said offer, nor increase the value of the demanded premises as aforesaid above it, he shall not recover costs from and after the first entering of such notice upon the record, but the tenant shall from that time recover his costs, and have his separate judgment and execution for the same, although the verdict on the issue should be against him; unless the demandant shall prevail on a plea of disclaimer in the same suit.

If the writ is amended, provision in such case.

Sec. 5. *Be it further enacted,* That to constitute the possession and improvement intended by this Act, it shall not be deemed necessary that the premises defended shall have been surrounded by fences or rendered inaccessible by other obstructions; but it shall be sufficient if the possession, occupancy and improvement thereof by the tenant, or those under whom he claims, shall have been open, notorious and exclusive, comporting with the ordinary management of similar estates in the possession and occupancy of those who have title thereto, and satisfactorily indicative of such exercise of ownership as is usual in the improvement of a farm by its owner, and no part of the premises demanded and defended in manner aforesaid shall be excluded from the appraisement herein provided because the same may be woodland or without actual cultivation.

What shall constitute a possession and improvement.

Sec. 6. *Be it further enacted,* That no person shall be allowed to sit upon a Jury for the trial of any such action, where the value of the buildings and improvements are to be ascertained or the value of the premises to be estimated by the verdict, where such person shall be interested in a similar question, either as proprietor or occupant; but the same shall be good cause of challenge to such juror.

Who shall not sit on the jury.

Sec. 7. *Be it further enacted,* That the third, fourth and fifth sections of an Act of the Legislature of Massachusetts passed on the second day of March one thousand eight hundred and eight, entitled "An Act for the limitation of certain real actions and for the equitable settlement of certain claims

Parts of Act, March 1808, repealed.

arising in real actions," and the Acts in addition to the said Act, be, and the same are hereby repealed, and of no further effect in this State.

[Approved June 27, 1820.]

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CHAPTER XLVIII.

An Act directing the manner in which Inquests of Office shall be taken to revert Real Estate in the State or to entitle the State thereto.

In what cases inquests of office may be taken in the S. Jud. Court.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That in all cases where lands, tenements or hereditaments have heretofore been granted, or confirmed by the late Province or Colony of Massachusetts Bay, Commonwealth of Massachusetts, or by this State, or which may hereafter be granted or confirmed by this State, on certain conditions in such grants or confirmations mentioned, and the State shall claim to be revested in the same, for the breach of one or more of the said conditions, an inquest of office shall thereupon be taken in the Supreme Judicial Court in the county where the estate lies, in the manner following, that is to say, the Attorney General shall, upon the direction of the Legislature, file an information in behalf of the State, in the said Court, at any term thereof, in any county, setting forth among other things, the grant or confirmation, with the conditions therein mentioned, and assigning the breaches of such of the said conditions, as shall be directed by the Legislature; or such breach or breaches of conditions as to him shall appear proper; though there shall be no act of the Legislature designating the same; and alleging that by force thereof the State have right by law to be revested in the said estate, and praying that process may issue thereupon in due course of law; whereupon the Court shall order a scire facias to issue against such person or persons, bodies politic and corporate, or, proprietors as the Attorney General in his information, shall allege, to hold the estate under such grant or confirmation, returnable to the said Court at one of the terms, to be holden in the county where the estate lies; which scire facias shall be served thirty days before the sitting of the Court to which the same is made returnable. And if the defendant shall not appear, or appearing, shall refuse to plead, judgment shall be rendered, that the State be resealed of the estate described in the information; and if the defendants shall, by plea disclaim to hold the said estate, or any part thereof, then judgment shall be rendered that the Attorney General take nothing by his information so far as the same respects the estate so disclaimed, and the defendants, their heirs and assigns shall forever thereafter be estopped from claiming or holding the estate so disclaimed under the said grant or confirmation. But if the defendants shall claim

Attorney General to file information,

stating the grant, conditions and breaches.

Court to issue scire facias to persons informed against.

Scire facias to be served thirty days before Court.

If no appearance, or total or partial disclaimer be pleaded—judgment, how to be entered, for whole or part as case may be.

Effect of disclaimer.

to hold the said estate or any part thereof under such grant or confirmation, and shall traverse the breaches assigned, issue being joined thereon, the same shall be tried by Jury at the bar of the said Court, in the usual and due course of law; and a view may be granted or a plan ordered, when necessary, as in the trial of real actions. And if the issue be found in favor of the State, judgment shall be rendered, that the State be reseized of the said estate, and recover costs of suit; for which costs, execution shall issue in due form of law: but if the issue shall be found for the defendants, judgment shall be rendered, that they recover their costs of suit to be taxed by the Court, and paid out of the public treasury, by warrant of the Governor and Council: *Provided nevertheless*, If the only condition alleged to be broken is, that the defendants hold more land under such grant or confirmation than they have right, by force thereof to hold, and the same shall appear, either by verdict of the Jury, or confession of the defendants; then the Justices of the said Court shall have power to assign to the defendants by metes and bounds, at their request and cost, so much of the land which shall be held by the defendants as aforesaid, as shall be equal in quantity to the land they might lawfully have held under such grant or confirmation, and in such part thereof, as shall be just and reasonable, under all the circumstances of the case, and may order the same to be located by proper persons to be appointed for that purpose by the Court, at the expense of the defendants; which location with a plan thereof, shall be returned to the said Court, and may be confirmed by the same, unless good cause be shown to the contrary by the Attorney General or the defendants. And if such location shall be confirmed, then the Court shall order an attested copy thereof, and of the said plan, to be filed at the expense of the defendants in the Secretary's office, and judgment shall be rendered, that the State be reseized of the residue and recover costs of suit.

If defence be made, what proceedings are to be had.

If issue be in favor of State judgment for reseizin and costs.

If defendant prevail—entitled to costs from treasury.

If condition broken be that defendant holds more land than he is entitled to, Court may assign true quantity,

to be located by persons appointed by the Court,

and return made to the Court thereof.

If confirmed by them judgment to be entered.

SEC. 2. *Be it further enacted*, That in all other cases where an inquest of office is necessary by law to entitle the State to hold lands, tenements, or hereditaments, such inquest shall be taken by the Supreme Judicial Court in the county in which such estate lies, upon information of the Attorney General, describing among other things the estate claimed, and the title set up thereto by the State: and upon the filing of such information, the same proceedings shall be had as before directed, *mutatis mutandis*, unless where there is no tenant, and in such case, notice shall be given to any person or persons claiming such estate, to show cause at such term of the said Court, as shall be mentioned in the notification, why judgment should not be rendered, that the State be seized of such estate, by causing an attested copy of such information with the order of Court thereon to be published in such

Inquest in all other cases to be taken in the county where the lands lie, by S. J. Court.

Substance of the information to be filed by Attorney General.

Notice and mode of it.

public newspapers as the Court shall direct, three weeks successively, ninety days at least before the sitting of the said Court; and if no person shall appear, and by plea deny the title of the State to such estate, then judgment shall be rendered that the State be seized thereof: But if any person shall appear and by plea, deny the title set up by the State, the cause shall be tried by a jury at the bar of the Court; and a view or a plan may be ordered, as in the trial of real actions; and if a verdict shall be found that the State have good title to such estate, judgment shall be rendered, that the State be seized thereof and recover costs of suit against the defendant; for which costs execution shall issue in due form of law: but if the jury shall find, that the State hath no title to such estate, and that the defendant hath good title thereto, the defendant shall recover his costs of suit to be taxed by the Court, and paid out of the public treasury by warrant of the Governor and Council; but if the Jury do not find that the defendant hath good title to such estate, then he shall not be allowed his costs.

No person appearing, judgment for State.

If a defence to be tried by jury.

View may be had.

Proceedings and judgment.

If defendant recover judgment costs to be paid from State Treasury.

Attorney General to prosecute suit by inquest for lands, &c. that have accrued to the State for want of heirs.

No defendant to avail himself of alien's title, unless he be his tenant, agent, &c.

If on trial the defendant prove himself owner or tenant, agent, &c. of an alien owner he shall be entitled to his costs, &c.

Proceedings in case of title acquired or privy existing after service of process on defendant.

SEC. 3. *Be it further enacted*, That when it shall be found by the Attorney General, for the time being, that there are any lands, tenements or hereditaments, which for want of legal heirs, have accrued to the State, that it shall be the duty of the Attorney General to prosecute a suit by inquest of office in the Supreme Judicial Court in the county wherein such estate is situated, in order to cause the State to become seized thereof; and that on such process and trial, the person, against whom such process and suit shall be so brought, shall not be allowed to give in evidence, or to avail himself of the title or right of any alien, or subject of another nation or sovereign, unless he can shew that he is tenant to, agent, servant or bailiff of such alien.

SEC. 4. *Be it further enacted*, That if it shall appear to the Court that the person against whom such estate shall be demanded, had, at the time of the service of the process upon him, a good and-valid title in himself to the premises demanded, or that he then was in the possession of the same as the tenant, agent, servant or bailiff of any alien who had a right thereto or to any part thereof, then the Court shall award the defendant his full cost, which shall be paid out of the public treasury, according to the Constitution of the State: but if such party had not a title in himself when the process was served upon him, nor was the tenant, agent, servant or bailiff of such alien at that time, but shall have afterwards acquired a title, been made a tenant, or become the agent, servant or bailiff of any alien in whom such estate is, then judgment shall be awarded against him for the full costs: and the Attorney General shall cease to prosecute further on the process.

SEC. 5. *Be it further enacted*, That when any judgment

shall be rendered on any inquest of office, that the State be resealed, or seized of any lands, tenements or hereditaments, the State shall immediately upon the rendition of such judgment, be deemed and taken in the law, to be in fact seized of all such estate, to all intents and purposes whatever: and all judgments rendered on any inquest of office, taken by virtue of this Act, shall conclude all parties and privies thereto, their heirs and assigns so long as such judgment shall remain in full force.

State to be deemed in actual possession immediately on judgment of re seizure.

Judgment to conclude all parties.

SEC. 6. *Be it further enacted,* That if after the State shall become so seized of such estate, as having accrued thereto for want of legal heirs, any person shall appear, and make out his right to the same, and shall in due process of law recover the same against the State, its grantee, assignee or tenant, that the same estate shall nevertheless be liable to all expenses of improvement thereon made, over and above the rents and profits thereof; and the Attorney General, or the tenant, grantee or assignee of the State, shall be empowered to file a bill in equity in the Supreme Judicial Court of the county where the land is, for the recovery of the same; and a summons shall be issued, with a copy of such bill thereunto annexed, and served on the owner of such land or on his tenant, fourteen days before the sitting of the Court to which it may be returnable; and that the Supreme Judicial Court shall proceed to try the same, by a Jury or otherwise, according to the principles of the laws and Constitution of the State, and shall issue an execution against such estate for the payment of such sum as shall be adjudged on such process; and the Sheriff or other officer to whom the same shall be directed, shall at public auction sell so much of the same lands as shall be sufficient to pay the same, with all charges, unless the same shall be otherwise discharged.

If after State become seized for want of heirs, owner appear and recover the estate by legal process,

it shall still be liable for improvements above rents and profits,

the amount of which shall be ascertained on bill in equity in S. J. Court, to be filed by Attorney General or tenant, &c.

[Approved February 24, 1821.]

CHAPTER XLIX.

An Act directing the manner of giving notice in certain cases.

BE it enacted by the Senate and House of Representatives in Legislature assembled, That in every case, where any notice respecting real estate is now required by law to be given by advertisement, in one of the Boston newspapers, or in the newspaper of the printer of the General Court, for the time being, such notice instead of being given in said Boston newspaper, or in the newspaper of the printer of the General Court, for the time being, shall hereafter, be given by advertising in one of the newspapers printed in Portland, and in one of the newspapers printed in the county where such real estate lies, or the next adjoining county, if any such newspaper there be.

Notice to be given in a Portland newspaper in certain cases.

[Approved June 17, 1820.]

CHAPTER L.

An Act for giving Remedies in Equity.

Equity powers given to Sup. Jud. Court as to trusts under deeds, wills, &c.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Justices of the Supreme Judicial Court shall have power and authority to hear and determine in equity all cases of trust arising under deeds, wills or in the settlement of estates; and all cases of contract in writing, where a party claims the specific performance of the same, and in which there may not be a plain, adequate, and complete remedy at law. And the bill or complaint in such cases may be inserted in a writ of attachment or original summons, returnable to the same Court; and such writ be served on the adverse party as other writs of attachment, or original summons are by law to be served. And the said Justices of the Supreme Judicial Court shall have authority to issue all such writs and processes as may be necessary or proper to carry into effect the powers hereby granted: and to make from time to time all necessary rules and orders for the convenient and orderly conducting of the said business: *Provided*, the same be not repugnant to the constitution and laws of this State; and provided also that the cases of contract, to which this Act shall apply, shall be such only as shall be hereafter made in writing, or which have so been made since the tenth day of February in the year eighteen hundred and eighteen.

What kind of process to be used.

S. J. Court may use all necessary process to carry the powers granted into effect,

and make rules, not repugnant to Constitution and laws.

Limitation as to contracts within this Act.

Courts may exercise chancery powers as to forfeitures, &c. and enter judgment for what is equitably due.

SEC. 2. *Be it further enacted*, That in all causes brought before the Supreme Judicial Court of this State or before any Circuit Court of Common Pleas to recover the forfeiture annexed to any articles of agreement, covenant, contract, or charter party, bond, obligation, or other specialty or for forfeiture of real estate upon condition, by deed of mortgage, or bargain and sale with defeasance, when the forfeiture, breach or non-performance shall be found by Jury, by the default or the confession of the defendant, or upon demurrer, the Court before which the action is, shall make up judgment therein for the plaintiff to recover so much as is due according to equity and good conscience.

In case of penalties forfeited, Courts to enter judgment for the whole penalty and issue execution for sum due.

SEC. 3. *Be it further enacted*, That when any action shall be brought and prosecuted on any bond or other specialty, with penalties, for the payment of sums of money, performance of covenants, contracts, agreements, matters or things to be done at several times, and the plaintiff recover the forfeiture of such penalty; the Court shall enter up judgment for the whole of such forfeiture, and award execution only for so much of the debt or damage as is due or sustained at that time, so always that the said judgment shall stand and be a security to the plaintiff, his executors and administrators for any further and after payment or damages he or they may have just right to, by the non-performance or

breach of the covenants, contracts, agreements or things in such bonds or other specialties contained; and who may have a writ or writs of scire facias on said judgment from such Court, where the same was obtained, against the defendant, his heirs, executors or administrators, suggesting other and further damages sustained by non-performance or breach of such covenants, contracts and agreements, and to summon him or them to show cause why execution should not be awarded upon said judgment for other and further damages, as set forth in the writ and made out to the Court; upon which the Court shall proceed as aforesaid, as often as such damage shall accrue, and be sued for as aforesaid; or may have his action of debt, or on the case, as the case may require for such payment or damages as aforesaid.

Further damages in part of penalty, to be recovered on scire facias—

Proceedings in such cases.

SEC. 4. *Be it further enacted*, That in all actions of scire facias brought in the name and on behalf of the State, either in the Supreme Judicial Court or any Circuit Court of Common Pleas, to recover the penalty or forfeiture of any recognizance taken or entered into in criminal prosecutions, either by principal or sureties, or by witnesses to appear at either of the aforesaid Courts, and give evidence on the part of the State, when the forfeiture, breach or non-performance of the condition of such recognizance shall be found by the default or confession of the party, or by verdict of a Jury, or upon demurrer, the Court before which such action may be brought, may render judgment therein for the State according to the circumstances of the case, and the situation of the party, and may remit either the whole, or any part of the penalty of such recognizance, upon such terms and conditions as to them shall seem reasonable and just; any law or usage to the contrary notwithstanding.

In scire facias State w. persons as principal sureties or witnesses— Courts may remit all or part of the penalty.

[Approved February 20, 1821.]

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CHAPTER LI.

An Act to regulate the jurisdiction and proceedings of the Courts of Probate.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That a Court of Probate shall be held within the several counties of the State: and there shall be in the manner the Constitution directs, some able and learned person in each county in the State, appointed or to be appointed Judge, for taking the probate of wills, and granting administrations on the estates of persons deceased, being inhabitants of, or resident in the same county at the time of their decease, or having died without the State, and leaving estate of any kind within the same; for appointing guardians to minors and other persons; for examining and allowing the accounts of executors, administrators, or guar-

Courts of Probate established.

Judge of Probate—powers and jurisdiction.

dians, and for such other matters and things as the Courts of Probate within the several counties aforesaid, shall by law, have cognizance and jurisdiction of. And the said Judges of Probate shall have full power and authority to make out such process or processes as may be needful for the discharge of the trust reposed in them ; and all Sheriffs, Deputy Sheriffs, Coroners and Constables, are required duly to serve and execute all legal warrants, or other process to them directed, by any Judge of Probate. And contempt of authority in any cause or hearing before any Judge of Probate, shall and may be punished in like manner as such contempt of authority in any Circuit Court of Common Pleas, may or can by law be punished.

When Judge is interested, &c. in any estate, administration, &c. to be in most ancient adjoining county.

SEC. 2. *Be it further enacted,* That whenever any Judge of Probate shall be interested as heir or legatee, creditor or debtor, or within the degree of kindred which by the laws of this State, he might by any possibility be heir in the estate of any person deceased, within the county of such Judge, such estate shall be settled in the Probate Court of the most ancient next adjoining county ; and the will, if any, of such deceased person, may be there proved, or administration granted, as the case may require ; and all other proceedings had thereon, in such adjoining county, as if such deceased person had belonged to or died within the same. And whenever due application shall be made in writing to the Judge of Probate of such adjoining county, for the probate of a will, or the granting of letters of administration, in virtue of this Act, he shall, after giving due public notice thereof, proceed thereon and settle such estate as fully, and to all intents as he might any other estate within his proper jurisdiction : *Provided always,* That nothing herein contained shall take away the right of appeal to the Supreme Court of Probate, as allowed in other cases.

Register's power and duty.

SEC. 3. *Be it further enacted,* That there shall be in manner as the Constitution directs, a suitable person in each county appointed, or to be appointed Register of wills, administrations, accounts, decrees, orders, determinations and other writings, which shall be made, granted or decreed upon by the Judges of Probate, in their respective counties ; which Register shall be sworn to the faithful performance of the duties of his office, and have the care and custody of all files, papers and books, to the Probate Office belonging ; and in case of the death, sickness or necessary absence of the Register, it shall and may be lawful for the Judge of Probate to nominate and appoint some meet person to officiate as a Register, to be sworn as aforesaid, until the standing Register shall be able to attend his duty, or until a new one shall be appointed by the Governor and Council.

Judge of Probate may appoint Register pro tempore.

Judge not to be of counsel, &c.

SEC. 4. *Be it further enacted,* That no Judge of Probate shall be allowed or admitted to have a voice in judging and

determining, nor be permitted to be of counsel, or to act as an attorney either in or out of Court, in any civil action, or other process or matter whatsoever, which may depend on, or have relation in any way to any sentence or decree, made or passed by him in his office aforesaid. Nor shall he be of counsel or attorney in any civil action for or against any executor, administrator or guardian, as such within the county in which said Judge shall reside. And no Register of Probate shall be appointed an administrator or commissioner of insolvency, appraiser or divider of, or upon any estate, or in any manner be interested in the fees and emoluments arising therefrom; or be of counsel, or in any way, directly or indirectly, act as an attorney in any matters and things whatsoever, which are or may be pending in the Court of Probate, of which he is Register, or in any appeals therefrom.

Register not to be administrator, appraiser, &c. nor counsel.

SEC. 5. *Be it further enacted,* That the Judges of Probate, in the respective counties shall have certain fixed days for the making and publishing of their orders and decrees; and such days shall be made known by public notifications thereof in the several counties; and all orders and decrees of Judges of Probate shall be made in writing and duly recorded.

Judges to have stated court days.

SEC. 6. *Be it further enacted,* That the Supreme Judicial Court shall be the Supreme Court of Probate, and shall have appellate jurisdiction of all matters determinable by the Judges of Probate in their respective counties; and all appeals from any order or decree of a Judge of Probate, shall be to the said Supreme Court of Probate accordingly.

Sup. Judicial Court to be appellate Court from Probate.

SEC. 7. *Be it further enacted,* That after the decease of any person intestate, administration of such intestate's goods and estate shall be granted unto his widow or next of kin upwards of twenty-one years of age, or to both, as the Judge of Probate shall think fit, within thirty days; and an inventory shall be taken of all the real estate, goods and chattels, rights and credits of the deceased, within three months, by three suitable persons, appointed by the Judge of Probate, who shall be sworn to the faithful discharge of their trust; and when any part of such estate lies without the limits of the county, in which the Judge of Probate lives, who has jurisdiction of the settlement of such estate, he may appoint three suitable persons, within the county where such estate may be, to take an inventory thereof, who shall be sworn in manner as aforesaid. And after the expiration of thirty days from the death of any person intestate, in case the widow or next of kin shall refuse or neglect to take out letters of administration, being cited before the Judge of Probate for that purpose, if resident within the county, the said Judge of Probate may commit administration of such estate to some one or more of the principal creditors; and in case of their refusal to such other person or persons as the said Judge shall think fit. And every administrator shall, before entering up-

Administration—to whom granted;

inventory, &c. appraisers, how appointed.

Court of Probate of the said county of _____; making request to have it allowed and approved accordingly; if the said _____ above bounden, being thereunto required, do render and deliver the said letter of administration, (approbation of such testament being first had and made,) into the said Court; then the before written obligation shall be void and of none effect, or else shall abide and remain in full force and virtue.

Sealed and delivered }
in presence of us, }

SEC. 8. *Be it further enacted,* That when any person who has died or shall die intestate without the State, shall leave estate of any description within the same to be administered, any person interested in such estate shall be entitled to letters of administration thereon in like manner as if such intestate had died within the State; and the Judge of Probate of any county, wherein such estate shall be found, shall have power to grant such letters of administration accordingly, which shall extend to all the estate of such intestate within the State, and the same estate shall be settled in the county where such letters of administration shall have been first granted; and after such letters shall have been granted and notice thereof given by the administrator in like manner as in other cases, any new letters of administration on the same estate shall be void.

Administration may be granted on the estate of persons dying out and leaving estate within the State.

SEC. 9. *Be it further enacted,* That in all cases wherein by law bonds are required to be given to any Judge of Probate, or to be filed in the Probate Office, it shall be the duty of the said Judge first to examine and approve of such bonds, and upon their being so approved, but not otherwise, the said Judge shall order the same to be filed or recorded in the Probate Office.

Judge to examine and approve all Probate bonds.

SEC. 10. *Be it further enacted,* That every administrator shall be held to account with the Judge of Probate for the personal estate of the deceased, as the same shall be appraised, unless the said Judge shall think it will be more for the benefit of the parties interested, otherwise to dispose of the same, in which case the said Judge shall order the same or any part thereof, to be sold at public auction, or at private sale in such manner as he shall determine will best serve the interest of all parties interested; and the administrator shall account for such estate as the same shall have been sold: *Provided always,* That such sale shall be ordered within the term of three months from the return of the inventory, and not afterwards, unless the said Judge of Probate, shall for special reasons, think proper to allow a further term not exceeding six months.

Administrators to account for personal estate as appraised, unless sold by order of Judge.

If sold, to be within three months from return of inventory.

SEC. 11. *Be it further enacted,* That whenever any executor or executors of the last will of any person deceased, knowing of their being so named and appointed, shall neg-

Will to be filed in Probate office within thirty days.

ter decease of
testator ;

Forfeiture for
executor's neg-
lect,

and how recov-
ered.

Judge may
grant admin-
c. t. a. in case
of executor's
refusal, &c.

Judge may
grant dedimus
to take depositions
of witnesses
to wills in
certain cases.

Judge may ap-
prove of will in
certain cases,
on testimony of
one or more
witnesses.

Copy of will
proved in for-
eign Courts
may be filed,
&c. in Probate
Court of coun-
ty where estate
may be that is
divided.

lect to cause such will to be filed within thirty days next after the death of the testator in the Probate Office of the county where he last dwelt, and proved and recorded within such time as the Judge of Probate shall limit and appoint ; or present the said will, and in writing declare his, her or their refusal, every executor so neglecting his or her trust and duty in that behalf, (without just excuse made and accepted by the Judge of Probate for such delay,) shall forfeit a sum not exceeding sixteen dollars a month, from and after the time limited as aforesaid, until he, she or they shall cause said will to be filed and probate thereof to be made, or present the same as aforesaid ; and such forfeiture shall be had and recovered by any party interested in the estate devised by such will, and by no other person, by action of debt in the Circuit Court of Common Pleas, holden within and for the county where such will ought by law to be proved ; and in case of such forfeiture being incurred as aforesaid, judgment may be rendered by the Court for any sum not exceeding sixteen dollars a month as aforesaid, for and during the time of delay above mentioned ; and upon any such refusal of the executor or executors, the Judge of Probate shall commit administration of the estate of the deceased, with the will annexed, unto the widow or next of kin to the deceased, or one or more of the devisees, or in case of their refusal, to one or more of the principal creditors, as he shall think fit.

SEC. 12. *Be it further enacted,* That when a will shall be offered for probate to any Judge of Probate in this State, and the witnesses live out of the State, or more than thirty miles distant, or by reason of age or indisposition of body are unable to appear and give evidence in Court, the deposition of such witness in writing taken before any person or persons duly authorized by dedimus potestatem by such Judge of Probate, shall have the same force and effect as though the witness was present, and testified in open Court.

SEC. 13. *Be it further enacted,* That where it shall clearly appear to the Judge of Probate either by the consent of heirs at law in writing, or by other satisfactory evidence, that there is no objection to the Probate of any will, it shall be lawful for the said Judge, at his discretion, to decree probate thereof, upon the testimony of one or more of the three subscribing witnesses required by law, as the said Judge shall think proper, whether such witnesses are within the process of the said Judge or otherwise.

SEC. 14. *Be it further enacted,* That when the executor or any other person interested in a will that has been proved and allowed in a Court of Probate in any of the United States, or in a Court of Probate in any other State or Kingdom, pursuant to the laws of such State or Kingdom, shall produce a copy of such will, with a copy of the probate thereof, under the seal of the Court where the same will has

been proved and allowed, unto any Judge of Probate in any county in this State, where the testator had estate, real or personal, whereon the same will may operate, and shall, in writing desire the same may be filed and recorded in the Probate Office in the same county, pursuant to this statute, the said Judge shall assign a time and place for taking the same into consideration, and shall cause notice thereof to be made in some public newspaper three weeks successively, thirty days at the least before the time assigned, to the end that any person may appear and shew cause against the filing and recording the same; and if at the time assigned no sufficient objection is made, the said Judge may cause the same copy to be filed in the Probate Office, and direct the same to be there recorded; saving always an appeal to any person aggrieved, to the Supreme Court of Probate. *And provided further,* That nothing in this Act shall be construed to make valid any will or codicil that is not attested and subscribed in the manner the laws of this State direct, nor to give operation and effect to the will of an alien different from that which such will would have had before the passing of this Act.

Notice to be given.

Appeal allowed.

Proviso as to operation of such wills.

SEC. 15. *Be it further enacted,* That every executor named in a will hereafter to be proved, and taking upon himself that trust, shall give bond to the Judge of Probate with sufficient sureties, resident in this State to return upon oath a true and perfect inventory of the testator's estate into the Probate Office within three months, and to render an account of his proceedings thereon, in the same manner administrators are by law obliged to do, unless such executor or executors are residuary legatees; in which case bond may be given by him or them to pay the debts and legacies of the testator; and in case such executor or executors shall neglect or refuse, for the space of twenty days, to give bond as aforesaid, the Judge of Probate may commit administration of the estate of such testator, with the will annexed, to some other person, in like manner as he may grant the same when the executor refuses the trust; and when the executor is under the age of twenty-one years at the time of the probate of the will, administration may be granted with the will annexed during the minority of such executor. And where there are divers persons named executors, in any will hereafter to be proved, none shall act as such, but those who give bond as aforesaid.

Executor give bonds to return inventory, &c.

or to pay debts and legacies.

Proceedings in case of neglect of executor.

and when he is a minor,

and when there are divers executors, &c.

SEC. 16. *Be it further enacted,* That when any person who shall hereafter be appointed executor of any will, shall, at the time of the probate of the same, live without this State, he shall before letters testamentary are issued to him, enter into bonds to the Judge of Probate for the county in which the testator lived, with sufficient sureties, being inhabitants of the said State, for his faithful performance of the trust

Executor living without the State, to give bond in county where testator lived, &c.

reposed in him: and if such executor shall refuse to enter into such bonds, administration shall be granted with the will annexed, in the same manner as if such executor declined the trust.

Effect of filing and recording copies of wills proved out of State.

SEC. 17. *Be it further enacted,* That where the copy of any will which has been proved and allowed in any Probate Court in any of the United States or in any foreign State or Kingdom, shall be directed to be filed and recorded in any Probate Court in this State pursuant to this Act, the filing and recording thereof shall be of the same force and effect as the filing and recording of an original will proved and allowed in the same Court of Probate; and the said Judge may thereupon proceed to take bond of the executor, or grant administration of the said testator's estate, lying in this State, with the will annexed, and settle the said estate in the same way and manner as by law he may or can the estates of testators, whose wills have been duly proved before him.

What notice must be given by executors and administrators of their appointment.

SEC. 18. *Be it further enacted,* That whenever an executor or administrator shall be appointed to the estate of any person deceased, and shall take upon himself that trust, by giving bond faithfully to discharge the duties thereof, as the law directs, he shall make known the same within three months, by causing notice thereof to be posted up in some public place in the town or plantation where the deceased was resident, and had his home at the time of his death; and shall also give such further notice thereof as the Judge of Probate shall in writing direct. And if the deceased was neither an inhabitant nor resident within this State at the time of his death, the executor or administrator shall give such notice of his undertaking that trust, as the Judge of Probate that issued the letter of administration, or approved the will, shall in writing direct: and affidavit of the executor or administrator made and filed in the same Probate Office, within seven months after undertaking that trust, accompanied with an original notification, (or a copy thereof,) of his undertaking that trust, and recorded in the Probate Office, shall be admitted as evidence of the time, place and manner notice was given.

Mode of perpetuating evidence of such notice.

Executors and administrators living out of State, or removing after appointment, and neglecting to render account,

SEC. 19. *Be it further enacted,* That when any executor of any last will and testament, or administrator of an estate, shall reside without this State at the time of taking upon him that trust, or shall afterwards remove out of this State and shall neglect or refuse, after due notice from the Judge of Probate to render his account and make a settlement of such estate with the creditors, legatees or heirs, or their legal representatives; or when any executor or administrator shall become insane, or otherwise incapable of, or evidently unsuitable to discharge the trust reposed in him, the Judges of Probate in their respective counties within this State, are authorized and empowered to remove from office such executor

or becoming insane or unsuitable, may be removed.

or administrator and grant letters of administration, with the will annexed, (or otherwise as the case may require,) to such person as to the said Judge shall seem meet. And the administrator thus appointed shall have the same power and authority to administer the estate of the deceased, not administered by such former executor or administrator, and be subjected to the same duties as if the executor or administrator were dead. And when a feme sole shall jointly with one or more persons, be appointed executrix, or administratrix, and after such appointment shall during the life of the other co-executor or co-administrator marry, such marriage shall not make the baron an executor or administrator in her right; but shall operate as an extinguishment or determination of such woman's power and authority. And the other executor or executors, administrator or administrators, may proceed to discharge the trust reposed in them in the same way and manner as if such woman were dead. And the executor of an executor, shall not in consequence thereof, become an executor of the first testator; but in every such case, administration may be granted upon the goods and estate of the first testator, unadministered, with the will annexed, to such person or persons as the Judge of Probate may think fit. And where there is more than one executor or administrator, and any or either of them shall be removed from office by the Judge of Probate for any of the causes mentioned in this section, the other executor or executors, administrator or administrators, may proceed to discharge the trust reposed in him or them, in the same manner, as if said executor or executors, administrator or administrators so removed were dead; and may bring actions of account against them, and recover by any proper legal process such effects, and assets as remain in their hands unadministered at the time of their removal.

Feme sole appointed co-executor shall lose her authority by intermarriage.

One or more executors, &c. may be removed in case, &c.

Sec. 20. *Be it further enacted,* That no administration of the goods or estate of any deceased person, not administered upon by a former executor or administrator, shall be granted until it shall evidently appear to the Judge of Probate, by the oath of the party applying or otherwise, that there is personal estate of such deceased person to the amount of twenty dollars or upwards, or debts of the like or greater value due from such deceased person unpaid, nor shall administration be originally granted upon the estate of any deceased person after the expiration of twenty years from the death of such person.

No administration de bonis non to be granted unless there be personal estate of 20 dollars value, or debts to that amount; nor originally after twenty years.

Sec. 21. *Be it further enacted,* That when an executor or administrator shall exhibit a claim in writing, against his testator or intestate, to the Judge of Probate, having cognizance thereof for allowance, and the same shall be disputed by any person interested adversely in the allowance thereof, it shall be lawful for the said executor or administrator, and the legatees or heirs whose interest will be affected by

Disputed claims of executor or administrator may be referred before Judge.

the issue thereof, to submit the determination of such claim to referees who may be mutually agreed upon by the parties interested; and the Judge of Probate, before whom such submission is made, may receive, approve and allow the report of such referees, made in writing pursuant to the submission, and decree accordingly, *Provided*, The submission be made in writing, and signed by all the parties interested therein, or their agents duly authorized thereunto, and when any of the parties are minors, by his or their guardians duly appointed,

Submission to be in writing, &c.

Judges of real estate to be appointed by Committee appointed by Judge.

Administrator or executor to account for such income as appraised.

Judges may compel by citation, &c. persons entrusted with estate by executors or administrators to disclose on oath, &c.

Judges may call before them, &c. persons suspected of concealing or embezzling estate of persons deceased.

Judges may punish persons refusing to disclose, &c. by committing.

SEC. 22. *Be it further enacted*, That when a dispute shall arise respecting the occupation, use and improvement of real estate in the hands of the executor or administrator, and the quantum he ought to credit in his account therefor, it shall and may be lawful for the Judge of Probate to appoint three disinterested persons living near the estate, to ascertain the true value thereof; and the report of them, or the major part of them, made thereupon, in writing, after hearing the parties and accepted by the Judge, shall be the sum the executor or administrator shall be charged with, in his account, and no more.

SEC. 23. *Be it further enacted*, That the several Judges of Probate be, and hereby are empowered to convene before them any person that has been or may hereafter be entrusted by any executor or administrator with any part of the estate of the testator or intestate, who shall refuse upon a citation issued by the Judge of Probate for that purpose, to appear before him, and render a full account upon oath of any money, goods or chattels, and of any bonds, accounts or other papers belonging to the estate of the testator or intestate, which he shall have taken into his hands or custody, and of his proceeding for and in behalf of such executor or administrator in his capacity as such. And if such person shall refuse to render account as aforesaid, such Judge may proceed against him in the way and manner herein directed for persons suspected of concealment, who refuse to answer interrogatories upon oath.

SEC. 24. *Be it further enacted*, That each Judge of Probate within his county, be, and hereby is authorized and empowered to call before him and to examine upon oath, any person suspected by any executor or administrator, heir, creditor, legatee or other person having lawful right or claim to the estate of any person deceased, of having concealed, embezzled, or conveyed away any of the money, goods, or chattels left by the testator or intestate, for the discovery of the same. And if the person suspected as aforesaid, shall refuse to be examined, or to answer interrogatories, upon oath, respecting the estate which he or she may be suspected of concealing, embezzling or conveying away, it shall and may be lawful for, and the said Judge is hereby empowered to com-

mit such person, so refusing to be examined or answer interrogatories upon oath as aforesaid, unto the common gaol in the county, there to remain until he or she shall consent to be examined and answer interrogatories upon oath as aforesaid, or be released by the consent of the person suspecting him or her, or by order of the Supreme Judicial Court.

Sec. 25. *Be it further enacted,* That when the estate of any person deceased shall be insolvent or insufficient to pay all just debts, which the deceased owed, the same shall be distributed to and among all the creditors in proportion to the sums to them respectively due and owing, saving that debts due for taxes, and debts due to the State, and for the last sickness and necessary funeral expenses of the deceased, are to be first paid. And the executor or administrator appointed to any such insolvent estate before payment to any be made, (except as aforesaid,) shall represent the condition and circumstances thereof unto the Judge of Probate. And the said Judge shall nominate and appoint two or more fit persons to be commissioners, with full power to receive and examine all claims of the several creditors; and such commissioners shall cause the times and places of their meetings to attend the creditors for receiving and examining their claims, to be made known by causing an advertisement thereof to be printed in such public newspaper or papers, or by such other notice as the Judge of Probate shall direct; and six months and such further time not exceeding eighteen months in the whole, shall be allowed by the said Judge to the creditors to bring in and prove their claims; at the end of which limited time, such commissioners shall make their report, and present upon oath a list of all the claims that shall have been laid before them, with the sum they shall allow on each claim unto the said Judge; and the Judge shall order them meet recompense out of the deceased's estate for their care and labor in examining the claims; and the debts due for taxes, and debts due to the State, debts incurred for the last sickness of the deceased, and necessary funeral expenses as afore provided, being first deducted, shall order the residue and remainder of the estate both real and personal, (the real estate being sold according to law,) to be paid and distributed to and among the creditors who shall have made out their claims with the commissioners as aforesaid, in proportion to the sums unto them respectively due and owing, saving unto the widow her right of dower in the real estate of the deceased, which dower, (unless the reversion shall be sold by the executor or administrator, and distributed with the other estate which the Judge may order if he see fit, upon application therefor,) at the expiration of her term shall also be distributed among the creditors aforesaid in like proportion: *Provided,* That notwithstanding the report of any commissioners, any creditor whose claim is wholly or in part rejected, may have the same determined at

Insolvent estates to be distributed *pro rata* among all the creditors; excepting that taxes, &c. are to be paid in full.

Commissioners to receive and examine claims to be appointed; and to make known their time of meeting, &c.

From 6 to 18 months to be allowed to creditors, by the Judge, for proving their claims.

Compensation for commissioners.

Estate real and personal to be distributed among creditors, as allowed, &c.

Saving widow's dower.

Reversion may be sold.

Creditor whose claim is not allowed by commissioners may have it deter-

mined at common law.

Mode of proceeding in such cases.

Or such claims may be determined by referees.

No actions against executor or administrator of estate rendered insolvent to be sustained, unless, &c.

Actions brought before estate is rendered insolvent, to be continued, &c.

Creditors not making out their claims, &c. as before provided, to be barred unless, &c.

Commissioners to examine creditors under oath, as to their claims.

the common law, in case he shall give notice thereof in writing at the Probate office within twenty days after such report shall be made, and bring and prosecute his action as soon as may be, and in case the executor or administrator shall be dissatisfied with any creditor's claim allowed by the commissioners, and shall give notice thereof at the Probate Office, and also to the creditor, within twenty days as aforesaid, such claim shall by the Judge of Probate be struck out of the commissioners' report, unless such creditor shall commence and prosecute at the common law his claim as aforesaid as speedily as the same can be done, or unless the creditor and the executor or administrator shall agree before the Judge to submit the same to referees; in which case the determination of the referees shall be final; and when a claim shall be disputed in the course of the common law as aforesaid, execution shall not issue as in common cases, but the judgment of the Court respecting the same shall be the amount of the claim, and added to, or deducted from the commissioners' report, as the case may require. And no action brought against any executor or administrator after the estate shall be represented insolvent, shall be sustained, except for debts due to the State, debts due for taxes, for the deceased's last sickness and funeral charges, unless the executor or administrator having objection to the claim upon which such action shall be brought, shall consent to have the same settled by course of law, in which case the judgment of the Court shall determine the said claim, and it shall be reported by the commissioners, or be added to the list of claims by the Judge of Probate. And all actions brought against any executor or administrator before the estate is represented insolvent, shall be continued until it shall appear whether the said estate is insolvent or not; and if found insolvent, the process shall be conducted as above provided. And if any creditor shall not make out his claim with the commissioners within the time of their commission, or at the common law, or before referees, in the manner this Act provides, he shall be forever barred of his debt, unless such creditor shall find some other estate of the deceased not inventoried or accounted for by the executor or administrator before distribution, or unless it shall appear that such estate is not insolvent.

SEC. 26. *Be it further enacted,* That the commissioners who shall be appointed by any Judge of Probate, to receive and examine the claims of the creditors to the estate of any person deceased, when represented insolvent, shall be and are hereby authorized and empowered to examine, by the oath or affirmation of the creditor, the truth of any claims presented; and the said commissioners, when they are sitting by virtue of such commission, and when it shall be adjudged expedient by a majority of them, may require of such creditor an oath or affirmation, as follows:

You do swear, (or affirm as the case may be,) that you will make true answers to the questions which shall be asked you by the commissioners relative to your claim against the estate of — — —, (naming the deceased insolvent debtor,) now under consideration. So help you God, (or this you do under the pains and penalties of perjury, as the case may be.) And thereupon such commissioners may inquire of the truth of any writing, demand, or the charges in any accounts exhibited as a claim against such insolvent estate, and whether the same and every part of such claim remains due and unpaid, and may put such other questions relative thereto, as shall be material and tend to discover the truth of such claim.

Form of oath.

SEC. 27. *Be it further enacted,* That any person who shall take such oath or affirmation, having been administered as aforesaid, and shall thereupon wilfully and corruptly make any false answer or answers to any question or questions material for the determination of the truth of the claim, in proof of which such oath or affirmation shall have been taken, and shall be thereof duly convicted, shall be adjudged guilty of the crime of perjury, and shall be liable to the pains and penalties which are or shall be by law inflicted for the punishment of such crime.

Violation of such oath to be deemed perjury.

SEC. 28. *Be it further enacted,* That whenever any executor of the last will, or administrator upon the estate of any person deceased, shall neglect to exhibit and settle his account of administration with the Judge of Probate where the estate has been represented insolvent, and commissioners have reported to the Judge a list of claims, within six months after such report shall be made to the Judge, or within such further time as the Judge of Probate shall think proper to allow therefor, under his hand and seal, any creditor to such estate may commence and prosecute any action, or may prosecute any action then depending, for his demand against such executor or administrator; and the Court before whom such action may be depending, shall proceed to hear and determine the same and give judgment therein, and award execution thereon, in the same manner as if such estate had not been represented insolvent. And upon the return of such execution, duly made, that the executor or administrator refused or neglected upon due request, to satisfy the same, such refusal or neglect shall be deemed waste; and upon scire facias brought, judgment shall be rendered in favor of such creditor, to recover his debt with costs, and execution shall be awarded against the proper goods or estate of such executor or administrator, and for want thereof, against his body. And if in consequence of such refusal or neglect, the real estate of the deceased shall be levied upon and taken to satisfy such execution, it shall in like manner be deemed waste in the executor or administrator upon such estate.

When executor or administrator neglects to settle his account for six months after final report of commissioners, creditor may sue or prosecute the executor or administrator:

and Court shall give judgment and execution.

If such execution be returned unsatisfied, &c.

scire facias to be issued to recover against executor or administrator for waste.

If real estate of deceased be taken on such execution it shall also be deemed waste.

SEC. 29. *Be it further enacted,* That when any executor

If executor, &c. neglect to raise money, &c. to pay debts so that deceased's estate be taken on execution—it shall be deemed waste.

Executor or administrator of deceased credit or may join with other creditors in compounding with debtors, in certain cases—by consent of Judge.

Judge may cause real estate in one or more counties to be divided among heirs or devisees :

Mode of proceeding where estate cannot be divided among all the heirs without injury, &c.

No conveyance by heirs or devisees to pre-

or administrator shall neglect or unreasonably delay to raise money out of the testator's or intestate's estate, or shall neglect to pay what he has in his hands, and by such neglect or delay shall subject the testator's or intestate's estate to be taken in execution, the same shall be deemed waste and unfaithful administration in such executor or administrator.

SEC. 30. *Be it further enacted,* That whenever it shall appear to any Judge of Probate, that any debtor to any estate, within his jurisdiction, is unable to pay all his just debts, and that it is reasonable that his creditors should discharge him from all demands, upon their receiving from him a fair and equitable dividend of all his estate, it shall be lawful for the executor or administrator of any deceased creditor, by the consent and approbation of such Judge, to join with those creditors who may agree in such discharge, and to sign the same upon such executor or administrator's receiving a just portion of said debtor's property to which the said deceased creditor would have been entitled.

SEC. 31. *Be it further enacted,* That whenever in the settlement of the estate of any person deceased, there shall be any real estate to be divided among his or her heirs or devisees, the Judge of Probate having jurisdiction of the settlement of such estate, shall by warrant directed to a committee of three discreet and disinterested freeholders, who shall be under oath, cause such real estate situated in one or more counties in the State to be divided among the heirs or devisees of the person deceased, pursuant to his or her will or to the laws regulating the descent and distribution of intestate estates, as the case may be ; and where such real estate cannot be divided among all the heirs or devisees, or their legal representatives, without great prejudice to, or spoiling the whole, the said Judge may assign the whole to one, or to so many of the heirs or devisees as the same will conveniently accommodate, always having due regard to the terms of any devise there may be in the case, and also preferring males to females, and among the children of the deceased, elder to younger sons ; and if any heir or heirs, devisee or devisees to whom any real estate shall be so assigned, shall not accept the same and make, or secure payments to be made, as the said Judge of Probate shall direct, then, and in such case the same may be so assigned to one or more of the other heirs or devisees successively ; in every case the heir or heirs, devisee or devisees to whom the same estate shall be assigned as aforesaid, paying to the other heirs or devisees, their heirs or assigns, their proportionable shares of the true value thereof on an appraisement to be made by such committee, or giving such sufficient security to pay the same, and in such convenient time or times, as the said Judge of Probate shall direct, with lawful interest until paid. And no conveyance made by any heir or devisee, of his or her interest or estate in the

lands of any testator or intestate, shall take from such Judge of Probate his jurisdiction and authority to divide and assign the real estate of any testator and intestate among his or her heirs or devisees, in manner aforesaid.

vent division under authority of Judge.

SEC. 32. *Be it further enacted,* That when the Judge of Probate shall issue such warrant for the purposes aforesaid, or for the assignment of dower in any such real estate, and such real estate shall lie in common and undivided with that of any other person or persons, the said Judge shall direct the committee named in such warrant, first to sever and divide the estate of the deceased from that of such other person or persons, the said committee first giving timely notice to all parties interested in said estates, that they may be present if they see fit at the making of any such divisions.

When dower is to be assigned, or partition ordered, and such estate lies in common, Judge to order the deceased's estate to be severed, by committee, they giving notice, &c.

SEC. 33. *Be it further enacted,* That such division of any such real estate, made as aforesaid, and accepted by the said Judge of Probate, and recorded in the Probate Office of the same county shall be binding on all persons interested: *Provided nevertheless,* That when any minor, or any person non compos mentis, or otherwise incapable to take care of their estates, or any persons who shall be out of the State, are interested either in the estate of such deceased person, or in the estate with which it so lies in common, guardians shall be appointed for such minors, persons non compos, or otherwise incapable; and some suitable person shall be appointed for such absent persons by the said Judge before such division, to represent and act for them respectively in the making thereof: *And provided also,* That before an order for such division shall issue, it shall be made to appear to the said Judge of Probate, that the several persons interested in such estate, if living within the State, and the attorney, if any, or other suitable person or persons, appointed as aforesaid, of such as may be absent from the State, have had such due notice of such partition as the said Judge shall have ordered and have had opportunity to make their objections to the same: *Provided also,* That where an estate is devised, it shall be lawful for the said Judge to order the whole or that part of it whereof partition is applied for, to be divided among the devisees, according to their true proportions thereof, by said committee.

Such division recorded, &c. to be binding.

Provision for appointment of guardians for minors, &c. and agents for persons absent.

Notice to be given before ordering such division

Division to be in whole or part, &c.

SEC. 34. *Be it further enacted,* That every committee appointed to make division as aforesaid, and the appraisers and commissioners appointed by the Judge to perform any service respecting the estate of any person deceased, or persons appointed to set off the widow's dower therein, and by law directed to be under oath, may be sworn before the Judge of Probate appointing them, or before some Justice of the Peace; and in case there shall be no Justice of the Peace in the town where such estate may lie, then before the Town Clerk of such town; and a certificate of such oath shall be return-

Committee, appraisers, commissioners, &c. to be under oath.

ed by such Justice or Town Clerk, to the Probate Office from which the warrant to such committee, appraisers or commissioners, shall have issued.

Partitions of real estate so made and accepted, to be valid, unless altered on appeal.

No partition to be ordered by Judge, when proportions, &c. appear to be uncertain or disputable.

SEC. 35. *Be it further enacted*, That all such partitions of real estate made, accepted and recorded as aforesaid, shall be valid in law to all intents and purposes, unless upon the appeal of any party aggrieved thereby, the same should be reversed or altered by the Supreme Court of Probate ; but no partition shall be ordered by any Judge of Probate under this Act, when the proportions of the heirs or devisees, or any of them shall be disputable by the tenor of the will in the case, or any other matter in writing from which it shall appear that the proportions are uncertain, and ought in the opinion of said Judge first to be legally ascertained.

When message, &c. is of greater value than one's share, committee may assign it to one, he paying the surplus to the party deficient.

SEC. 36. *Be it further enacted*, That when any message, tract of land or other tenement, shall be of greater value than the share of any party in any real estate, to be divided as aforesaid, and the same message, tract of land, or other tenement, cannot without great inconvenience be sub-divided, the same may be assigned to one of the parties only, such party paying such sum or sums of money to the other parties, who in consequence thereof have less than their shares of such real estate so divided, as the committee appointed to divide the same shall award, and at such time and manner as the Judge of Probate shall direct.

Parties refusing to pay their proportion of the expenses of partition may be compelled by warrant of distress from Judge ; the account of expenses being first allowed.

SEC. 37. *Be it further enacted*, That when any partition shall be made as aforesaid, and any one or more of the parties interested in the estate descended or devised, shall neglect or refuse to pay their just proportion of the charges attending the same partition, it shall be lawful for the said Judge of Probate to issue a warrant of distress against such delinquent for the amount of such proportion and costs of such process : *Provided always*, That an account of such charges be first exhibited to the said Judge, and the just proportion of such party so interested, be settled and allowed, such party having had due notice to be present at the settlement and allowance thereof.

Reversion, &c. may be divided.

SEC. 38. *Be it further enacted*, That in case of any division and settlement of real estate, pursuant to the warrant of a Judge of Probate in manner aforesaid, it shall be lawful for such Judge to order a division of the reversion and remainder expectant upon determination of any estate in dower in like manner as the division of the other parts of such estate : and the division of such reversion and remainder shall be ordered and made, either at the same time with the division of the other parts of such real estate, or upon the determination of the estate in dower, at the discretion of the said Judge, whether such estate in dower shall be determined by the decease of the tenant in dower, or by the voluntary relinquishment thereof, or in any other manner.

SEC. 39. *Be it further enacted,* That in the settlement of intestate estates, whether they be solvent or insolvent, the widow shall be entitled to her apparel, and such other and so much of the personal estate as the Judge of Probate shall determine necessary, according to her quality and degree; regard being had to the state of the family under her care. And in cases where such allowances shall have been made from intestate estates, represented to be insolvent, which ultimately appear to be solvent, the Judges of Probate be, and hereby are respectively authorized by a subsequent decree to make such further allowances to the widow from the personal estate of her husband, having regard to what shall have been allowed as he shall deem reasonable. And whenever a testate estate shall be insolvent, the Judge of Probate shall have the same authority to allow personal estate to the widow as he possesses in case of estates intestate; and in all cases of insolvency of estates whether testate or intestate, if there be no widow, the Judge of Probate shall have the like authority to make an allowance of personal estate to the children of such deceased persons who are minors.

Widow entitled to necessities, &c. in settlement of intestate estates, solvent or insolvent.

Further allowance in case.

In estates testate and insolvent allowance to widow.

In all insolvent estates where there is no widow, allowance may be made to minors of personal estate.

SEC. 40. *Be it further enacted,* That all gifts or grants made by the intestate, to any child or grand child, of any estate, real or personal in advancement of the portion of such child or grand child, and which shall be expressed in such gift or grant, or otherwise charged by the intestate in writing, or acknowledged in writing by the child or grand child, as made for such advancement, such estate, real and personal shall be taken and estimated in the distribution and partition of the intestate's real and personal estate as part of the same, and the estate so advanced, shall be taken by such child or grand child towards his share of the intestate's estate. And the value at which such estate shall be so taken, shall be the same as above expressed or charged by the intestate, or acknowledged by the child or grand child, if any value be so expressed, charged or acknowledged, otherwise at the value thereof when given.

Advances, &c. made to children, &c. shall be estimated in partition and distribution of estates intestate.

Mode of estimating.

SEC. 41. *Be it further enacted,* That in the distribution of the personal estate, alienage in the person claiming a distributive share thereof, as issue, widow or otherwise, shall be no impediment to such person's receiving the same.

Alienage no impediment to receiving share of personal estate.

SEC. 42. *Be it further enacted,* That whenever any heir or legatee shall be entitled to demand any distributive share or legacy in any estate, the executor or administrator of such estate may, before payment of such distributive share or legacy, require bonds to be given to himself, if the Judge of Probate shall deem it reasonable, with such surety or sureties as the said Judge shall approve, by the parties or any of them who shall demand payment of such distributive shares or legacies, with condition, that the party or parties, to whom the same shall be paid, shall refund a proportional part of

Executor or administrator may require bond of indemnity from heirs, &c. demanding share or legacy if Judge deem it reasonable before payment.

such estate, or otherwise indemnify such executor or administrator against any demands which may be made against the testator or intestate respectively.

Executor, if residuary legatee may have action of account against co-executor.

SEC. 43. *Be it further enacted,* That any executor being a residuary legatee, may bring an action of account against his co-executor or co-executors of the estate of the testator in his or their hands, and may also sue for, and recover his equal and proportionable part thereof; and any other residuary legatee shall have like remedy against the executors. And any person having a legacy given in any last will, may sue for, and recover the same at the common law.

Residuary and other legatees may sue executor at common law.

Who shall be considered executors in their own wrong.

SEC. 44. *Be it further enacted,* That if any person shall alienate or embezzle any of the goods or chattels of any deceased person before he or she have taken out letters of administration, and exhibited a true inventory of all the known estate of the person deceased, every such person shall stand chargeable and be liable to the actions of the creditors and other persons aggrieved, as being executors in their own wrong.

One administrator may in certain cases have an action of account against his co-administrator.

SEC. 45. *Be it further enacted,* That where two or more persons have letters of administration granted them of any intestate estate, and one or more of them take all or the greatest part of such estate into their hands, and refuse to pay the debts or personal charges of such intestate, or refuse to account with the other administrator, then, and in such case it shall be lawful for such aggrieved administrator to bring his action of account against the other administrator or administrators, and recover his proportionable share of such intestate's estate as shall belong or appertain to him.

Judge to allow guardians to be chosen by minors of 14 years of age, and to appoint guardians to those under 14. Guardians to give bond; to return inventory account, &c.

SEC. 46. *Be it further enacted,* That the Judge of Probate in each county be, and he is empowered to allow of guardians that shall be chosen by minors of fourteen years of age, and to appoint guardians for such as shall be under that age, who shall give bond with sufficient sureties resident in this State, for the faithful discharge of their trust, to return a true and perfect inventory of the estate of such minor upon oath within three months, and to account either with the Judge or minor when such minor shall arrive to the age of twenty-one years, or at such other time as the Judge shall direct.— And when any minor above the age of fourteen years shall be cited by the Judge of Probate to choose a guardian, and such minor shall refuse or neglect to appear, or appearing, shall refuse to choose a guardian, or any guardian chosen by such minor shall be unable to give bond as aforesaid, or shall refuse the trust; or when any minor above the age of fourteen years shall be without this State, in every such case the Judge of Probate shall have the same power to appoint a guardian as though such minor were under the age of fourteen years: *Provided nevertheless,* That when a minor above the age of fourteen years living more than ten miles distant from the

Minors above 14, may, if more than 10 miles distant

Probate Office, shall choose a guardian, such minor may have that choice certified to the Judge by any Justice of the Peace in the same county: *Provided*, No executor or administrator on an estate, shall be appointed guardian to any minor interested therein.

from Probate Office, have their choice certified by Justice of Peace, &c.

SEC. 47. *Be it further enacted*, That every guardian, who shall be appointed to any minor having real estate, goods and chattels, rights or credits, shall be required to return upon oath into the Probate Office, a true and perfect inventory of all such real estate, goods and chattels, rights and credits, within three months.

Guardians to minors to return inventory in 3 months.

SEC. 48. *Be it further enacted*, That the guardian of any minor having a right in reversion or remainder in and to any estate set off to the widow of any deceased person, as and for her dower, may, with the consent of the Judge of Probate having jurisdiction of the settlement of such estate, purchase from the tenant in dower or her assigns, her or their interest in the same, for the benefit of such minor, and from his or her personal estate. And all monies, so applied, may by such guardian, be charged to such minor in account; and all the rents and profits of such estate shall be credited to the minor, in like manner as the rents and profits, which arise from his or her other estate: *Provided always*, That it be satisfactorily proved to the Judge of Probate, that such purchase will be for the manifest advantage of such minors.

Guardians may, in certain cases purchase of tenant in dower her right for benefit of minor owning the reversion or remainder.

Proviso.

SEC. 49. *Be it further enacted*, That the Judges of Probate, within their respective counties, upon request made by the friends, relations or creditors of any idiot, *non compos*, or lunatic person, or by the Overseers of the poor in such town where such idiot, *non compos*, or lunatic person lives, or is an inhabitant, may direct the Selectmen of such town to make inquiry thereinto, and if the person said to be an idiot, lunatic or distracted person, shall be adjudged by the Selectmen of the town, (or the major part of them,) where such person resides, to be incapable of taking care of him or herself, and they shall certify the same under their hands, to the Judge, the said Judge of Probate after giving due notice to such idiot, *non compos*, or lunatic person, shall be empowered to appoint some suitable person or persons to be guardian or guardians to such idiot, lunatic, *non compos*, or distracted person, directing and empowering such guardian or guardians to take care of the person and estate, both real and personal, of such person, to make a true and perfect inventory of the said estate upon oath, to be returned into and filed in the Probate Office in such county.

Judges to appoint guardians to non compos, lunatic, idiot, &c.

if Selectmen, after inquiry, certify them to be incapable, &c.

Guardians, so appointed, to take care of the persons and estate, and return inventory, &c.

SEC. 50. *Be it further enacted*, That the Judges of Probate in their respective counties, are authorized and empowered, upon the complaint of any heir, creditor or other person having lawful right or claim in expectancy to the estate of any idiot, lunatic, *non compos*, or distracted person, or the guardian

Proceedings against persons suspected of embezzlement of property belonging to idiot, non compos, &c.

such estate, or otherwise indemnify such executor or administrator against any demands which may be made against the testator or intestate respectively.

Executor, if residuary legatee may have action of account against co-executor.

Residuary and other legatees may sue executor at common law.

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SEC. 45. *Be it further enacted,* That where two or more persons have letters of administration granted them of any intestate estate, and one or more of them take all or the greatest part of such estate into their hands, and refuse to pay the debts or personal charges of such intestate, or refuse to account with the other administrator, then, and in such case it shall be lawful for such aggrieved administrator to bring his action of account against the other administrator or administrators, and recover his proportionable share of such intestate's estate as shall belong or appertain to him.

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Proviso.

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Judges to appoint guardians to non compos, lunatic, idiot, &c.

if Selectmen after inquiry certify them to be incapable, &c.

Guardians, so appointed, to take care of the persons and estate, and return inventory, &c.

SEC. 50. *Be it further enacted*, That the Judges of Probate in their respective counties, are authorized and empowered, upon the complaint of any heir, creditor or other person having lawful right or claim in expectancy to the estate of any idiot, lunatic, *non compos*, or distracted person, or the guardian

Proceedings against persons suspected of embezzlement of property belonging to idiots, non compos, &c.

or guardians, to proceed with any person or persons suspected of concealing, embezzling, or conveying away any of the money, goods or chattels of such idiot, lunatic, *non compos*, or distracted person, in the same way and manner as is by law prescribed for persons suspected of concealing, embezzling, or conveying away the money, goods or effects of deceased persons.

Guardians of such persons to manage their estate frugally, and support them comfortably—

SEC. 51. *Be it further enacted,* That the guardian or guardians appointed as aforesaid, shall improve frugally and without waste and destruction, the estate of the idiot, *non compos*, lunatic, or distracted person, and apply the annual income and profits thereof for the comfortable maintenance and support of the said idiot, lunatic, *non compos*, or distracted person, and also of his or her household or family; and the said guardian or guardians are hereby empowered to settle accounts, receive, sue for, and recover all just debts due to the said idiot, lunatic, *non compos*, or distracted person, from any person or persons whomsoever, and to manage, improve or divide the real estate in as full and ample a manner as the said idiot, lunatic, *non compos* or distracted person might or could do, were he restored to the full use of his reason; and shall also be subject to the payment of all just debts owing by such person which were contracted before his distraction, out of his personal estate, or in case that be insufficient, then out of the real estate, being first empowered to make sale thereof by any Court having power to grant license for that purpose, in the way and manner executors or administrators are empowered to make sale of the real estate of deceased persons. And in case the income or improvement of the personal and real estate of such persons shall not be sufficient to support them, the Court aforesaid may license and authorize the guardians to make sale of the whole or part of the real estate of such person for that purpose, as occasion may require. And in case any such idiot, lunatic or distracted person shall be restored to the use of his reason, the residue and remainder of the estate, real and personal, shall be returned and delivered to him, or in case of his death, to his heirs, executors or administrators; the guardian or guardians having first such reasonable allowance out of the same for their charge and trouble as the Judge of Probate shall order.

collect debts, &c.

and pay debts previously contracted.

Apply to courts for license to sell real estate, if necessary:

and account with their wards, if restored to reason, &c. or if dead, with their heirs, &c.

Judge may appoint guardians for the children of lunatics, &c.

Judge may appoint guardians to spendthrifts, idiots, &c.

SEC. 52. *Be it further enacted,* That the Judges of Probate in their respective counties may appoint guardians for the children of lunatics, idiots, *non compos*, or distracted persons, in the same manner as though their parents were dead.

SEC. 53. *Be it further enacted,* That when any person by excessive drinking, gaming, idleness or debauchery of any kind, shall so spend, waste or lessen his or her estate, as thereby to expose himself or herself, or his or her family to want; or shall by thus spending, wasting or lessening his or her estate, endanger or expose the town to which he or she belongs.

in the judgment of the Selectmen thereof, to charge or expense for the maintenance or support of him or her, or his or her family, such Selectmen, or the major part of them, shall make a complaint in writing to the Judge of Probate for the county to which the person so spending, wasting or lessening his estate, doth belong; and if it shall appear to the said Judge of Probate, that the person complained of comes within the description of this Act, and has had due notice of the complaint exhibited against him or her, the said Judge of Probate shall appoint the said Selectmen, or the major part of them, or some suitable and discreet person or persons, guardian or guardians, to such person. And whenever the Selectmen of any town, or a major part of them, shall make application to the Judge of Probate for the appointment of a guardian to any person, who by excessive drinking, gaming, idleness, or debauchery, is wasting his estate, and the Judge of Probate shall, by his decree, order notice to the person complained against, the complainants may file a copy of their said complaint, with the order of the Judge of Probate thereon, in the office of the Register of Deeds for the same county, or after the appointment of such guardian, if no such copy shall have been so filed as aforesaid. And in case a guardian shall be appointed by the Judge of Probate to the person complained against, all and every gift, bargain, sale, or transfer of any real or personal estate, made by such person or persons, after the filing of the copy of said complaint and order of the Judge of Probate, with the Register of Deeds, shall be void and of no effect. And the guardian or guardians that may be thus appointed, shall, in discharging the duties of their appointment, pursue the same method, give like bond and be under similar obligations for a faithful discharge of their trust, as guardians appointed for any idiot, lunatic, or for persons *non compos mentis*.

Sec. 54. *Be it further enacted,* That when a feme sole, shall be appointed by any Judge of Probate either by herself, or jointly with any other person or persons, guardian to any person, either minor, idiot, *non compos*, distracted, or lunatic; and after such appointment, shall marry, such marriage shall not make the baron guardian in her right, but shall operate as an extinguishment or determination of such woman's power and authority.

Sec. 55. *Be it further enacted,* That any Judge of Probate may dismiss any guardian of a minor, idiot, *non compos*, or lunatic person, or of persons who spend their estates by excessive drinking, idleness or debauchery, whenever it shall appear to the said Judge, to be necessary or expedient, and to appoint some other guardian in his place: *Provided always,* That no such guardian shall be dismissed as aforesaid, before he shall have had notice in writing, from said Judge, fourteen days at least, before the time of hearing, to appear and show cause, why he should not be so dismissed.

Mode of proceedings in such cases.

Conveyances by spendthrifts after application for guardian to Judge, to be void in certain cases.

Guardians of spendthrifts, &c. subject to like duties, &c. as guardians to idiots, &c.

Feme sole, appointed guardian, to lose her authority by being married.

Judge may dismiss guardians when necessary.

Guardians not to transfer stocks, &c. belonging to their wards without license from Judge of Probate.

SEC. 56. *Be it further enacted,* That before any guardian shall transfer or draw from any loan office, bank, insurance office or other corporation, any loan office certificate, or share in such bank, insurance office, or other corporation, or any stock in any public fund, belonging to the ward of such guardian, it shall be the duty of such guardian to obtain license so to do, from the Judge of Probate of the county where such guardian has been or shall be appointed; and upon neglect thereof, such guardian shall be removed from office, and shall be considered as having forfeited his Probate bond.

Judge may grant *dedimus* to administer oaths to executor, administrator, and guardians in certain cases.

SEC. 57. *Be it further enacted,* That in any case where the oath of an executor, administrator, or guardian, is or may be required by law to be made personally before the Judge of Probate, to an inventory, or to any account which is to be settled by such Judge, and such executor, administrator, or guardian, shall be unable by reason of sickness, bodily infirmity or otherwise, to attend before such Judge, it shall be lawful for such Judge by commission of *dedimus potestatem*, to authorize any disinterested Justice of the Peace to administer such oath, a certificate whereof shall be returned to such Judge, together with such commission and inventory or account and the vouchers to prove the same.

Trustees of estates of minors and others, appointed by will, to give bond to Judge.

SEC. 58. *Be it further enacted,* That all persons who are or may be constituted trustees of any estate, real, personal or mixed, belonging to minors or other persons, to whom such estate has been or may be devised, in trust for such minors or other person, by the last will and testament of any person, shall, except in the cases hereinafter mentioned, give bond to the Judge of Probate of the county in which such last will and testament has been or shall be proved, approved and allowed, with sufficient surety or sureties within the State, in such sum as the said Judge shall order, conditioned for the faithful execution of such trust according to the true intent and meaning of the testator; and that the trustee shall make a true and perfect inventory of the real estate, goods and chattels, rights and credits of such minors or others, to be returned, filed and recorded in the Probate Office of such county at such time as the said Judge shall order, and that the said trustee will annually render an account to the said Judge of the annual income and profits thereof; and at the expiration of such trust will adjust and settle his accounts with the said Judge, and will pay and deliver over all balances and sums of money or other property that may be due, and give possession of the other estate belonging to such minors or others with which such trustees may have been entrusted: *Provided nevertheless,* That no trustee, so long as he shall continue faithfully to execute the trust, shall be obliged to give bond as aforesaid, in any case in which the testator in his last will shall have directed or requested, that such bond should not be given, nor in any case, in which all the cestui que trusts being of full age,

Condition of such bond.

Provisions as to cases in which bonds shall not be required.

and legal capacity, shall signify to the Judge of Probate his or her request, that such bond should not be taken : *And provided also*, That no person appointed a trustee before the passing of this Act, and having entered upon the execution of the trust without having given bond as aforesaid, shall be obliged to give such bond, or be subject to any of the requirements of this Act, unless after being cited to appear before the said Judge upon complaint in writing, it shall appear to the said Judge upon a full hearing, that it is necessary that such bond should be given in order to secure the faithful execution of such trust : *And provided also*, That such bond shall not be required of any such trustee who entered upon the execution of his trust before the passing of an Act, entitled, "An Act requiring the trustees of the property of minors and others to give bond in certain cases," made and passed on the twenty-fifth day of February, in the year of our Lord one thousand eight hundred and eleven, and who has continued and shall continue faithfully to execute his trust : *And provided also*, That nothing in this or in either of the following sections shall be construed to take away any of the powers which are now by law vested in the Supreme Judicial Court.

SEC. 59. *Be it further enacted*, That any person who has been, or shall be constituted a trustee as aforesaid, and who shall neglect or refuse to give bond as aforesaid, shall be considered as having declined the acceptance of such trust ; and the trustee or trustees who may be appointed by the Judge of Probate as is hereinafter provided, shall and may thereupon be authorized to demand and receive of the trustees originally appointed as aforesaid, all such estate as may have come to their hands by virtue of such trust, and to manage, pay and deliver over such property to said minors and others, in the same manner and under the same restrictions, obligations and duties as guardians are now by law obliged to do.

Trustees refusing to give bond, how to be proceeded with.

SEC. 60. *Be it further enacted*, That any trustee appointed either by the testator as aforesaid, or by the Judge of Probate, shall, upon request in writing, to the said Judge, be permitted to resign the trust, first accounting for, and paying and delivering over such estate as shall have come to his hands by virtue of such trust, to such other person as the said Judge shall appoint a trustee in his stead : *Provided always*, That no such resignation, except in the case of an executor or administrator who shall succeed to such trust upon the decease of his testator or intestate, shall be accepted and allowed, unless it shall clearly appear to the said Judge to be expedient and proper.

Trustees in certain cases may resign.

SEC. 61. *Be it further enacted*, That in case any person who has been, or shall be appointed a sole trustee ; or any two or more persons, who have been or shall be appointed joint trustees in any last will, no provision being therein made for perpetuating such trust, and such sole trustee or any one or more

In certain cases of vacancy of one or more trustees by death or otherwise, Judge to appoint others in their places.

of such joint trustees shall decline the acceptance of the trust, or shall die either before or after having accepted the trust, or shall neglect or refuse to comply with the provisions of this Act; the respective Judges of Probate shall, after notice to the cestui que trusts, appoint one or more suitable persons to be trustee or trustees in the place of the trustee or trustees, so dying or declining to accept as aforesaid; and any trustee or trustees appointed by the Judge of Probate shall be holden and bound by the provisions of this Act, in the same manner as if he or they had been so appointed in and by such last will; and the estate, so given in trust by such last will shall vest in the trustee or trustees so appointed by the said Judges of Probate, in like manner to all intents and purposes as the same vested in the original trustee or trustees under such last will.

Judge may remove trustees, whenever disqualified, or unsuitable, and appoint others.

SEC. 62. *Be it further enacted,* That when any trustee, appointed either by any testator or by any Judge of Probate, shall, in the opinion of the Judge of Probate, be disqualified for the discharge of the trust, by becoming *non compos mentis*, or otherwise incapable or evidently unsuitable for the execution of such trust, it shall be lawful for the said Judge, after notice to such trustee, and the parties interested in the trust estate to remove such trustee, and to appoint and substitute another in his stead. And whenever any person shall be appointed and substituted as a trustee by the Judge of Probate as aforesaid, in the place of any former trustee, who may either have been removed from office or have deceased, or have declined or resigned the trust as aforesaid, the person so appointed and substituted by the said Judge, shall give bond with sufficient surety or sureties, and shall be held to perform all the duties prescribed in the fifty-eighth section of this Act: *Provided however,* That it shall be in the discretion of the said Judge to direct an inventory to be made and returned or not, by such new trustee, who in no manner whatever shall be deemed a trustee, or authorized to act as such, until such bond shall be given.

Trustees so substituted to give bond, &c.

Judge to require new bonds, when sureties are insufficient, on application of persons interested—after giving notice:

and may require new sureties, if sureties apply, &c.

SEC. 63. *Be it further enacted,* That whenever the sureties, in any bond given to the Judge of Probate, shall be evidently insufficient for the purposes of such bond, the Judge of Probate, on the petition of any person interested, and after due notice to the principal and sureties on such bond, shall have authority to require from time to time new bonds with sufficient surety or sureties in the case; and whenever any surety or sureties on any bond given to the Judge of Probate, shall, at any time after six years from the date of such bond, petition the Judge of Probate, that he or they may be discharged from any further responsibility upon such bond, the said Judge after due notice to all persons interested, may in their discretion discharge such surety or sureties from all further responsibility on such bond, and the said principal or principals shall in all such cases be required to procure other

sufficient surety or sureties upon such bond, or upon a new bond to be given to the Judge of Probate for the purpose. And if such principal or principals shall not within such time as shall be ordered by said Judge, give such new bonds as may be required by virtue hereof; he, she, or they shall be removed from their trust, and some other person or persons shall be appointed in his, her, or their stead.

and remove from their trust such as do not comply with such order.

SEC. 64. *Be it further enacted,* That any person aggrieved at any order, sentence, decree, or denial of any Judge of Probate in any county, may appeal therefrom to the said Supreme Court of Probate: *Provided,* Such appeal be claimed within one month from the time of making such order, sentence, decree or denial, and bond be given and filed in the Probate Office by the appellant, within ten days after such appeal shall be claimed and granted, for the prosecution thereof to effect, at the next Supreme Court of Probate, and for paying all intervening costs and damages, and such costs as the said Supreme Court of Probate shall tax against him. And such appeal shall be taken notice of, and proceeded upon at the next term of the Supreme Judicial Court, which shall be holden next after the expiration of thirty-four days after such appeal shall be made, within and for the county where such order, sentence, decree, or denial was made; and the appellant shall file the reasons of appeal, in the Probate Court appealed from, within ten days after the bond is given, and shall serve the adverse party or parties with an attested copy of such reasons, fourteen days at least, before the sitting of the said Supreme Court of Probate, at which the trial is to be had. And when it shall appear from the reasons of appeal, that the sanity of the testator, or the attestation of the witnesses in his presence, as the law directs, is the question in controversy, on any will or codicil, the said Supreme Court of Probate may for the determination thereof, direct a real or a feigned issue to be tried before a Jury in the same Court at the expense of the appellant, in case the issue be found against him. And in case the party or parties appealing fail in the prosecution of the said appeal to effect, then the adverse party or any person interested in the sentence or decree so appealed from, shall have the benefit of the same, by filing a complaint before the Supreme Court of Probate in like manner as is provided by law for affirming the judgment of the Circuit Court of Common Pleas, in the Supreme Judicial Court; and the Supreme Court of Probate may assess reasonable costs, in all cases that may be brought before them, by way of appeal, from the respective Judges of Probate, and grant execution therefor: *Provided always,* That any person beyond sea, or out of the United States, who shall have no sufficient attorney within the State at the time of such order, sentence, decree or denial, shall have one month after his or her return, or constitution of such attorney to claim and prosecute an appeal as aforesaid.

Appeal allowed from all decrees, orders, &c. of Judge, to Supreme Court,

if claimed within one month, and conditions, &c. complied with.

When and how such appeals are to be prosecuted; and mode of trial, &c.

Costs, how assessed; execution, &c.

Proviso in favor of persons beyond sea, &c. as to privilege of appeal.

Supreme Court to grant appeal in certain cases on petition, after right of appeal is lost.

SEC. 65. *Be it further enacted,* That whenever any person has been, or shall be aggrieved by any order, sentence, decree, denial or decision of any Judge of Probate in any county, and such person by accident, mistake or otherwise shall not have appealed to the Supreme Court of Probate agreeably to the provisions of law, the said Supreme Court of Probate upon petition to them, and after notice to the person or persons interested to support such order, sentence, decree, denial or decision, and upon its appearing that the petitioner has not lost his appeal by his own neglect, and that justice requires a revision of such order, sentence, decree, denial or decision, may grant an appeal therefrom, to be entered, heard and determined in the said Supreme Court of Probate: *Provided always,* That such petition shall be preferred within one year next after such order, sentence, decree, denial or decision shall have been made by such Judge of Probate.

Limitation to one year for petition.

Proceedings before Judge to be staid on appeal claimed, reasons of appeal and bond filed, &c.

SEC. 66. *Be it further enacted,* That whenever there shall be an appeal from any order or decree of any Judge of Probate of any county to the Supreme Court of Probate as aforesaid, and the appellant shall file in the Probate office, his reasons of appeal, and give bonds to prosecute the same to effect, according to law, and shall give notice thereof to the adverse party; in such case, all further proceedings, in consequence of such order, sentence, decree, denial or decision, shall be staid until a final determination shall be had thereon in the said Supreme Court of Probate.

Appeal allowed from orders, decrees, &c. of Judge relating to trusts.

SEC. 67. *Be it further enacted,* That any person aggrieved by any order, sentence, decree or denial of any Judge of Probate, upon any matter touching such trust as aforesaid, may appeal therefrom, as in any other case of an order, sentence, decree or denial of a Judge of Probate. And the Supreme Court of Probate and the Judges of Probate, respectively, may in their discretion award reasonable costs to either or both parties, in all those cases where justice shall require it, and shall grant execution therefor.

Power of Supreme Court as to costs in such cases.

Judge of Probate may license executors, administrators and guardians to sell real estate for payment of debts, legacies and charges.

SEC. 68. *Be it further enacted,* That the Judges of Probate of the respective counties shall have the same authority which the Courts of Common Law have upon petition to empower and license executors, administrators and guardians of minors or others, to sell the real estate of their testators, intestates and wards, respectively, for the payment of just debts and legacies, with incidental charges, and charges of administration; and such authority to sell shall extend as well to any real estate which is or may have been held by such testator or intestate in mortgage, and of which such executor or administrator shall have recovered seizin and possession, or which shall have been set off on execution to such executor or administrator for the use of the widow, heirs or devisees of such testator or intestate, as to the other real estate of such testator or intestate: first giving notice to all persons inter-

Giving notice.

ested as by law required in case of petition for licenses to said Courts of Common Law : *Provided*, That an appeal shall be allowed from any order, sentence, decree, denial or decision of any Judge of Probate, respecting any petition for such license in like manner as in other cases.

Appeal allowed on order for sale, &c.

SEC. 69. *Be it further enacted*, That every executor, administrator, guardian or other person, who shall have or obtain a license from any Court according to law, for selling real estate of any person deceased, or under guardianship, shall, previous to fixing upon the time and place of the sale of such estate, take the following oath or affirmation before the Judge of Probate, or before some Justice of the Peace; whose certificate thereof shall be returned to the Judge of Probate, to wit: "I, A. B. do solemnly swear, (or affirm as the case may be,) that in disposing of the estate lately belonging to _____, now deceased, (or under guardianship as the case may be,) I will use my best skill and judgment in fixing on the time and place of sale; and that I will exert my utmost endeavors to dispose of the same in such manner as will produce the greatest advantage to all persons interested therein; and that without any sinister views whatever."

Persons licensed to sell real estate in such cases—to make oath;

form of their oath.

SEC. 70. *Be it further enacted*, That all suits brought in the name of any Judge of Probate upon a Probate bond of any kind shall be originally commenced in the Supreme Judicial Court held within or for the county in which the said Judge of Probate shall belong. And the writ in addition to the usual endorsement of the name of the plaintiff or his attorney, shall also have the name of the person or persons, for whose particular use and benefit the suit is brought written thereon.

Suits on bonds to Judge of Probate to be brought in Supreme Judicial Court, and to be endorsed, for whose benefit, &c.

SEC. 71. *Be it further enacted*, That when any suit shall be brought on a Probate bond, and the principal named in the bond is living and resident within this State, and shall not be named in the writ, or if named, shall not be attached or summoned to answer thereunto, it shall and may be lawful for the Court, at the request of the surety or sureties that may be attached or summoned thereby, to continue the same cause to the next term, or to some distant day in the same term, if, upon a consideration of the circumstances attending the suit, they shall determine such continuance reasonable or expedient; to the end such surety or sureties may purchase out a writ in such form as the same Court shall direct, for attaching the property, securing the person, or summoning the principal to come in and become a party to the suit; and in case the principal, (after being attached or summoned upon such process fourteen days or more, prior to the time of his being directed to appear and answer,) shall not appear and answer, the Court are hereby authorized and empowered to render judgment against him in the same way and manner they might have done, had such principal been duly named and le-

In suits on such bonds, when principal is within the State and not served with the process, Court may continue the suit, &c.

Judgment how to be rendered.

gally summoned by the original writ which commenced the suit, and he had neglected to appear, or appearing had neglected to make answer thereto.

Preliminary proceedings necessary when suit is to be instituted on Probate bond for benefit of creditor.

SEC. 72. *Be it further enacted,* That when the suit is instituted at the desire of a creditor of the deceased, such creditor must first have his debt or damages ascertained by judgment of Court, and likewise make it appear that a demand has been made of the administrator therefor; and that the administrator has refused or neglected to satisfy the same; or to show goods or estate of the deceased for that purpose.

—when for creditor against insolvent estate.

When the estate is insolvent, the creditor must produce a copy of the order of distribution of the estate of the deceased among the creditors, particularly specifying each creditor's claim, and the dividends they are severally entitled unto; and that a demand has been made of the administrator for his particular dividend, or the copy of a judgment recovered against the executor or administrator pursuant to the provision contained in the twenty-eighth section of this Act.

—when for heir for his distributive share.

When an heir has the suit brought for his part of the personal estate, he must exhibit a copy of the decree of the Probate Court, ascertaining its quantum; and that he has made a demand thereof upon the administrator. And when the administrator shall refuse or neglect to account upon oath for such property of the intestate as he has received, after he has been cited by the Judge of Probate for that purpose, execution shall be awarded against him for the full value of the personal property of the deceased that has come to his hands, without any discount, abatement or allowance for charges and expenses of administration or debts paid.

Execution how to be awarded against administrator refusing to account for property of intestate.

And in cases where any administrators shall have received the personal property of an intestate, and shall not have exhibited upon oath a particular inventory thereof, execution shall be awarded against him for such a part of the penalty of his administration-bond, as the Supreme Court of Probate shall, on full consideration of all the circumstances of the case, judge reasonable; to be distributed among the parties interested, agreeably to the directions of law. The like judgment and proceedings, (so far as they can with propriety take place,) are to be had upon bonds of executors, guardians and others, given to the Judges of Probate Courts in their said capacity.

—how to be awarded when administrator has received personal property not inventoried.

—recovery how to be distributed.

Judgment and proceedings upon bonds in other cases.

SEC. 73. *Be it further enacted,* That when it shall appear upon a hearing in chancery on an administration-bond, for whose particular use and benefit the money for which execution issues is to enure, the judgment shall be rendered, that the plaintiff in his said capacity, (naming him,) now have execution for being part of the penalty forfeited and costs taxed at for the use of A. B. of C. in the county of S. (addition.) a creditor or heir of E. F. deceased, (as the case may be.) And the person to whose use judgment shall be rendered in the name of the Judge of Probate as aforesaid,

Manner and form of judgments on administration bonds.

may sue out execution thereon, and have the same levied on personal or real estate, as he may find it necessary, and shall be deemed and taken to be the creditor, to every intent and purpose whatever. And when there are several persons to whose use the monies recovered on an administration-bond are to enure, there shall be as many separate and distinct judgments, in form aforesaid.

SEC. 74. *Be it further enacted*, That any bonds given pursuant to this Act by any trustee, or trustees, may be put in suit by order of the Judge of Probate to whom the same shall have been given, for the benefit either of all or any of the minors or other persons interested in the estate given in trust as aforesaid; and the proceedings in such case shall be the same as in the cases of suits on other Probate bonds.

Proceedings in suits on bonds of trustees.

SEC. 75. *Be it further enacted*, That when any person shall be cited to appear as a witness before the Judge of Probate in any cause or hearing, and such person shall refuse to appear or give evidence, he or she shall be liable to the like penalty or damage as such person would be liable unto for refusing to appear or give evidence in any Circuit Court of Common Pleas. [Approved March 20, 1821.]

Penalty for refusing to appear at Probate Courts after being cited.

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CHAPTER LII.

An Act respecting Executors, Administrators and Guardians, and the conveyance of Real Estate in certain cases.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all the lands, tenements and hereditaments of which any person may die seized, in fee simple, or in fee tail general or special, and also all such estate which he had fraudulently conveyed, or of which he had been colorably or fraudulently disseized with intent to defraud his creditors, shall be liable for the payment of his debts, and may be recovered and applied thereto in the manner by law directed.

What real estate of persons deceased shall be liable for payment of their debts.

SEC. 2. *Be it further enacted*, That when the goods and chattels belonging to the estate of any person deceased, shall not be sufficient to answer his just debts and legacies, upon representation thereof, and the same being made to appear to the Supreme Judicial Court in any county in this State, or to the Circuit Court of Common Pleas, in the county where the deceased person last dwelt, or in the county in which the said real estate lies, the said Courts are severally and respectively authorized to empower and license the executor, or administrator of such estate, to sell all or such part of the houses, lands or tenements of the deceased, as may be necessary to satisfy his just debts and legacies, with incidental charges and charges of administration. And every executor or administrator being so licensed and authorized as aforesaid

When personal estate is insufficient to pay debts, &c. license to sell real estate may be granted by Sup. J. Court, or C. C. Court.

Executor or administrator being licensed,

may execute
deeds;

must give 30
days notice
previous to
sale.

Courts to or-
der notice pre-
vious to grant-
ing license.

If partial sale
of estate, for
payment of
debts, &c.
would greatly
injure the rest,
Courts may au-
thorize a sale
of the whole
by executors,
administrators,
guardians, &c.

Notice to be
given.

Bond to the
Judge of Pro-
bate to ac-
count, &c.

may make and execute in due form of law, deeds and conveyances of such houses, lands and tenements, as they shall so sell, and such deeds and conveyances shall make as good a title to the purchaser, his heirs and assigns forever, as the testator or intestate had therein. And the executor or administrator previous to such sale, shall give thirty days' notice thereof by posting notifications in some public place in the town or plantation where the real estate lies, in two adjoining towns, and in the town where the testator or intestate last dwelt; or by causing an advertisement thereof to be published three weeks successively, in such newspaper as the Court, who may authorize the sale, shall order and direct: *Provided always*, That no such license shall be granted by either of the Courts aforesaid, until after personal notice, or notice given by an advertisement for three weeks successively, in such newspaper as the Court shall order, to all persons, interested therein, of the time and place, at which they may be heard concerning the same: and if the said persons interested, or any of them shall give bond with sufficient sureties to pay such debts and legacies, with incidental charges, then such license shall not be granted.

SEC. 3. *Be it further enacted*, That whenever it shall be necessary that executors or administrators, shall be empowered to sell some part of the real estate of testators or intestates, or for guardians to sell some part of the real estate of minors or persons *non compos mentis*, for the payment of just debts, legacies or taxes, or for the support or legal expenses of minors or persons *non compos mentis*, and by such partial sale, the residue of such real estate would be greatly injured and the same shall be represented and made to appear to the Justices of either of the aforesaid Courts on petition, and declaration filed, and duly proved therein, by the said executors, administrators or guardians, the Justices of the aforesaid Courts respectively, may authorize and empower such executors, administrators or guardians, to sell and convey the whole, or so much of such real estate, as shall be most for the interest and benefit of the parties concerned therein, at public auction, and good and sufficient deed or deeds of conveyance thereof to make and execute; which deed or deeds, when duly acknowledged and recorded in the Registry of Deeds for the county where the said real estate lies, shall make a complete and legal title in fee to the purchaser or purchasers thereof: *Provided*, The said executors, administrators or guardians give public notice of such intended sale in manner and form herein before prescribed: *And provided also*, They first give bonds, with sufficient sureties, to the Judge of Probate for the county where the testator or intestate last dwelt, and his estate was inventoried that he or she will observe the rules and directions of law for the sale of real estate by executors or administrators, and that the pro-

ceeds of the said sale, after the payment of just debts, legacies, taxes, and just debts for the support of minors, and other legal expenses, and incidental charges, shall be put on interest on good security, and that the same shall be disposed of agreeable to the rules of law.

SEC. 4. *Be it further enacted,* That the said Justices, where they may think it expedient, may examine the said petitioner or petitioners on oath, touching the truth of facts set forth in the said petition. And every representation made as aforesaid shall be accompanied with a certificate from the Judge of Probate of the county where the deceased person's estate was inventoried, certifying the value of the real estate, and the value of the personal estate of such deceased person, and the amount of his or her just debts; and also his opinion, whether it be necessary that the whole or a part of the estate should be sold, and if part only, what part.

Courts may examine petitioners for sale, &c. on oath.

Certificate required from Probate Court.

SEC. 5. *Be it further enacted,* That the guardian or guardians of any person or persons who shall spend or waste their estates by excessive drinking, gaming, idleness or debauchery, are hereby authorized and enjoined to pay the debts of such person or persons, and to provide for their maintenance and the support of their families out of their real estate, when their personal estate shall be insufficient, and for these purposes may sell so much of the real estate of their wards, as shall be necessary therefor, in the way and manner, and under the conditions, restrictions and limitations, under which executors and administrators are empowered to sell the estate of deceased persons; such guardians first obtaining a license therefor from the Supreme Judicial Court, or from the Circuit Court of Common Pleas of the county where the real estate shall be, who are hereby respectively empowered to grant the same: *Provided however,* That no such license be granted, unless the person applying for the same shall produce to the Court a certificate, under the hands of the overseers of the poor of the town, in which said idle, gaming person has gained a legal settlement, giving their consent and approbation of the sale of such a proportion of the real estate of such person as such overseers shall be satisfied is necessary to discharge the *bona fide* debts of such idle person, excluding all debts contracted by gaming.

Guardians of spendthrifts, &c. may be licensed to sell real estate for payment of their debts, and support, &c.

in what manner, &c.

Certificate of overseers to accompany petition for sale.

SEC. 6. *Be it further enacted,* That the Justices of the Supreme Judicial Court be, and they are hereby authorized and empowered to grant license to, and authorize guardians of persons given to excessive drinking, idleness, gaming, or debauchery, to sell and convey the whole or so much of the real estate of such persons, as shall be most for their interest and benefit, when by a partial sale thereof, the remainder would be greatly injured, in the same way and manner, and under the same restrictions, as they are authorized to grant license to administrators, executors and guardians of minors and

Supreme Judicial Court may authorize sale of whole of such spendthrift's real estate, when sale of part would greatly injure the rest.

Certificate of overseers of poor required in such cases.

persons *non compos mentis*, to sell real estate in such cases : *Provided however*, That no such license shall be granted unless the certificate of overseers of the poor required to be produced, shall also contain their consent and approbation of such sale, and their opinion that by a partial sale of the real estate, the remainder thereof would be greatly injured.

Supreme Judicial Court may authorize sale of real estate of minors, in certain cases, and proceeds to be put on interest.

SEC. 7. *Be it further enacted*, That when it shall fully appear to the Justices of the Supreme Judicial Court, aforesaid, by the petition and representation of the friends or guardians of minors interested in the real estate of any testator or intestate, that it would be for the benefit of such minors, or persons *non compos mentis*, that their interest therein should be disposed of, and the proceeds thereof be put out and secured to them on interest, the said Justices last mentioned, after a full examination on the oath of the petitioner or otherwise, may authorize some suitable person or persons to sell and convey such estate or part thereof, by deed or deeds duly acknowledged and recorded in the Registry of Deeds as aforesaid: *Provided*, Such person or persons first give bond with sufficient sureties, to the Judge of Probate for the county where the said deceased person last dwelt, to observe the rules and directions of law in the sale of real estates by executors or administrators in the second enacting clause herein prescribed, and to account for and make payment of the proceeds of the said sale, agreeable to the rules of law: *Provided*, That the said Judge of Probate shall certify that the whole or a part of the said estate is, in his opinion, necessary to be sold, and if part only, what part.

Bond to be given to Judge of Probate.

Certificate of Judge of Probate as to necessity of sale.

S. J. Court and C. C. C. Pleas may license executors, administrators and guardians, &c. to sell real estate lying within this State, of persons who lived out, &c.

SEC. 8. *Be it further enacted*, That the Supreme Judicial Court, and the Circuit Court of Common Pleas be, and they are hereby authorized and empowered to grant license to, and authorize executors of the last will and testament, and administrators upon the estate of persons deceased, who reside out of this State, owning real estate within the same, at the time of their decease; and also guardians of minors, persons *non compos mentis*, or persons given to excessive drinking, idleness, gaming or debauchery; such minors, or other persons not living within this State, but owning real estate within the same, to sell and convey such real estate lying within this State, in the same way and manner, and under such conditions, restrictions and limitations, as are herein provided by law, for the sale of real estate by executors, administrators and guardians, within this State; and all proceedings necessary to be had before any Judge of Probate within this State respecting such sale, shall be had before the Judge of Probate, within and for the county where such real estate may be situated.

Restrictions and limitations.

Bonds on sale of real estate to be given to Judge of Probate for the county where estate lies.

SEC. 9. *Be it further enacted*, That the bond, required by law, to be given to the Judge of Probate by executors, administrators and guardians, previous to the sale of real estate, shall and may be given to the Judge of Probate for the coun-

ty in which the real estate is situated, in all cases, where the deceased person to whom such estate belonged, was not an inhabitant within this State, at the time of his decease.

SEC. 10. *Be it further enacted,* That whenever any executor, administrator or guardian, has been duly appointed and approved by any Judge of Probate, or any Court having Probate jurisdiction in any other State, a certified copy of such appointment and approval, filed in any Probate Office in this State, shall be sufficient evidence of such appointment and approval, and entitle such executor, administrator or guardian, to all the rights and powers incident to such appointment, as far as it respects the sale of real estate as aforesaid, which he might or could have, if he was appointed and approved as executor, administrator or guardian, by a Judge of Probate in this State.

What shall be evidence of appointment of executor, administrator or guardian by Courts of Probate out of the State.

SEC. 11. *Be it further enacted,* That any executor, administrator, guardian or other person, licensed by either of said Courts, to make sale of real estate, may adjourn such sale, if expedient, for any space of time not exceeding fourteen days.

Executor, administrator, &c. may adjourn sale, not exceeding 14 days.

SEC. 12. *Be it further enacted,* That no such license as aforesaid, for the sale of real estate, granted by either of the Courts aforesaid, shall be in force for a longer term of time than one year from the time when such license shall have been granted. And no action by any heir or other person, interested for the recovery of any real estate, sold under such license, shall be sustained, unless such action shall be brought within the term of five years after the execution and delivery of the deed given under such license: *Provided always,* That minors and other persons under legal disabilities, and persons out of the State, at the time of such sale, may maintain such action at any time within the term of five years from the removal of their disabilities, or from their return to the State, as the case may be.

Licenses for sale of real estate to be in force for one year, from time of granting.

Actions by persons interested to defeat such sales, limited to 5 years: excepting as to minors, &c.

And whereas it may be often necessary to enable the representatives of persons deceased, to perform the engagements entered into by such deceased persons for the transfer of real estate:

SEC. 13. *Be it further enacted,* That whenever it shall be represented and made to appear to the Justices of either of the aforesaid Courts, in form aforesaid, by any person or persons, contracted with by bond, covenant or other contract, under seal, that a testator or intestate in his or her life time, entered into such bond, covenant or contract, to convey some real estate to him or her, but was prevented by death; and that such person or persons, contracted with as aforesaid, have, on his, her, or their part, performed, or stand ready to perform the conditions of such bond, covenant or contract, made with the said testator or intestate, the said Justices may, after due notice given to all concerned as aforesaid, in form

S. J. Court or C. C. Pleas may authorize executors or administrators to make deeds in order to complete or carry into effect, contracts or covenants made by their testators or intestates.

aforesaid, and a full hearing had, grant license to, and empower the executors or administrators of such deceased obligor, covenantor, or contractor, to make and execute such conveyance or conveyances to such person or persons, contracted with as aforesaid, as it shall appear the said obligor, covenantor, or contractor would by his bond, covenant or contract, be obliged to make and execute, in case he, she, or they were living at the time of the performance of the conditions of the bond, covenant or contract by the contractees on their part, making reasonable allowances for any alteration, improvements or injuries, that may be made or done in the same estate since such contract was made, as the said Justices may award; which conveyance or conveyances when the instruments thereof are duly acknowledged and recorded in the Registry of Deeds for the county where such estate shall lie, shall be good and valid; and the monies or consideration paid for such estate, if not paid to the deceased contractor in his life time, shall be assets in the hands of the said executors or administrators, and be apportioned among the representatives of the deceased as other personal estate.

Money received therefor to be assets, &c.

Courts may award costs to respondents when petitions, &c. are unreasonable.

SEC. 14. *Be it further enacted*, That when it shall appear to the said Justices, on examination, that the said petition or petitions in any of the foregoing applications, are unreasonable, the said Justices may award costs to such respondents as shall appear and object thereto.

Mode of perpetuating notice of sale of real estate, by executors, administrators & guardians, &c.

SEC. 15. *Be it further enacted*, That the affidavit of any executor, administrator, guardian or other person, who has been, or hereafter may be duly licensed to sell real estate, or of any person employed by any of them, taken within eighteen months, next following the sale of such real estate, and filed in the Probate Court, and recorded together with one of the original advertisements of the time, place and estate to be sold, or a copy of such advertisement, are hereby declared to be one mode of perpetuating the evidence that such notice was given, and also to make the originals or copies thereof, from the Register of the Probate Court, admissible evidence in any Court of law. And when the person employed by the executor, administrator or guardian to post up such notifications, or cause them to be printed as aforesaid, resides more than ten miles distant from such Probate Court, his deposition respecting that matter, taken before a Justice of the Peace, and filed in such Probate Court within eighteen months as aforesaid, shall have the same force and effect, as if the same was taken before the Probate Court.

Lands set off on execution to executors or administrators; or recovered on, foreclosing mortgage, to be for the use of widow and heirs:

SEC. 16. *Be it further enacted*, That wherever any executor or administrator shall recover judgment for any sum of money, whereon execution shall issue, and lands, tenements, or hereditaments shall be set off to the said executor or administrator, in discharge of the said execution, the said executor or administrator shall be seized and possessed of the whole estate in the

lands, tenements, or hereditaments so set off to the sole use and behoof of the widow and heirs of the deceased intestate, or to the residuary legatee or legatees of the testator, as the case may be; and the Court of Probate may make distribution of the same, as well as of lands and tenements mortgaged to testators or intestates, of which seizin and possession shall have been recovered by executors or administrators as of personal estate, accordingly; unless the lands, tenements or hereditaments so set off on the said execution, or of which seizin and possession shall have been recovered, shall be necessary for the payment of debts, legacies, annuities or charges of administration; and in that case, the said executor or administrator, having obtained license in manner as herein provided, shall have full right, power and authority to dispose and make sale of the whole or part of the lands, tenements or hereditaments aforesaid, subject however to the right of redemption, in case such sale be made before such right shall be extinguished.

and may be divided as other estate, &c.

unless necessary to be sold for the payment of debts, &c.

SEC. 17. *Be it further enacted*, That after executors or administrators shall become seized and possessed of lands, tenements or hereditaments, by having the same set off in discharge of an execution as aforesaid, and before conveyance or assignment thereof in manner aforesaid, if the person, his heirs, executors, administrators or assigns, whose estate has been levied upon as aforesaid, shall within the time limited, redeem the same, the executors or administrators shall, in every instance, be entitled to receive the said redemption money, and are hereby authorized, empowered and directed to discharge the said estate, levied upon, by release, quitclaim, or other legal conveyance: *Provided*, That nothing in this and the sixteenth sections of this Act contained, shall be construed to control any last will or testament, or any part thereof.

Executors or administrators to receive money from persons entitled to redeem estate set off, &c. and to discharge and release the same.

Proviso.

SEC. 18. *Be it further enacted*, That no executor or administrator shall be compelled in any Court of law to defend any suit that shall be commenced or instituted against him, in said capacity, within the term of twelve months next after his taking upon him that trust, unless the same shall be instituted for the recovery of a demand that will not be affected by the insolvency of the estate, or the suit shall be instituted for the purpose of ascertaining a claim that is contested. And all suits brought within one year as aforesaid, (except for the purposes aforesaid,) shall be continued at the plaintiff's expense, until that term from the time the executor or administrator gave bond in the Probate Court, for the faithful discharge of his trust, shall be fully expired, and in case the executor or administrator pay the demand, or will bring sufficient money into Court for that purpose, and there leave the same for the plaintiff's use, or shall make a legal tender thereof to the plaintiff within the year, he shall recover his costs.

No executor to be sued within 12 months—

unless, &c.

Proceedings in case of suits brought against administrator within the year

Writs and executions to run against goods and estate of party deceased. Not against executor or administrator's body or estate.

SEC. 19. *Be it further enacted,* That all writs of attachment and executions shall run only against the goods or estate of the party deceased, in the hands of executors or administrators, and not against their bodies; nor shall any executor or administrator be held to special bail upon mesne process, nor his own proper goods or estate be attached or his person be arrested or taken in execution for the debts or legacies of the testator or intestate, but upon suggestion of waste, founded on a return made by the Sheriff, that he could not find any goods or estate of the testator or intestate; in which case a writ commonly called *scire facias*, shall be issued out of the Clerk's office of the same Court, against such executor or administrator, and if upon said writ being duly served and returned, such executor or administrator shall make default of appearance, or coming in shall not show cause sufficient to the contrary, execution shall be adjudged and awarded against him, of his own proper goods and estate, to the value of such waste, where it can be ascertained; otherwise for the whole sum recovered, with interest thereon from the time when the first judgment was rendered; and for want of goods or estate, against the body of such executor or administrator.

Proceedings on suggestion of waste.

Administrator de bonis non, may become party to suit commenced by previous administrator or executor—

SEC. 20. *Be it further enacted,* That whenever any executor or administrator shall die, or be removed from office, during the pendency of any suit brought by, or against him, in said capacity, the same suit may be prosecuted by, or against any administrator *de bonis non*, who shall thereupon be appointed, and process may thereupon issue in due form of law, to compel any such administrator *de bonis non* to become a party to the suit; and if such administrator *de bonis non* shall, after due service of such process, neglect or refuse to become a party to the suit, judgment may be rendered against him in the same manner as if he had voluntarily come in and become a party to the suit, and had therein been defaulted or nonsuited. And when judgment shall be had in any suit in which an executor or administrator is a party, and such executor or administrator shall afterwards die, or be removed from office, in such case a *scire facias* may be sued and execution taken out upon such judgment, either by or against any administrator *de bonis non*, who shall be thereupon appointed, and any execution, which may have duly issued upon such judgment, may be perfected by either of said parties respectively; and a writ of error to correct any errors in such judgment may be brought in manner prescribed by law, either by, or against such administrator *de bonis non*, in like manner as might have been by, or against the original executor or administrator who was a party to such judgment.

and have *scire facias* to complete judgments and may perfect executions, &c.

and may bring and defend writs of error.

In case of death of either party after appeal and before sitting of Court appealed to, or

SEC. 21. *Be it further enacted,* That in case of the death of any party, either the appellant or appellee, before the sitting of the Court appealed unto, or where any action or suit is or shall be depending either in the Circuit Court of Com-

mon Pleas, or in the Supreme Judicial Court in any county of this State, and it so happen that either party be taken away by death before final judgment, the executor or administrator of such deceased party, who was plaintiff, complainant or defendant, (in case the cause of action doth by law survive,) shall have full power to prosecute or defend any such suit or action from Court to Court until final judgment; and the defendants or appellees are hereby obliged to answer to such actions accordingly; and the Justices of the Circuit Court of Common Pleas and Supreme Judicial Court respectively, before whom such causes are or may be triable and depending, are hereby empowered and directed to hear and determine all such causes, proceed to judgment, and award execution accordingly: and if it shall so happen, that the executor or administrator of the deceased, hath not suitable time in the judgment of the Court where such action or suit shall be pending, and doth by law survive as aforesaid, to prepare for managing the cause, or to become duly qualified to prosecute or defend the same; in such case it shall and may be lawful for the Court to suspend the hearing and trying thereof until the next term. And if by the verdict of a Jury, or by the default or neglect of the executor or administrator, in prosecuting or defending such suit, after the executor or administrator shall have appeared and undertaken in his capacity to prosecute or defend the suit, judgment pass against the executor or administrator, the Supreme Judicial Court and Circuit Court of Common Pleas are hereby respectively authorized, empowered and directed, to enter up judgment for or against the estate of the deceased in their hands and under their administration, as the case may require.

before final judgment, the executor or administrator may prosecute and defend, &c. if cause of action survive.

Court may continue such actions in certain cases.

Judgment how rendered in such cases.

SEC. 22. *Be it further enacted*, That all actions pending in the Supreme Judicial Court or in any Circuit Court of Common Pleas in this State, by appeal, continuance or otherwise, where the plaintiff or defendant, appellant or appellee, complainant or respondent shall die before final judgment, and the executor or administrator of the deceased party, after taking upon himself the said trust, shall neglect or refuse to become a party to the suit, the Court before whom such cause shall be pending, in case the cause of action does by law survive, may enter up judgment against the goods and estate of the deceased party, in the same way and manner judgment might have been, in case the executor or administrator had voluntarily after such death made himself a party to the suit: *Provided always*, That such executor or administrator be duly served with a notification from the Clerk of the Court where such suit is pending, fourteen days before the sitting thereof.

When executor or administrator refuses to become party to suits, in cases aforesaid, what proceedings shall be had.

Executor or administrator to be duly notified.

SEC. 23. *Be it further enacted*, That executors, administrators and guardians shall not be compelled to plead specially

Executors and administrators

not bound to plead specially.

to any action or suit at law, brought against them in their said capacity; but may under the general issue give any special matter in evidence.

Mode of levying executions on estates of persons deceased,

SEC. 24. *Be it further enacted,* That the real estate of any testator or intestate is and shall be liable to be taken and levied upon by any execution issuing upon judgments recovered against executors or administrators in such capacity, being the proper debts of the testator or intestate, and that the method of levying, appraising and recording, shall be the same as by law is provided respecting other real estate levied upon and taken in execution, and may be redeemed by the executor, administrator or heir, in like time and manner.

and of redeeming such estate.

Estate. Sec. of deceased debtor on joint contract to be liable. as if joint and several. for payment of such contract, &c.

SEC. 25. *Be it further enacted,* That the goods and estate of each deceased debtor in every joint contract, whether obligation, covenant or other instrument under seal, promissory note, memorandum in writing, or any other contract express or implied, or in any judgment on any contract, shall be liable in the hands of his executors and administrators for the payment thereof, in like manner; and the creditor shall have the same remedy, and may have and maintain an action against such executors and administrators in the same manner as if such contract had been joint and several.

Actions against executors and administrators limited to four years.

SEC. 26. *Be it further enacted,* That no executor or administrator shall be held to answer to any suit that shall be commenced against him in that capacity, unless the same shall be commenced within the term of four years from the time of his accepting that trust: *Provided,* Such executor or administrator shall give public notice of his appointment to that office in the manner directed by law, and filing a claim with the commissioners upon an estate represented insolvent, shall be esteemed equivalent to originating a suit against executors or administrators, within the meaning of this Act.

Provided notice of appointment be given according to law.

What shall be equivalent to originating a suit.

Provision for case of demand on contract &c. not due until after 4 years; and proceedings therein.

SEC. 27. *Be it further enacted,* That when any demand against the estate of any person deceased, arising from covenant, contract or agreement shall become due after the said term of four years, and which could not, by virtue of such covenant, contract or agreement, be claimed until after the said term, in such case, the claimant may, at any time within the said term of four years, file such demand at the Probate Office where administration was granted, or the will was approved; and the Judge of Probate shall direct the executor or administrator to retain in his hands assets, (if sufficient there be,) to answer said demand, unless the heirs to such estate, or devisees thereof, or some one or more of them, shall give good and sufficient security, in the opinion of the Judge of Probate, for such executor or administrator to respond such demand; and when security is so given, such executor or administrator shall not be allowed to retain in his hands assets for the purpose aforesaid; the estate of the said deceased shall however be liable, in the hands of the said heirs or devisees, or their heirs or assigns, to answer the said demand.

SEC. 28. *Be it further enacted,* That where demands against the estate of any person deceased, arise by virtue of any covenant, contract or agreement that could not be claimed until after the said term of four years, the claimant in such case, unless he shall have filed the same in the Probate Court, as aforesaid, may have his remedy against those who inherit the estate of such person, or devisees thereof, against whom the demand lies, if such claim be made within one year from the time of its becoming due, and not against the executor or administrator: *Provided always,* That nothing in this Act shall operate to bar any action that may be commenced against an executor or administrator with the will annexed, for the recovery of a legacy, bequest, gift or annuity, arising, accruing or becoming due by virtue of any last will and testament, but the same may be commenced and prosecuted in the same time, way and manner, as they might have been, had this statute never been made.

When demands arise on covenant, &c. after expiration of the 4 years, they may be enforced against the heirs, if prosecuted or claimed within one year.

Proviso as to actions by devisees, legators, &c.

[Approved March 21, 1821.]

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CHAPTER LIII.

An Act to prevent Frauds and Perjury.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That no action shall be brought whereby to charge an executor or administrator, upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant, upon any special promise, to answer for the debt, default or misdoings of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any agreement that is not to be performed within the space of one year, from the making thereof; and no action shall hereafter be maintained upon any contract for the sale of lands, tenements or hereditaments, or any interest in, or concerning the same, unless the 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 thereunto by him lawfully authorized.

Enumeration of promises, void if not in writing.

SEC. 2. *Be it further enacted,* That all leases, estates, interests of freehold, or terms of years, or any uncertain interests of, in or out of, any messuages, lands, tenements or hereditaments, made or created by livery and seizin only, or by parole, and not put in writing, and signed by the parties so making and creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only; and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect; any consideration for making any such parole leases or estates notwithstanding. And no leases, estates or interests,

All leases, &c. not in writing, to have no other force or effect than leases or estates at will.

No leases, estates, &c. shall

be assigned, granted or surrendered, unless by deed, or writing, signed by the party, &c.

either of freehold or term of years, or any uncertain interest of, in, to or out of, any messuages, lands, tenements or hereditaments, shall at any time, be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

No contract for sale of goods for the price of 30 dollars or more good, unless in writing or partly executed.

SEC. 3. *Be it further enacted,* That no contract for the sale of any goods, wares, or merchandize, for the price of thirty dollars or more, shall be allowed to be good, except the purchaser shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

[Approved March 8, 1821.]

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CHAPTER LIV.

An Act establishing a Supreme Judicial Court within this State.

Court established.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled,* That there shall be a Supreme Judicial Court within this State, to consist of one Chief Justice and two other Justices, each of whom shall be an inhabitant of this State, of sobriety of manners, and learned in the law, to be appointed and commissioned as is by the Constitution provided, and they or any two of them, shall be a Court, and have cognizance of pleas real, personal and mixed; and of all civil actions between party and party, and between the State and any of the citizens thereof, whether the same do concern the realty, and relate to right of freehold, inheritance or possession, whether the same do concern the personalty, and relate to any matter of debt, contract, damage, or personal injury; and also all mixed actions, which do concern the realty and personalty brought legally before the same Supreme Judicial Court, by appeal, review, writ of error, or otherwise; and in all such actions real, personal and mixed, to give such judgment, and award such execution, as the common rules of justice and the laws of this State shall direct; and shall take cognizance of all capital and other offences and misdemeanors whatsoever of a public nature, tending either to a breach of the peace, or the oppression of the citizen, or raising of faction, controversy or debate, to any manner of misgovernment; and of every crime whatsoever that is against the public good, and shall by virtue of their office, be severally conservators of the peace throughout the State. And upon all persons duly and legally convicted before the said Court, of crimes, offences or misdemeanors, to inflict such punishment

Jurisdiction, &c.

as by the laws of the State is provided. And in case of legal conviction, where no punishment by statute law is provided, then the said Court shall punish the person so convicted, according to the common usage and practice within this State, not repugnant to the Constitution, according to the nature of the offence. And said Court are hereby invested generally with all the jurisdiction, power and authority, except in relation to the appointment of Clerks, and enjoined to perform all the duties, which by existing laws adopted by the Constitution, and not repugnant thereto, appertain and belong to the Supreme Judicial Court. And may issue all manner of writs, executions, certificates and processes whatever, for carrying into effect and authenticating any judgment, order or adjudication whatever, which may have been rendered in the late Supreme Judicial Court, in any county within this State, prior to the sixteenth day of March last; and all suits, writs, executions, certificates and processes, when so issued, shall be of the same effect, and be executed, levied and extended in the same manner, as if issued on any judgment, order or adjudication of the Court hereby created; and all records and documents of the late Supreme Judicial Court, now remaining in the several counties in this State, shall be placed and remain under the control and authority of the Supreme Judicial Court of this State, in the same manner and for the same purposes as the records and documents of their own doings, and the Clerk of the same Court shall have the like power in relation to the one as the other of those records and documents.

SEC. 2. *Be it further enacted,* That the same Supreme Judicial Court, may by certiorari or other legal methods, cause to be brought before them, as well indictments or other criminal prosecutions or civil proceedings pending in, as the records of sentences, orders, decrees, and judgments of any Court of inferior, criminal or civil jurisdiction, and to proceed, order and award thereon, as is or shall be by law provided and directed. And the said Supreme Judicial Court is empowered to impose and administer all oaths, as well those that are necessary for promoting justice between party and party as those necessary to the conviction and punishment of offenders; and to punish at the reasonable discretion of the Court, all contempts committed against the authority of the same; and the said Court shall have power to issue all writs of prohibition and mandamus, according to the law of the land, to all Courts of inferior judiciary powers, and all processes necessary to the furtherance of justice, and the regular execution of the laws.

SEC. 3. *Be it further enacted,* That all writs and processes of the same Court, shall be in the name of the State of Maine, bear test of the first Justice, who is not a party to the suit, and shall be under the seal of the same Court and signed by the Clerk.

May order the proceedings of inferior courts to be brought before them.

And administer oaths.

And punish for contempts.

Process to bear test of the first Justice.

May make rules
for the admis-
sion of attor-
neys, &c.

SEC. 4. *Be it further enacted,* That the same Supreme Judicial Court, shall and may, from time to time, make, record, and establish all such rules and regulations with respect to the admission of Attornies and Counsellors, ordinarily practising in the said Court, and all other rules respecting modes of trial, and the conduct of business, as the discretion of the same Court shall dictate: *Provided always,* That such rules and regulations be not repugnant to the laws of the State.

Proviso.

Terms of the
Court for the
year 1820.

SEC. 5. *Be it further enacted,* That the Supreme Judicial Court shall be holden at York, in and for the county of York, on the second Tuesday of August next; at Portland, in the county of Cumberland, and for the counties of Cumberland and Oxford, on the fourth Tuesday of August next; at Augusta, in the county of Kennebec, and for the counties of Kennebec and Somerset, on the second Tuesday of September next; at Wiscasset, in and for the county of Lincoln, on the fourth Tuesday of September next; and at Castine, in the county of Hancock, and for the counties of Hancock, Washington and Penobscot, on the second Tuesday of October next.

And after.

And from and after the first day of April next, the said Supreme Judicial Court shall be holden in each year at York, within and for the county of York, on the last Tuesday of April; and at Alfred, in and for said county, on the fourth Tuesday of August; at Portland, in and for the county of Cumberland, on the first Tuesday of May; and on the fourth Tuesday next following the third Tuesday of October; at Wiscasset, in and for the county of Lincoln, on the third Tuesday of May; and on the third Tuesday of October; at Augusta, in and for the county of Kennebec, on the fourth Tuesday of May; and on the third Tuesday of September; at Norridgewock, in and for the county of Somerset, on the first Tuesday of June; at Castine, in and for the county of Hancock, on the second Tuesday of June; and on the second Tuesday of October; at Machias, in and for the county of Washington, on the third Tuesday of June; at Paris, in and for the county of Oxford, on the second Tuesday of September; and at Bangor, in and for the county of Penobscot, on the first Tuesday of October. *Provided nevertheless,* That the Tuesday of the month, in which said Courts are respectively to be holden, at the said several times and places, may in all judicial proceedings, from time to time, be expressed and designated by such Tuesday of the month as will be the Tuesday on which the said Court is to be holden, pursuant to the foregoing arrangements.

Proviso.

Actions now
pending.

SEC. 6. *Be it further enacted,* That all actions and civil suits of every name and kind, which may be pending in the Supreme Judicial Court for the counties of Cumberland and Oxford; or for the counties of Kennebec and Somerset; or for the counties of Hancock, Washington and Penobscot, on the first day of April next; which shall have been originally com-

menced in the Courts of Common Pleas for the counties of Oxford, Somerset, Washington or Penobscot respectively; all petitions in which the petitioner may be an inhabitant of either of said counties, and all indictments against any person or persons for offences committed within either of said counties, shall be transferred and removed to, entered, heard, tried, and proceeded upon, at the Supreme Judicial Court, then next to be holden within the said counties of Oxford, Somerset, Washington and Penobscot respectively, within which the said actions originated and were commenced, the said petitioners reside, and the said offences may have been committed; and all the papers and documents, belonging to all such actions, suits, petitions and indictments, shall be delivered over to the Clerks of the said counties of Oxford, Somerset, Washington and Penobscot respectively. And all appeals which may be made from any Court of Common Pleas, and all recognizances which may be taken, and all offences which may be committed within either of the said counties of Oxford, Somerset, Washington and Penobscot, after the first day of the terms of the Supreme Judicial Court to be holden prior to the first day of May next, for the counties of Cumberland and Oxford, and for the counties of Kennebec and Somerset, and for the counties of Hancock, Washington and Penobscot respectively, shall be entered, heard, tried, prosecuted and proceeded upon, at the Supreme Judicial Court then next to be holden within and for the said counties respectively, where the appeals may be made, the recognizances may be taken, and the offences may be committed.

SEC. 7. *Be it further enacted*, That whenever by sickness, accident, or any unforeseen cause, the number of Justices required to hold Courts, as is herein before provided, do not attend on the day appointed for opening a Court, any one of said Justices may adjourn the Court, from day to day, until a sufficient number of said Justices do attend; and when from sickness, accident, or any unforeseen cause, neither of the said Justices shall attend on the day appointed for opening a Court, the Sheriffs of the several counties respectively, shall have power to adjourn the Court from day to day, until a Justice shall attend.

One Judge may adjourn the Court.

SEC. 8. *Be it further enacted*, That when at any term of the Supreme Judicial Court holden or to be holden in any county, any actions shall have been continued *nisi* for advisement by the Court, or for argument by consent of parties, and the Justices of said Court shall have determined the same before the next term of said Court holden in the same county, it shall be lawful to enter judgment upon said actions as of the last term of said Court, at which said actions shall have been continued, or at the succeeding term. And whenever the Clerk of said Court in any county shall enter a

Judgment how to be entered in certain cases.

judgment upon any action by order of the Justices of said Court out of term time, he shall enter upon his docket the time when he shall receive such order, and all liens created by attachment on mesne process in said actions, shall continue and be in force for and during thirty days after the then next term of the Supreme Judicial Court for said county, any thing in the law to the contrary notwithstanding.

Reporter to be appointed.

SEC. 9. *Be it further enacted,* That the Governor, by and with the advice of the Council, shall, as soon as may be after the passing of this Act, appoint some suitable person learned in the law, to be a Reporter of the decisions of the Supreme Judicial Court, who shall be sworn to the faithful discharge of his duty, and shall be removable at pleasure of the Executive; whose duty it shall be, by his personal attendance, or by any other means in his power, to obtain true and authentic reports of the decisions, which may hereafter be made by said Court, and shall publish the same whenever they will compose a suitable volume.

His salary.

SEC. 10. *Be it further enacted,* That the said Reporter shall receive out of the Treasury of this State, six hundred dollars annually, which together with the profits arising from the publication of his said reports, shall be a full compensation for his services aforesaid; and that the money, paid by persons admitted to practice as Attorneys in the Supreme Judicial Court shall be a fund for the payment of said sum: and if insufficient, to be paid out of any other monies in the Treasury not otherwise appropriated.

Act to be in force 3 years.

SEC. 11. *Be it further enacted,* That this Act shall continue in force during the term of three years from the passing the same and no longer.

[Approved June 24, 1820.]

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CHAPTER LV.

An Act to alter the times of holding the Supreme Judicial Court, and Circuit Court of Common Pleas, in the County of Cumberland.

Supreme Judicial Court.

Circuit Court Common Pleas.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the first day of April next, the Supreme Judicial Court shall be holden at Portland, within and for the county of Cumberland, on the first Tuesday of May, and on the third Tuesday next following the third Tuesday of October in each year. And the Circuit Court of Common Pleas shall be holden at Portland, within and for the county of Cumberland, on the first Tuesday of March, the third Tuesday of June, and the second Tuesday of December, in each year. And all acts and parts of acts fixing the times of holding either of said Courts in said county, shall be, and they are hereby repealed.

[Approved March 21, 1821.]

CHAPTER LVI.

An Act in addition to "an Act establishing a Supreme Judicial Court with-
in this State."

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That in all actions, petitions, and civil suits pending before the Supreme Judicial Court, where-
in any two of the Judges of said Court, have been of counsel for either party, or are otherwise interested in such actions, petitions or civil suits, one of the Justices of said Court, who has not been counsel or otherwise interested as aforesaid, shall have full power and authority to hear, adjudge, and determine said actions, petitions, and civil suits with or without the intervention of a Jury, as the parties may by their pleadings, or agreed statements of facts, render necessary according to law; any thing in the Act, to which this is an addition, to the contrary notwithstanding.

In certain cases, one Judge to have full power to hear and decide causes.

[Approved March 8, 1821.]

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CHAPTER LVII.

An Act defining the powers of the Judicial Courts in granting Reviews and for other purposes.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That wherever there shall have been any legal cause for any Judicial Court before judgment, to set aside any verdict, but nevertheless judgment shall have been rendered on such verdict, the party aggrieved by such judgment may petition the Justices of the Court, at any of their terms, for a review of such cause; and the said Justices on due notice to the adverse party, and full consideration of such petition, are hereby empowered, (if they see fit,) to grant a review of the said cause on such terms and conditions as to them may seem just and reasonable between the said parties.

In cases when there have been good cause to set aside a verdict, a review may be granted,

on petition to Judicial Court,

and after due notice,

on such conditions as may be deemed proper.

SEC. 2. *Be it further enacted,* That whenever by reason of any accident, mistake, or any unforeseen cause, judgment shall have been rendered on discontinuance, nonsuit, nil dicit, non sum informatus, report of referees, or default, or suits may have been discontinued without judgment, to the hindrance or subversion of justice, the said Justices, on petition as aforesaid, are further empowered to grant a review of the action. And the said Justices shall be, and they are hereby vested with discretionary power, to grant reviews in all civil actions, in manner as aforesaid, whenever they shall judge it to be reasonable, without being limited to particular cases.

When by reason of accident, mistake, &c. judgment has been rendered,

Court may grant a review.

Court may grant reviews in all civil actions, when they think it reasonable.

SEC. 3. *Be it further enacted;* That wherever, by reason of any of the causes mentioned in the last enacting clause, any judgment in the Circuit Court of Common Pleas, or be-

In case of judgments rendered in C. C. Common Pleas or before Justice

under certain circumstances.

Supreme Judicial Court may grant review of the cause, on petition of party injured;

provided application be made within three years.

When review is granted, a writ of review to be sued out and prosecuted:

Proceedings in such action.

Former judgment may be reversed in whole or part, &c.

Court, on granting a review may stay execution, on condition, &c.

May grant costs to respondent.

When by accident or mistake, &c., an appeal or complaint was not entered at the proper term, S. J. Court may order the entry at any other term,

and try the cause.

S. J. Court to have same discretionary power as in granting reviews.

fore any Justice of the Peace, may have been rendered in manner as in the same clause is mentioned; or any appeal may have been prevented or lost to the hindrance or subversion of justice as aforesaid; and the party aggrieved shall produce in, and file with the Clerk of the Supreme Judicial Court a copy of record of the cause duly attested, and shall petition the Justices of the same Court for a review of the cause, in manner as aforesaid, the said Justices may grant a review of the said cause in manner aforesaid to be heard and determined in the said Supreme Judicial Court: *Provided*, That application be made to the Justices of the said Court within three years after the rendition of the judgment complained of, and only one review shall ever be granted in any action by virtue of this Act.

SEC. 4. *Be it further enacted*, That whenever a review is granted by virtue of this Act, a writ of review shall be sued out and prosecuted to final judgment and execution. And the party bringing such action of review, shall produce in Court attested copies of the writ, judgment and all papers used and filed in the former trial, and each party shall have the liberty to offer any further evidence; and the whole cause shall be tried in the same manner as if no judgment had been given thereon: and the former judgment may be reversed in whole or in part, or greater damages or less, or no damages may be given, as the merits of the cause upon law and the evidence shall appear to require.

SEC. 5. *Be it further enacted*, That the Justices aforesaid to whom any petition shall be preferred in manner aforesaid, are further empowered to stay execution in the cause on such conditions as are before mentioned; and whenever the same Justices shall adjudge that the petitioner shall take nothing by his petition, they are also empowered to award the respondent his costs, and execution may be sued out accordingly.

SEC. 6. *Be it further enacted*, That whenever by reason of any accident, mistake or unforeseen cause, an appeal in a civil action or complaint may not be entered at the Supreme Judicial Court at the proper term of said Court for entering the same, the Justices of the same Court be, and they are hereby empowered, on the petition of the party, at their discretion, to order such appeal or complaint, to be entered at any other term of said Court, within the county where the judgment appealed from shall have been rendered; and to proceed to try the appeal or affirm the former judgment, with additional damages and costs, in the same manner as they might have done if the said appeal or complaint had been entered at the proper term for entering the same; and the said Justices are hereby vested with all the discretionary power respecting such appeals or complaints with which they are vested, in the cases of petitions for review mentioned in

this Act: *Provided*, That no petition for entry of such appeal or complaint shall be sustained, unless such petition shall be exhibited to the Court within one year after the term at which such appeal or complaint ought to have been entered. *And provided also*, That no goods or estate attached, or bail given upon the original writ shall be affected by any thing done by force of this section; but the same shall remain discharged, notwithstanding the entry of any such appeal or complaint as aforesaid.

SEC. 7. *Be it further enacted*, That every Circuit Court of Common Pleas within this State be, and they are hereby vested with the same powers respecting appeals made from judgments rendered by Justices of the Peace and complaints for not entering the same; and also respecting all actions and suits before Justices of the Peace wherein the damage laid does not exceed twenty dollars, and wherein the defendant has been defaulted for want of actual notice of the suit, or by some other accident or mistake, with which the Justices of the Supreme Judicial Court are by this Act vested, respecting appeals from judgments rendered by Circuit Courts of Common Pleas, and complaints for not entering the same, and respecting the granting reviews in the certain other actions or suits before mentioned, wherein the defendant has been defaulted, or lost his law.

SEC. 8. *Be it further enacted*, That in all cases in which any person shall have presented any claim for allowance to any Board of Commissioners which may have been appointed by any Judge of Probate, to receive and examine the claims against the estate of any deceased person, which may have been represented insolvent, and such claim shall have been rejected by such commissioners, and a return of their doings made to the Judge of Probate, and the claimant, who has or may prefer such claim for allowance has by accident, mistake or otherwise, omitted to give notice, or shall hereafter omit to give notice at the Probate Office, within twenty days after the making of such return of the commissioners, that it is his or her intention to have such claim determined at common law, the Supreme Judicial Court, at any session thereof, holden in any county, upon such claimant's presenting a petition for relief, and making it to appear that he or she has reasonable grounds for expecting to support his or her claim, and that he or she has not lost his or her right to institute a suit against the executor or administrator of such estate, and have such claim determined at common law, by his or her negligence, is hereby authorized and empowered after due notice to the adverse party, to grant such claimant a right to institute a suit for the recovery of such claim against the executor or administrator of such insolvent estate, at the next Circuit Court of Common Pleas, to be holden in the county in which such executor or administrator dwells;

Proviso—petition must be presented within one year after the proper term. Bail and property attached not to be affected by such proceedings.

Power of C. C. C. Pleas as to appeals from Justices' complaints, defaults, & judgments by mistake, &c.

When a person, whose claim against an insolvent estate has been rejected by commissioners, and who by mistake, &c. has omitted or may omit to give notice of his intention to sue at common law,

the Supreme Judicial Court on petition may grant a right to institute a suit, &c.

Proceedings to be thereupon had, in such case.

Proviso—Such application must be made within two years, &c.

Any previous distribution of estate not to be disturbed, by after judgment. No such relief to be granted after the lapse of 4 years from grant of administration.

Sup. J. Court may license a married woman, whose husband has abandoned her, to sell any of her real or personal estate during his absence;

and to prosecute and defend actions as a feme sole, &c.

If husband return while contracts of his wife are in force, he to be liable thereon.

No suit where the wife is a party, in such case, to abate by his return.

Court to give notice, &c. before granting such powers to wife,

as in cases of libel for divorce.

and the same proceedings shall be had in such suit, as are by law provided in suits instituted by claimants for the recovery of claims against insolvent estates, which have been rejected by the commissioners appointed to receive and examine the claims against such estates: *Provided however*, That no such petition shall be sustained unless the same shall be presented within two years from the return of the report of such commissioners to the Judge of Probate and that the distribution of any insolvent estate which may have been made previously to the presenting of such petition and notice thereof to the executor or administrator of such estate, shall not be disturbed by the judgment which may be recovered in any such suit; nor shall the right to institute any such suit be granted to any claimant after four years shall have elapsed, from the time of granting administration on such estate.

SEC. 9. *Be it further enacted*, That in all such cases where any married man shall have absented himself from this State abandoning his wife, and not making sufficient provision for her support or maintenance, the Justices of the Supreme Judicial Court are hereby authorized at any of the terms of the said Court, upon the application of any such wife, to empower and enable her during the absence of her husband from this State, and no longer, in her own name, to make and execute any contract either under seal or otherwise, and by deed to sell and convey any estate real or personal, of which at the time of such sale, she shall be seized or possessed in her own right; and to commence, prosecute and defend any suit in law or equity to final judgment and execution; in the same manner as if she was sole and unmarried; or the said Justices may grant to any such wife any or all the powers above described according as they shall judge the circumstances of such wife shall require.

SEC. 10. *Be it further enacted*, That if any such husband should return into this State while any contract made by his wife, pursuant to the powers aforesaid should remain undischarged, the same remedy shall lie against such husband, as if the contract had been made by her before the marriage; and no suit pending, wherein his wife shall be a party, pursuant to the said powers, shall abate by his return into this State.

SEC. 11. *Be it further enacted* That when application shall be made by any wife for any or all of the powers aforesaid, the Justices of the said Court, shall, previous to their granting any of the powers aforesaid, cause such public notice of the said application to be given as by law they are directed in case of any libel filed by any married woman for a divorce,

[Approved March 15, 1821.]

CHAPTER LVIII.

An Act extending the powers of the Justices of the Supreme Judicial Court, in certain cases.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever any person who may have been arrested and in custody, or in prison, to answer for any crime or crimes, offence or offences, before the Supreme Judicial Court, shall be acquitted thereof by the Jury of trials; or shall not be indicted by the Grand Jury, by reason of the insanity or mental derangement of such person, and the discharge, or going at large of such person shall be deemed by the same Court to be dangerous to the safety of the citizens, or to the peace of the State, the said Court be, and hereby is authorized and empowered to commit such person to prison, there to be detained till he or she be restored to his or her right mind, or otherwise delivered by due course of law. And every person so committed shall be kept at his or her own expense, if he or she have estate sufficient for that purpose; otherwise at the charge of the person or town, upon whom his or her maintenance would have been legally chargeable, if he or she had not been committed as aforesaid.

Persons acquitted on trial in Sup. J. Court, on ground of insanity, &c. may be committed to prison until restored to reason, &c.

At whose expense.

SEC. 2. *Be it further enacted,* That whenever the Grand Jury, upon any inquiry which they may hereafter make as to the commission of any crime or offence by any person, shall omit to find a bill for the cause aforesaid, it shall be the duty of such Jury to certify the same to the said Court. And whenever the Jury of trials, upon the general issue of not guilty, shall acquit any person for the cause aforesaid, it shall be the duty of such Jury, in giving in their verdict of not guilty, to state that it was for such cause.

If no indictment is found by Grand Jury, nor conviction by Traverse Jury for such cause, they shall so certify to the Court.

SEC. 3. *Be it further enacted,* That any one of the Justices of the Supreme Judicial Court, or any two Justices of the Peace, *quorum unus*, within their county, may discharge from confinement any such person, when it shall be made to appear to his or their satisfaction, that the going at large of such person will not be dangerous to the safety of the citizens and to the peace of the State.

A Judge of the S. J. Court, or two Justices, *quorum unus*, may discharge a person so convicted, when it may be done safely.

SEC. 4. *Be it further enacted,* That upon the application of any friend or friends of such lunatic person, the Supreme Judicial Court, or any one of the Justices thereof, or any two Justices of the Peace, *quorum unus*, of the county in which such person may have been in prison, as aforesaid, be and are hereby authorized and empowered to commit to the custody and safe keeping of such friend or friends, such lunatic person: *Provided however,* That such applicant or applicants shall first give bonds, with sufficient surety or sureties, to the Judge of Probate for the county in which such lunatic is confined, conditioned for the safe keeping of such lunatic person,

S. J. Court, or any one of the Judges, or two Justices, *quorum unus*, on application of friends of a lunatic, may commit him to the custody of such friend—on bond being given, &c.

and for the payment of all damages which any person may sustain by reason of the acts and doings of such lunatic; which bond shall be approved by the Court, Justice, or Justices aforesaid, and may be put in suit for the benefit of persons interested, in like manner as is by law provided in case of Probate bonds: *Provided*, That nothing in this Act contained, shall deprive any person of the benefit of the writ of habeas corpus.

[Approved March 17, 1821.]

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CHAPTER LIX.

An Act regulating Judicial Process and Proceedings.

Mode of serving writs of attachment and summoning defendant.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when the goods or estate of any person shall be attached at the suit of another, in any civil action, a summons in form prescribed by law, shall be delivered to the party whose goods or estate are attached, or left at his or her dwelling house or place of last and usual abode, fourteen days before the day of the sitting of the Court where such attachment is returnable; and if the defendant was not at any time an inhabitant or resident within this State, or has removed therefrom, then such summons shall be left with his tenant, agent or attorney; and such service shall be made by the officer to whom the writ may be directed who shall return the same according to the precept thereof: and if such defendant shall not have a tenant, agent or attorney within the State, and his goods or estate shall be attached as aforesaid, the officer shall return the writ with his doings thereon; and such action being duly entered, the Court may order such notice to the defendant, as justice may require.

Mode of serving original summons, &c.

SEC. 2. *Be it further enacted*, That in all suits wherein the process is by original summons, as against executors, administrators or guardians, in ejectment, dower, scire facias, error, review, and all other civil actions wherein the law does not require a separate summons to be left with the defendant, the service thereof by the proper officer shall be good and valid in law, either by his reading the writ or original summons to the defendant, or by leaving a certified copy thereof at his or her house or place of last and usual abode, fourteen days before the same is returnable; and in all real actions, where the defendant or defendants in review live out of the State, so that the writ of review cannot be served upon him or them, the service of such writ upon the tertenant or person in possession shall be deemed a good and sufficient service, and the defendant or defendants shall be held to answer thereupon accordingly.

in writs of review, where defendants are out of State.

SEC. 3. *Be it further enacted,* That in all actions wherein the process shall be by original summons as aforesaid, and the defendant was at no time an inhabitant or resident within this State, or has removed therefrom, then the service thereof shall be in like manner by the proper officer's reading the same to, or leaving a like copy duly attested with the tenant, agent or attorney of the defendant, the like number of days before the day of the sitting of the Court whereto the same process shall be returnable; and if such defendant shall not have a tenant, agent or attorney within the State, the plaintiff or demandant may enter his action, and the Court may order notice to the defendant in the manner provided in the first section of this Act.

Mode of service, when defendant was never an inhabitant of State, &c.

SEC. 4. *Be it further enacted,* That in actions of dower and other real actions, wherein the possession of land or buildings shall not be demanded in the writ of the tenant in the actual possession or occupancy thereof, in addition to a service on the defendant in the writ or summons as aforesaid, there shall be a service on such tenant the like number of days before the day of the sitting of the Court by the proper officer's reading to him or her the same writ or original summons, or leaving a like certified copy at his or her house or place of usual abode on the premises, which shall also be certified by the proper officer; or the writ shall abate.

In actions of dower and other real actions, summons to be also served on tenants.

SEC. 5. *Be it further enacted,* That when two or more are jointly obligated by act of law or agreement, and one or more of them are without the State, having property or estate, but no tenant, agent, trustee or attorney within the same, the property or estate of those so without the State, may be attached, and the summons being left by the officer serving the writ, with those within the State, shall be deemed a legal service on those without the same: *Provided,* One continuance shall be granted, unless the plaintiff can show that notice has been given to the person so out of the State, in which case the Court may proceed at their discretion, without granting a continuance.

Mode of service of process on joint contracts, when one or more defendants live out of the State.

Continuance to be granted in case—

SEC. 6. *Be it further enacted,* That when a suit shall be brought against any town, parish, or against the proprietors of any common or undivided lands or other estate, the plaintiff shall cause the Clerk of such town, parish or proprietors, or one or more of the Selectmen of such town, or assessors of such parish, to be served with a copy of the writ of summons, at least thirty days before the day of the sitting of the Court to which the same shall be returnable.

Mode of service on towns, proprietors, &c.

SEC. 7. *Be it further enacted,* That when a suit shall be brought, and no one of the defendants named in the writ, shall, at the time of the service thereof, be an inhabitant or resident within this State, or then be present within the same, and shall not return before the time of trial; or if the action shall be grounded on a tort, and any one of the defendants shall so be

When none of the defendants are in the State at the time of service, nor return before the time of trial; what proceedings are to be had—

as to continu-
ance—

judgment,

and execution.

Provide as to
plaintiffs giving
personal
notice to de-
fendants, &c.

absent or not inhabitant or resident, and not return ; then the Court wherein such suit shall be pending, shall continue the same to the next term, on a suggestion of the fact being made on the record. And if the defendant, whose absence was noted on the record, shall not then appear by himself or attorney and be so remote that the notice of such suit pending could not probably be conveyed to him or her during the vacation, the said Court may further continue the action to the next term, and no longer. And in such cases where judgment shall be entered up by default after one or two continuances as aforesaid, execution or writ of seizin shall be stayed and not issue until the plaintiff or demandant shall have given bond with sufficient sureties in double the value of the estate or sum recovered by such judgment, to make restitution, and to refund and pay back such sum as shall be given in debt or damages ; or so much as shall be recovered upon a suit therefor, to be brought in one year next after entering up the first judgment ; if upon such suit the judgment shall be reversed, annulled or altered ; the security aforesaid to be no further answerable than for the recovery that shall be made on such suit, to be had within one year as aforesaid : *Provided nevertheless*, If any plaintiff or plaintiffs in any such suit shall at any time after the service of the original writ or summons as aforesaid, and thirty days before the term of said Court, in which judgment may be rendered in manner aforesaid, cause the defendant or defendants in the case, (being out of this State,) to be notified of such suit by serving him or them with an attested copy of such writ or summons, and the officer's return thereon, and shall file in said Court the deposition of one witness, being an inhabitant of this State, that such copy of said writ or summons was left with said defendant or defendants, or at his or their last and usual place of abode, in such case the plaintiff or plaintiffs may have his or their writ of execution or seizin, in the same manner as though the said defendant or defendants had appeared in said Court and made answer in said action, without such bond being given in manner aforesaid : *Provided also*, That no real estate taken in execution, granted upon such first judgment shall be conveyed by such plaintiff or demandant, until the expiration of the said one year, or after a new trial brought within the said space of one year.

All original
writs to be en-
dorsed, &c.

SEC. 8. *Be it further enacted*, That all original writs issuing out of the Supreme Judicial Court, or Circuit Court of Common Pleas, or from a Justice of the Peace, shall, before they are served, be endorsed on the back thereof by the plaintiff or plaintiffs, or one of them, with his christian and surname, if he or they are inhabitants of this State, or by his or their agent or attorney, being an inhabitant thereof ; and where the plaintiff is not an inhabitant of this State, then his writ shall be endorsed in manner aforesaid, by some responsible person who is an inhabitant of this State, provided that the Court

may upon motion in consideration that the agent or attorney who endorsed the writ, is not of ability for the purposes hereafter mentioned, order that the plaintiff shall procure a new endorser, and such new endorser shall be held in the same manner as if the endorsement had been made before the writ was served, and unless the plaintiff shall procure such new endorser when directed thereunto by the Court, he shall become nonsuit, but no costs shall be awarded against him. And the plaintiff's agent or attorney who shall so endorse his name upon an original writ, shall be liable in case of the avoidance or inability of the plaintiff to pay the defendant all such costs as he shall recover, and to pay all prison charges that may happen where the plaintiff shall not support his action.

New endorser in certain cases may be required.

Liability of endorsers.

SEC. 9. *Be it further enacted,* That when the plaintiff and defendant both live within the State, all personal or transitory actions shall be brought in the county where one of the parties lives. And when an action shall be commenced in any other county than as above directed, the writ shall abate, and the defendant shall be allowed double costs.

In what counties actions must be commenced.

SEC. 10. *Be it further enacted,* That any local or transitory action against the inhabitants of any county in this State, in their corporate capacity may be commenced and prosecuted to final judgment and execution, either in the county where the plaintiff in such action lives, or in the county against which the action shall be brought, at the plaintiff's election, and any local or transitory action in which the inhabitants of any county shall be plaintiffs, may be commenced and prosecuted to final judgment and execution, in the county where the defendant in such action shall live, unless the defendant shall be an inhabitant of the same county, in which case the action may be commenced and prosecuted in either of the adjoining counties.

Where actions against county may be brought.

and where actions in favor of county may be brought.

SEC. 11. *Be it further enacted,* That when any corporation shall be a party in any action commenced by or against the inhabitants of any county in this State, in their corporate capacity, the action shall be commenced and prosecuted to final judgment and execution, in one of the counties adjoining the county interested in the same.

Where actions between corporations and counties are to be brought.

SEC. 12. *Be it further enacted,* That any local or transitory action against the inhabitants of any county by any plaintiffs belonging to such county, shall be commenced and prosecuted to final judgment and execution in such county, or in an adjoining county, at the plaintiff's election.

Where actions by plaintiffs against their own counties are to be brought.

SEC. 13. *Be it further enacted,* That any local or transitory action by the inhabitants of one county against the inhabitants of another county, shall be commenced and prosecuted to final judgment and execution in an adjoining county.

Where actions by inhabitants of one county against inhabitants of another, shall be brought.

SEC. 14. *Be it further enacted,* That no action shall be entered at any Circuit Court of Common Pleas after the first day of the sitting thereof: *Provided nevertheless,* That where, by

Actions to be entered at C. C. Com. Pleas first day of term.

any inevitable misfortune or accident, the plaintiff shall be prevented from entering his action upon the first day of the sitting of the Court, he may upon making the same appear to the Court, enter his action at any time before judgment is given for cost to the defendant.

Defendant not appearing to be defaulted and damages assessed.

SEC. 15. *Be it further enacted*, That when any defendant shall be duly served with process, and return thereof shall be made into the Court where the same is returnable, and he shall not appear by himself, or his attorney, his default shall be recorded, and the charge in the declaration shall be taken and deemed to be true, and the Court shall thereupon give such damages as they shall find upon inquiry that the plaintiff shall have sustained, unless the plaintiff shall move to have a Jury to inquire into the damages, in which case the Court shall enter up judgment for such damages as the Jury shall assess: *Provided nevertheless*, That if the defendant shall come into Court at any time before the Jury is dismissed, and shall pay down to the adverse party the costs he has been at, thus far, or so much thereof as the Court shall judge reasonable, then the Court may admit the defendant to have the same day in Court, as if his default had never been recorded.

Default may be taken off, in case, on payment of costs.

Circumstantial errors &c. may be amended on motion, &c.

SEC. 16. *Be it further enacted*, That no summons, writ, declaration, plea, process, judgment or other proceedings in the Courts or course of justice, shall be abated, arrested, quashed, adjudged insufficient or reversed, for any kind of circumstantial errors or mistakes, when the person and case may be rightly understood by the Court, nor through defect or want of form only; and the Court, on motion made, may order amendments, but shall not allow costs, or grant a continuance in consequence thereof.

On nonsuit, &c. party prevailing entitled to his costs.

SEC. 17. *Be it further enacted*, That when any plaintiff shall in any stage of his action become nonsuit, or discontinue his suit, the defendant shall recover his costs against him, and in all actions, as well those of *qui-tam* as others, the party prevailing shall be entitled to his legal costs.

On plea of disclaimer, and that trespass was involuntary, defendant may tender amends,

SEC. 18. *Be it further enacted*, That in all actions of trespass, *quare clausum fregit* hereafter brought wherein the defendant shall in his plea disclaim all right, title and interest to the land in which the trespass is by the declaration supposed to be done, and the trespass be involuntary or by negligence, the defendant shall be admitted to plead a disclaimer, and that the trespass was done involuntarily or by negligence, and a tender or offer of sufficient amends for such trespass before the action brought; or the defendant may have leave to bring money into Court to satisfy the damage the plaintiff has sustained; and in case the Jury shall not assess greater damages for the trespass than the money tendered, or brought into Court, the defendant shall recover of the plaintiff his reasonable costs.

or bring money into Court.

Proceedings in such case.

SEC. 19. *Be it further enacted,* That when an action shall be brought to recover a debt due on book accounts, an account stated by the parties, a quantum meruit, quantum valebat or for services done upon an agreed price, or upon simple contract or promise in writing not under seal, the defendant may file any account he hath in the Clerk's office seven days before the sitting of the Circuit Court of Common Pleas, where the action is brought, or if the suit is before a Justice of the Peace, the accounts shall be filed before the Justice four days before the day of trial, and upon the general issue give the same in evidence against the plaintiff's demand. And if upon the trial it shall appear that there is a balance due to the defendant he shall recover the same in the same manner as if he had brought his action therefor. And where a plaintiff shall at the same Court bring divers actions upon demands which might have been joined in one, he shall recover no more costs than in one action only.

In certain actions defendant may file account in offset;

time when and place where.

Defendant may recover any balance due him.

Regulation as to costs in certain cases.

SEC. 20. *Be it further enacted,* That when any person or persons shall be sued in ejectment, or other real action, for any lands, tenements or hereditaments, they shall be holden to answer for so much or such part of the premises demanded as they then hold or are in possession of which they shall distinguish and set forth by their plea, and disclaim the rest; and if any of them disclaim the whole, and the plaintiff cannot prove the defendant's possession of the premises, or any part thereof the defendant shall recover his costs.

In real actions defendant may disclaim in part or whole.

Proceedings in such cases.

SEC. 21. *Be it further enacted,* That in actions of waste, ejectment, or other real actions, where possession of the inheritance alleged to have descended, is the object of the suit, the heirs claiming under a common ancestor, may all or any two or more of them join therein, or each may prosecute for his particular share of such inheritance, and the same rule shall extend to joint tenants who are or may be disseized.

Heirs may join or sever in actions for inheritance descended from a common ancestor.

SEC. 22. *Be it further enacted,* That in all actions now depending or that may be hereafter depending in any Court within this State wherein the defence intended to be set up by the defendant, is or may be, that he was a Justice of the Peace, Sheriff, Deputy Sheriff, or Coroner or a town or parish officer, or some other officer, civil or military, and that the act or thing for which he is or may be sued, is or may be any act or thing done by him by virtue, or in the execution of his office, the defendant may plead the general issue, and give the special matter in evidence upon filing in the cause a brief statement of such special matter of defence within such time as the Court shall order, of which statement the plaintiff shall be entitled to a copy, or he may plead specially at his election.

Justices, Sheriffs, Coroners, &c. may in certain cases, on filing a brief statement, give special matter in evidence.

SEC. 23. *Be it further enacted,* That upon a judgment rendered in any Circuit Court of Common Pleas, that the defend-

In actions of account defendant may appeal

from interlocutory judgment, before appointment of auditors.

ant shall account, it shall be in the power of the party against whom such judgment shall hereafter be given, to appeal therefrom, if such party shall think proper, before the same Court proceed to appoint auditors; and in case no appeal shall be made from the first judgment, that the defendant shall account, an appeal from the final judgment after the cause has been before auditors, shall not entitle the original defendant to try the issue of bailiff or not bailiff before the Supreme Judicial Court, but the first judgment that the defendant shall account shall remain in full force, and he shall account accordingly; and in case the defendant shall not enter and prosecute his appeal from the first judgment the same upon complaint may be affirmed; and auditors may thereupon be appointed in the same manner they would have been in the Circuit Court of Common Pleas, had no appeal been made from the first judgment.

Proceedings when he does not so appeal.

When defendant shall refuse to appear before auditors—what proceedings may be had.

SEC. 24. *Be it further enacted*, That when any person against whom judgment shall be given, that he shall account, shall unreasonably refuse or neglect to appear at the time and place assigned by the auditors, or after appearing, shall refuse or neglect to render an account, the auditors may certify such refusal or neglect to the Court from which their appointment issued; and the same Court may thereupon cause damages to be assessed, by a jury, and enter up judgment for the damages so assessed, with reasonable costs, or they may render judgment against the defendant as upon default.

Auditors may be appointed in any action, when Courts deem it proper;

SEC. 25. *Be it further enacted*, That whenever in any action before the Supreme Judicial Court, or any Circuit Court of Common Pleas, it shall appear to said Courts that an investigation of accounts, or an examination of vouchers is necessary for the purposes of justice between the parties, it shall be lawful for the said Courts to appoint an auditor or auditors, to state the accounts between the parties, and to make report thereof to the Court as soon as may be; and the report so made shall under the direction of said Court, be given in evidence to the Jury; subject, however, to be impeached by evidence from either party; and the said Court shall award reasonable compensation to such auditor or auditors, which shall be taxed in the bill of costs to be recovered by the party prevailing in the suit, as in other cases.

their report to be given in evidence to the Jury.

State Treasurer, county, town and parish Treasurers may sue and prosecute actions, &c.

SEC. 26. *Be it further enacted*, That the Treasurer of this State, the Treasurers of counties, towns, parishes, and other corporations, for the time being, be and hereby are authorized and empowered, in their own names and capacities, respectively to commence, and prosecute to final judgment and execution, any suit or suits at law, upon any bonds, notes or other securities, which have been or shall be given to them or their predecessors in said capacity; and to prosecute to final judgment and execution, any suits which have been or shall be commenced by their said predecessors in said capacity during their continuance in office, and pending at the time of their removal therefrom.

SEC. 27. *Be it further enacted,* That if pending a writ of review between the original parties whether in a real or personal action, either of them shall die, his death shall, at the request of the attorney for either party, be entered upon the records of the Court, and the cause shall thereupon be continued, to the end the heirs at law of such deceased party or other person interested in the tenements in question, as aforesaid, or his executors or administrators may come into Court, and take upon them the prosecution or defence of the same suit to final judgment. And after a reasonable time, according to the discretion of the Court, granted for this purpose, neither of them shall appear as aforesaid, or appearing shall afterwards become nonsuit, or be defaulted, then the same proceedings and judgment shall be had therein, mutatis mutandis, as would have been had between the original parties.

Writ of review pending, if either party die, what proceedings are to be had.

SEC. 28. *Be it further enacted,* That whenever either of the parties to any judgment shall die before a review has been granted, the legal representatives of such deceased party may petition for such review or become parties to the same as respondents.

Legal representatives of party may petition for review in certain cases.

SEC. 29. *Be it further enacted,* That in the administration of oaths in this State, the ceremony of lifting up the hand, as heretofore used, shall be practised, with such exceptions as to Mahometans and other persons, who believe that an oath is not binding, unless taken in their accustomed manner, as the several Courts shall find necessary in the execution of the laws.

Manner of administering oaths in Courts, &c.

SEC. 30. *Be it further enacted,* That no actions shall be sustained in any Circuit Court of Common Pleas within this State, where the damage demanded does not exceed twenty dollars, unless by appeal from a Justice of the Peace, saving such actions wherein the title to real estate may be concerned; and if upon any action originally brought before the Circuit Court of Common Pleas, judgment shall be recovered for no more than twenty dollars debt or damage; in all such cases the plaintiff shall be entitled for his costs, to no more than one quarter part of the debt or damage so recovered: *Provided always,* That where judgment shall be rendered upon the report of referees, full costs shall be taxed for the party recovering notwithstanding the judgment be under twenty dollars, unless a different adjudication respecting the costs shall be made by the report itself.

Actions not sustained in C. C. Common Pleas where ad damnum does not exceed 20 doll's.

Regulation as to costs in that Court when damage does not exceed 20 dollars.

Proviso as to judgment on report of referees.

SEC. 31. *Be it further enacted,* That all penalties and forfeitures incurred under the provisions of any statute of this State, for the recovery of which no mode is prescribed, shall and may be sued for and recovered by action of debt in any Court proper to try the same.

Actions of debt to lie for penalties where no other provision is made.

SEC. 32. *Be it further enacted,* That all penalties and forfeitures given or limited by any Act of this State, in whole or in part to the use of this State, may be recovered by indictment in any Court proper to try the same.

Penalties may be recovered by indictment where State is interested.

Printed copies of private Acts and Resolves, by authority, good evidence in Courts.

SEC. 33. *Be it further enacted,* That the printed copies of the private Acts and resolves of this State, which now are, or hereafter shall be printed by and under the authority of the Legislature of this State, shall be admitted as good evidence thereof in all Courts of law, without any further proof whatsoever.

Action of debt may be brought on any judgment rendered in this State.

SEC. 34. *Be it further enacted,* That upon the judgment for debt, damages or costs, which has been, or which shall be rendered and recorded by any Court of record, or any Justice of the Peace of this State, and remaining in force and unsatisfied, an action of debt may be brought in the same Court, or before the same Justice where such record remains, or in any Court of record, or before any Justice of the Peace, holding Pleas for the county in which either of the parties to such judgment, their executors or administrators shall dwell and reside at the time of bringing such action, and proper to try the same. And such judgment may be certified by the Clerk, for the time being of the Court, or by the Justice of the Peace, with whom such record remains.

In what county or Court.

Action of debt may be brought on judgment rendered in any other State;

SEC. 35. *Be it further enacted,* That upon the judgment for debt, damages or costs which has been, or which shall be rendered and recorded by a Court of record in any other of the United States, or by a Court of record of the United States and remaining in force and unsatisfied, an action of debt may be brought in any Court of record of this State, holden for the county in which either of the parties to such judgment, their executors or administrators shall dwell and reside, or in which any valuable goods, credits, or estate of any debtor, in such judgment shall be found at the time of bringing such action: *Provided,* That such judgment shall be certified in the manner which is, or shall be prescribed by any general law of the Congress of the United States.

In what county or Court.

Judgment to be certified according to Act of Congress.

In such action interest to be cast on damages and costs.

SEC. 36. *Be it further enacted,* That in the action of debt, which shall be duly maintained upon any judgment as aforesaid, lawful interest shall be allowed, as well upon the costs as upon the debt or damages, or the balance thereof due and recoverable, and judgment shall be rendered thereon accordingly.

How executions are to be made returnable.

SEC. 37. *Be it further enacted,* That all executions issued upon any judgment in civil causes, shall be made returnable at such times as are provided by the several laws of this State; and in all cases where a writ of execution shall issue, there shall be expressed therein the time and place when and where the same shall be returnable.

Clerks may grant summons for witnesses in civil cases.

SEC. 38. *Be it further enacted,* That the Clerks of the several Courts within this State, may, and are hereby respectively empowered to grant summons for witnesses in civil causes, directed to the persons to be summoned. And if any person who shall be served with lawful process, or summons to testify, depose, or give evidence concerning any cause or

Penalty for witnesses not obeying summons, on tender of fees.

matter depending in any of the Courts aforesaid, or before any Justice of the Peace, and who shall have a sum of money tendered to him which shall be equal to his legal fees for travel to the place where the Court is held, and one day's attendance, do not appear according to the tenor of the process or summons, having no reasonable let or impediment to the contrary, such person shall be liable to the action of the aggrieved party for all damages by him sustained by such default, and the Court or Justice of the Peace shall have power by attachment to bring such contemptuous witness in to Court, or before him, and to fine him at discretion, not exceeding the sum of twenty dollars, and shall order him to pay the cost of such attachment.

Amount to be tendered.

Court may issue attachment against such witness.

SEC. 39. *Be it further enacted,* That when any person in whose favor a judgment is given at the Circuit Court of Common Pleas, shall appeal therefrom, where an appeal is by law allowed, because the damages given are too small, he shall be entitled to a Jury at the Supreme Judicial Court to inquire into the damages, without any further notice to the appellee. And when in the Circuit Court of Common Pleas judgment shall be given either upon abatement or demurrer, the party against whom judgment is given, shall have the privilege of appealing, in case the action is appealable without any further proceedings had in the Circuit Court of Common Pleas. And all agreements for waving pleas, and for amendments, and for making new pleas at the Supreme Judicial Court made and entered upon the records of the Circuit Court of Common Pleas shall be binding on the parties throughout the whole process of the suit.

Appeal allowed from C. C. Pleas to Sup. Jud. Court.

Appeal may be from judgment on plea in abatement or demurrer.

Agreements for waving pleas, and for amendments, &c. to be binding.

SEC. 40. *Be it further enacted,* That where any person shall be feloniously stricken, poisoned or injured in one county in this State, and die of the same stroke, poisoning or injury in another county thereof; that then an indictment thereof, found by the Grand Jurors of the county where the death shall happen, before the Justices of the Supreme Judicial Court there held, shall be as good and effectual in law as if the stroke had been given, or poisoning, or injury done in the same county where the party shall die, or where the said indictment shall be found.

Indictment to be found in the county where death happened, though mortal wound were given in another county:

SEC. 41. *Be it further enacted,* That where any person shall be feloniously stricken, poisoned or injured, on the high seas and without the limits of this State, and die of the same stroke, poisoning or injury, in any county thereof, that then an indictment thereof found by the Grand Jurors of the county where the death shall happen before the Justices of the Supreme Judicial Court there held, shall be as good and effectual in law as if the stroke had been given, or poisoning or injury done in the same county where the party shall die.

So if mortal wound were given on high seas.

SEC. 42. *Be it further enacted,* That if any person shall be indicted of any offence against this State for which the pun-

Proceedings when a person

indicted stands mute.

ishment is or shall be declared to be death, and shall stand mute, or refuse to plead, the Court shall proceed to the trial of the person so standing mute in the same manner as if he or she had pleaded not guilty, and shall render judgment accordingly. And no person who shall be indicted for any such offence, shall be allowed to challenge peremptorily above the number of twenty persons of the Jury.

If the accused be acquitted of part of felony charged and convicted of residue.

SEC. 43. *Be it further enacted,* That when any person indicted of any felony, shall be by the verdict of the Jury of trials upon such indictment acquitted from part of such indictment, and convicted of the residue thereof, any such verdict may be accepted and recorded in the Court where such trial shall be; and thereupon such person so indicted, may be adjudged to be guilty of the offence, if any, which shall appear to such Court to be substantially alleged in and by the residue of such indictment, if the same shall amount to a felony, and shall be sentenced and punished accordingly.

What judgment Court may render.

Persons in prison, on suspicion, to be bailed or discharged, unless indicted at second term where two Courts are held in the year, or at first term, if there be but one.

SEC. 44. *Be it further enacted,* That any person who shall be held in prison upon suspicion of having committed a crime for which he may have sentence of death passed upon him, shall be bailed or discharged, if he is not indicted at the second term of the sitting of the Supreme Judicial Court in the county where the crime is alleged to have been committed, when there are two terms a year in such county. And in such counties as have but one Supreme Judicial Court in a year, the defendant shall be bailed or discharged, if he is not indicted at the first term: *Provided,* Such person shall have been held in prison for the space of six months next preceding the day of the sitting of the Court. And when any person shall be held in prison under indictment, he shall be tried or bailed at the first term next after his indictment, if he demands the same, unless it shall appear to the Court that the witnesses, on behalf of the government, have either been enticed away or are detained by some inevitable accident from attending. And all persons under indictment for felony shall be bailed or tried at the second term after the bill shall be returned, if they demand it.

Provided he has been in prison six months.

If in prison and indicted, to be tried or bailed at first term, if demanded, after indictment found.

Persons indicted to be tried or bailed at second term.

Informations and actions on penal statutes on behalf of informer, or State and informer—where to be brought and tried.

SEC. 45. *Be it further enacted,* That in all informations to be exhibited, and in all actions or suits to be commenced against any person or persons, on the behalf of any informer, or on the behalf of the State, and any informer for or concerning any offence committed or to be committed against any penal statute, the offence shall be laid and alleged to have been committed in the county where such offence was in truth committed and not elsewhere, and if the defendant, in any such information, action or suit, pleadeth that he owes nothing, or that he is not guilty, and the plaintiff or informer in such information, action or suit, upon evidence to the Jury that shall try such issue, shall not both prove the offence laid in the said information, action or suit, and that the same offence

was committed in that county, the issue shall be found for the defendant or defendants.

SEC. 46. *Be it further enacted,* That if any information, suit or action, shall be brought or exhibited against any person or persons for any offence committed against the form of any penal law, on behalf of any informer, or on behalf of the State and any informer, it shall be lawful for such defendants to plead the general issue, and give any special matter in evidence to the Jury, which shall be as available to him or them, as if he or they had sufficiently pleaded the same matter in bar, or discharge of such information, suit or action.

In such information or action defendant may plead general issue and give special matter in evidence.

SEC. 47. *Be it further enacted,* That no person upon whom sentence or judgment of death shall be passed or given by the Justices of the Supreme Judicial Court, shall be executed in pursuance of such judgment, before the whole record of such proceedings or case be certified by the Clerk of the same Court, under the seal thereof to the Supreme Executive Authority of this State, nor until a warrant shall be issued by the said Supreme Executive Authority, under the great seal of this State, with a copy of the record thereunto annexed, directed to the Sheriff of the county wherein the trial of the person so convicted as aforesaid, was had, commanding the same Sheriff to cause execution to be done upon the person so convicted as aforesaid, in all things according to the judgment against him. And the Sheriff to whom such warrant shall be directed is hereby authorized and required to execute the same in due form of law.

No person to be executed but by warrant from Supreme Executive, &c.

[Approved March 19, 1821.]

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CHAPTER LX.

An Act respecting the Attachment of Property on Mesne Process, and directing the issuing, extending, and serving of executions.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That all goods and estate attached upon mesne process for the security of the debt or damages sued for, shall be held for the space of thirty days after final judgment, to be taken in execution; and if the creditor shall not take them in execution within thirty days after judgment, the attachment shall be void. And the share or shares, or interest of any person in any turnpike, bridge, canal or other company which heretofore has been, or hereafter may be incorporated, with all the rights and privileges appertaining to such shares, may be attached on mesne process, and taken on execution; and the attachment of such shares or interest on mesne process shall hold the same, and also all dividends growing due after such attachment, to respond the final judgment which may be rendered thereon, until the expiration of thirty days after the rendition of such judgment.

Attachment to hold for thirty days after judgment.

Attachment of shares in companies to bind the same and growing dividends.

When attached or taken on execution copies to be left with Clerk, &c.

Rights in equity liable to attachment and execution.

In case of redemption attaching creditor to have lien on the fee of the estate.

Franchises of turnpikes, &c. may be attached.

Copy to be left with Clerk &c. thirty days before Court.

Execution may issue 24 hours after judgment, if no appeal.

Executions when returnable.

And when any such shares or interest shall be attached on mesne process, or taken on execution without such previous attachment, an attested copy or copies of such writ of attachment or execution, shall, by the officer holding the same be left with the Clerk, Treasurer or Cashier of such company. And all rights in equity of redeeming lands mortgaged, reversions or the remainders, shall be liable to attachment upon mesne process and to be taken by execution upon judgment recovered for the payment of the just debts of the mortgager or owner; and when any right in equity of redeeming real estate which is mortgaged, shall be attached on mesne process, and pending the attachment such mortgaged real estate shall be redeemed by the mortgager, the attaching creditor shall have the same lien on such estate as though the attachment had been of the fee, and execution may be levied thereon accordingly.

SEC. 2. *Be it further enacted,* That the franchise and all the rights, privileges and immunities of any turnpike, bridge, canal or other company incorporated by law with power to receive toll so far as relates to the right of demanding and receiving toll, as well as all other corporate property, either real or personal, shall be liable to attachment on mesne process; and when such attachment shall be made or other service of a mesne process shall be made on any of the corporations aforesaid, the officer serving the same shall leave an attested copy of said process, and his return thereon with the Clerk, Treasurer, or some one of the directors of said corporation, thirty days at least before the day of the sitting of the Court to which the same may be returnable.

SEC. 3. *Be it further enacted,* That the party obtaining judgment, in a civil action, in any Court of Judicature within this State, shall be entitled to have his execution thereon at any time after the expiration of twenty-four hours after judgment rendered, and within one year next after the entering up of such judgment: *Provided,* That there be no appeal granted. And execution issuing from the Circuit Court of Common Pleas, shall be made returnable within three months, unless the Circuit Court of Common Pleas shall sit within that time, and in that case it shall be made returnable to the next Court; and those issuing from the Supreme Judicial Court, shall be made returnable at the end of six months, unless the Supreme Judicial Court shall sit in the said county within that time, and in that case it shall be returnable to the same; and those issuing from a Justice of the Peace shall be made returnable within sixty days from the day of issuing them; and when such executions shall be returned without any satisfaction made, or satisfied only in part, the Clerk of the Court from whence, or Justice from whom such execution issued, shall, upon application of the creditor, make out an alias or pluries execution for the whole, or the remainder, as

the case may be, till the judgment shall be fully satisfied; but if the party shall neglect for the space of one year next after obtaining judgment, to take out his execution, or shall not within one year next after his execution shall be returned not satisfied, take out his alias or pluries, he shall sue out his writ of scire facias against the adverse party, to show cause, if any he hath, why execution ought not to be done; and upon his not showing sufficient cause, the Court shall award execution for what remaineth, with additional costs; or the creditor may bring his action of debt on the judgment.

Not to issue after a year without a scire facias,

or may have action of debt on the judgment.

SEC. 4. *Be it further enacted,* That whenever it shall happen that any sheriff, coroner or other officer authorized by law to serve executions, shall at the same time have several executions wherein the creditor in one execution is debtor in the other, any such officer is hereby empowered and directed to cause one execution to answer and satisfy the other, so far as the same will extend: *Provided always,* That this Act shall not be construed to extend to any judgments or executions wherein the creditor in one execution is not in the same capacity and trust, debtor in the other: *And provided also,* That nothing in this Act shall be construed to effect or discharge the lien which any attorney has or may have upon any judgments or executions for his fees and disbursements, or to effect the rights of any person to whom or for whose benefit the same judgments or executions, or the original cause of action thereof may have been assigned, bona fide; and without fraud.

Officers to offset executions,

Provided parties are in the same capacity,

and that attorney's lien for costs, and assignee's rights shall not be impaired.

SEC. 5. *Be it further enacted,* That when any goods or chattels shall be taken to satisfy an execution issuing upon a judgment obtained, such goods or chattels shall be safely kept, by the officer, at the expense of the debtor, for the space of four days next after they are so taken; and if within that time, the owner shall not redeem the same by otherwise satisfying the execution, such goods and chattels shall be sold at public vendue to the highest bidder, having first been advertised by the posting up notifications of the time and place of sale, forty-eight hours before the expiration of the four days in the town or place where the sale is to be; and the money arising upon such sale shall be applied to the paying charges and the satisfying the execution, and the officer shall return the overplus, (if any there be,) to the debtor. And the officer who is possessed of the execution shall make return of the same with his doings therein, particularly describing the goods taken and sold, and the sum for which each article was struck off; and if any officer shall be guilty of any fraud in the sale or in the return, he shall be liable to the debtor to pay him five times the sum defrauded, to be recovered by action of the case.

Goods seized on execution to be kept four days before sale—

to be advertised 48 hours before sale—

officer to make particular return—

penalty for fraud therein.

SEC. 6. *Be it further enacted.* That an attested copy or copies of the execution left with the Clerk, Treasurer or Cash-

Leaving copy of execution

with certain officers of corporations to be a taking on execution.

Shares, &c. to be sold at auction, after notice.

Copy of return to be left with officer of corporation.

Certificates of shares to be given to purchaser.

Mode of notifying sale of shares.

ier of any turnpike, bridge, canal or other corporation, and an advertisement of the time and place of sale being once published within said thirty days after judgment, shall be deemed a taking such shares or interests in execution, pursuant to the attachment on the original writ; and so many of said shares, or so much of said interest may be sold on said execution at public vendue to the highest bidder as shall be sufficient to satisfy the same, and the charges of the sale, after notice shall have been given of the time and place of sale in manner as hereinafter provided; and in case the officer making the sale, or the purchaser or purchasers of any such shares or interest do cause an attested copy or copies of such execution, and the officer's return thereon to be left with such Clerk, Treasurer or Cashier, within fourteen days after the sale is completed, and pay for the recording of the same, such purchaser or purchasers shall be thereby entitled to such shares and interest, with all the privileges appertaining thereto, and the income and dividends which may have accrued or been made on the same subsequent to the attachment thereof on mesne process; and it shall be the duty of the proper officer or officers of such corporation, to issue to the purchaser or purchasers under such execution, such certificates as by the bye-laws and regulations of such corporation are the evidences of the shares or interest of a proprietor in such corporation.

SEC. 7. *Be it further enacted,* That in making sale of any such shares or interest, the officer holding the execution shall give notice in writing of the time and place of sale to the judgment debtor, by leaving the same at his last and usual place of abode, if within the county in which the said officer dwells, and public notice of the said time and place of sale, by posting up notifications thereof in one or more public places in the town or plantation where such sale is to be made, and also in one or more public places in the two adjoining towns, thirty days at least before the time of sale, and further shall cause an advertisement expressing the time and place of sale, and against whom execution shall have issued on which such shares or interests have been taken, to be published three weeks successively before the day of sale, in some public newspaper printed in the county where the sale is to be made, if any such be therein printed, and in case no such paper is therein printed, then such advertisement shall be published in some public newspaper in the nearest county wherein a newspaper shall be published; and in case the judgment debtor has at no time resided, or does not then dwell in such county, the posting up such notifications, and publishing such advertisements in manner aforesaid shall be deemed sufficient notice of such sale; and in case the shares or interest so notified for sale, shall not for want of purchasers, be disposed of at the time appointed for sale, the officer

shall adjourn the sale for a time not exceeding three days, and from time to time, until the sale shall be completed; and the surplus monies, (if any there be,) arising from such sale, beyond satisfying the contents of the execution and necessary intervening charges, the officer shall pay the debtor, or deposit the same with the treasurer or cashier of the corporation, for the benefit of the debtor and subject to his order.

Vendue may be adjourned for three days.

Surplus how to be disposed of.

Sec. 8. *Be it further enacted,* That whenever an officer, having a writ of attachment or execution against any person interested in any such company, shall exhibit to the Clerk or Cashier thereof, such writ or execution, and request a certificate from him of the number of shares or amount of interest owned by the debtor in such company, it shall be the duty of such Clerk or Cashier to give the said officer a certificate of the number of shares or amount of interest holden and owned by the debtor in such company, and therein express the numbers or other marks by which such shares or interest are distinguished; and in case such Clerk or Cashier shall refuse to make and deliver to the officer such certificate, or shall wilfully make and deliver a false certificate thereof, such Clerk or Cashier shall be liable to pay to the creditor the full contents of such execution, and the contents of the judgment which may be recovered by the plaintiff in such writ of attachment, and the same may be recovered by the judgment creditor in an action of debt, in any Court proper to try the same.

Clerk or cashier on request of officer, to give him certificate of shares owned by the debtor.

Penalty for neglect, &c.

Sec. 9. *Be it further enacted,* That whenever any judgment has been, or may hereafter be recovered in any Court of Law against any turnpike, bridge, canal or other company incorporated by law, with power to receive toll, the franchise of such corporation, with all the privileges and immunities thereof, so far as relates to the right of demanding and receiving toll, as well as all other corporate property, whether real or personal, shall be liable to the satisfaction and payment of such judgment, and may be taken and sold on execution at public vendue; the officer first giving notice of the time and place of sale, by posting up a notification thereof in any town or plantation, in which the Clerk, Treasurer or any of the Directors of said corporation may dwell, thirty days at least before the time of sale, and also by causing an advertisement, expressing the name of the creditor, the amount of said execution, and the time and place of sale, to be inserted three weeks successively in some public newspaper, published in any county in which either of the aforesaid officers of said corporation may dwell, (if any such newspaper shall be there printed,) the last publication to be at least four days before the day of sale.

Franchise of corporation after notice, may be sold on execution.

Mode of giving notice.

Sec. 10. *Be it further enacted,* That in the sale of such franchise any person who will pay and satisfy said execution and all legal fees and expenses thereon, in consideration of

Mode and effect of such sale.

being entitled to receive, to his own use, for the shortest period of time, all such toll as the said corporation may by law be entitled to demand and receive, shall be considered as the highest bidder, and the same shall be struck off to him accordingly; and the officer's return on said execution shall transfer to the purchaser all the privileges and immunities which by law belonged and appertained to said corporation, so far as relates to the right of demanding and receiving toll; and the said officer shall immediately after such sale, be authorized and empowered to deliver to said purchaser, possession of all the toll houses and gates belonging to said corporation, in whatever county the same be situated; and the said purchaser shall thereupon be entitled to demand and receive to his own use, all the toll which may accrue, within the time limited by the term of his purchase, in the same manner, and under the same regulations, as the said corporation was before authorized to demand and receive the same: *Provided however,* That the said corporation shall in all other respects, retain the same powers, be bound to the discharge of the same duties, and liable to the same penalties and forfeitures as before belonged to and were required of them by law; *And Provided also,* That if the said corporation shall, at any time within three months from the time of such sale, pay over or tender to said purchaser such sums of money as he may have paid in satisfaction of said execution with twelve per cent. interest thereon, in addition to the toll which he may have received, then the said franchise, and all the rights, privileges and immunities thereof, shall revert to said corporation, and shall in all respects belong and appertain to them, as if the same had not been sold as aforesaid.

Officer may give possession to purchaser.

Corporation may redeem within three months—

on what terms.

Warrant of distress may be issued against corporation for damages assessed by committee or Jury—

to be served as executions.

In certain cases vendue may be adjourned ten days.

SEC. 11. *Be it further enacted,* That whenever any damages have been, or may hereafter be assessed to any person or body politic, either by the report of a committee, or the verdict of a Jury, for any injury sustained in his or their property, by the doing of any of the corporations aforesaid, and the said damages shall remain unpaid for the space of thirty days after the final acceptance of such report or verdict, such person or body politic, upon petition to any Court, by which such report or verdict was accepted, shall be entitled to a warrant of distress against said corporation, for the damages so assessed and the interest thereon, together with his or their reasonable costs; and the officers to whom such warrant of distress may be delivered, may proceed to execute the same in the same manner as is herein before provided for the levying and satisfaction of executions.

SEC. 12. *Be it further enacted,* That the officer who may levy any execution or warrant of distress by virtue of the ninth, tenth, eleventh and thirteenth sections of this Act, shall be authorized to adjourn the vendue from time to time, not exceeding ten days at any one time, until the sale shall be completed.

Sec. 13. *Be it further enacted,* That the lands, tenements or hereditaments of any bank already incorporated or which may hereafter be incorporated by law, may be taken in execution, and sold at public vendue to the highest bidder; and in every such case, the officer who shall levy such execution shall be empowered to execute to the purchaser a good deed or deeds of any such lands, tenements or hereditaments, having first given notice of the time and place of sale at least fourteen days previous thereto, in two or more public places, in the town or place where such lands or tenements lie, as also in two adjacent towns; and all deeds and conveyances of any such lands, tenements or hereditaments duly executed as aforesaid, shall be good and effectual in law to transfer to the purchaser, his heirs and assigns forever all the right, title and interest therein, which belonged to said corporation; any law, usage or custom to the contrary notwithstanding.

Real estate of banks may be sold on execution after notice, &c.

Officer may give deed.

Mode of notice

Sec. 14. *Be it further enacted,* That all the right, title, claim and interest of any bank now incorporated, or which may be hereafter incorporated by law, in any lands, tenements or hereditaments, which has been or shall be mortgaged for security of any debt due or assigned to such bank, shall be liable to be seized on any writ of execution issued on any judgment, rendered, or which may hereafter be rendered by any Court of law within this State, and sold at public auction, in the same manner as is prescribed for the sale and conveyance of the real estates of such banks in this Act.

Real estate mortgaged to banks may be sold in same manner.

Sec. 15. *Be it further enacted,* That any debt secured by such mortgage, and due to such bank at the time of the sale of such mortgage, shall pass by the deed of conveyance executed by the officer who shall serve such writ of execution, and be completely, and to all intents and purposes transferred to, and vested in such purchaser; and such purchaser, or his legal representatives may in his own name maintain any action proper to recover such debt, or to obtain possession of such lands, tenements or hereditaments, which might have been maintained in the name of such bank, had no such sale been had; and the copy of such mortgage deed duly certified by the Register of Deeds for the county or district where such lands are situated, and where such mortgage deed shall be recorded, shall be considered prima facie evidence of such mortgage deed, and of the note or other obligation on which such mortgage is founded, and that the same were remaining due and unsatisfied at the time of the trial of such action; and it shall be the duty of the Cashier or Clerk of such bank, on reasonable request, to furnish such officer, who shall serve such execution, or the judgment creditor, with a certified copy of such note or other obligation, together with a copy of all the endorsements thereon, and a state-

The debt secured by such mortgage shall pass by the officer's deed of the estate.

Cashier or Clerk to give purchaser a copy of the note, bond, &c. and sum due on it.

ment of all such payments as shall have been made thereon by such debtor; and whenever such debtor shall have paid to such purchaser the amount due on such note or obligation, he shall be forever discharged from such note or obligation.

After notice to bank of such seizure, &c. no sale or transfer to be valid, except, &c.

SEC. 16. *Be it further enacted,* That no gift, sale, transfer, conveyance or endorsement of such note or mortgage, made by such bank, after notice to such bank and such debtor of the seizure thereof, on execution by such officer for the purpose of sale under this Act, shall have any validity, force or effect against such purchaser under such sale at auction, but the same shall be adjudged null and void, except only between such bank and such person to whom such bank shall make such gift, sale, transfer, conveyance or endorsement, their heirs, executors, administrators and assigns.

Equities of redemption may be sold on execution.

SEC. 17. *Be it further enacted,* That all rights in equity of redeeming real estate mortgaged, shall be liable to be taken in execution upon judgment for the payment of the just debts of the mortgager or owner, and the officer having such execution is hereby authorized to make sale of the same at public vendue, and to make, execute, acknowledge and deliver to the highest bidder good and sufficient deed or deeds of any estate so sold, in manner as is hereinafter expressed.

Mode of giving notice.

And the officer shall give notice in writing, of the time and place of sale to the debtor in person, or by leaving the same at his last and usual place of abode, and public notice of the said time and place of sale, by posting up notifications thereof in two or more public places in the town or plantation in which such mortgaged estate is situated, and also in one or more public places in two adjoining towns, thirty days at least before the time of sale; and further shall cause an advertisement of the time and place of sale to be published three weeks successively before the day of sale in some public newspaper printed in the county in which such real estate lies, if any such newspaper shall be there printed, and the notifications aforesaid, being given or posted up within the space of thirty days after judgment given, whereon such execution shall issue, the attachment shall hold the equity attached as aforesaid, until the levy of such execution can be completed in manner hereinafter described. And in case the estate notified for sale as aforesaid, shall not be disposed of at the time and place appointed, the officer shall adjourn the vendue, not exceeding three days, and so from time to time until the sale shall be completed. And the surplus monies, (if any there shall be,) arising from such sale, beyond satisfying the debt, costs and necessary intervening charges, the officer shall return to the debtor.

Attachment to hold until sale.

Auction may be adjourned three days.

Disposal of surplus.

Deeds of officers to be effectual to pass the right.

SEC. 18. *Be it further enacted,* That all deeds made and executed as aforesaid, shall be as effectual, to all intents and purposes, to convey the debtor's right in equity aforesaid, to

the purchaser, his heirs and assigns, as if the same had been made and executed by such debtor or debtors: *Provided*, That every such debtor shall have liberty to redeem the right in equity so sold, within one year next after the time of executing the deed or deeds thereof, in manner aforesaid, by paying the sum which may by such sale have been satisfied on such execution, with the interest thereof, deducting the rents and profits the purchaser or any under him may have received over and above the repairs and betterments made by the purchaser or any under him.

Debtor may redeem within one year, paying, &c.

SEC. 19. *Be it further enacted*, That the estate, right, title or interest of any person, owned, holden or claimed in virtue of a possession, or improvement as expressed in "An Act for the settlement of certain equitable claims arising in real actions," shall be liable to be taken by attachment, on mesne process, and by execution. And when any such right, title, interest or estate shall be seized and sold upon execution, such notice shall be given, and such proceedings had, in every respect, as are required by law, in the sale of an equity of redemption; and the debtor, whose right, title, interest or estate is so taken and sold, shall have the right of redeeming the same, within such time, and in such manner, as is provided in cases of sales of equity of redemption.

Possessory titles to real estate may be attached and sold on execution.

Redeemable in same manner as equities of redemption.

SEC. 20. *Be it further enacted*, That whenever an officer shall have in his hands any money arising from the sale of the shares or interest aforesaid, or from the sale of any equity of redemption, or personal property, more than sufficient to satisfy the execution or executions on which such shares or interests, equity of redemption or personal property were taken and sold, such officer shall apply the same surplus money, or such part thereof as may be necessary to the payment of any other execution which he may have in his hands, unsatisfied against the same debtor, or which may be delivered to him before he shall have paid over such surplus money, any thing in this or any other law of this State to the contrary notwithstanding: *Provided however*, That if such share or interest, equity of redemption, or personal property, shall, before such sale, have been attached on mesne process, other than that on which such execution shall have issued, or shall have been taken on some other execution, and the said officer is duly notified thereof, he shall hold such surplus monies, subject to such attachment or execution, and shall apply the same to the payment of the execution which may issue on the judgment that may be rendered on such mesne process, and delivered to him within thirty days after the rendition of such judgment, or to the payment of the execution by which such shares or interest, equity of redemption, or personal property had been taken according to the priority in regard to time, of such attachment or taking in execution.

Surplus in officer's hands to be applied towards paying other executions in his hands.

Or if such surplus be attached before sale, or taken on another execution, same to be held subject thereto.

SEC. 21. *Be it further enacted*, That whenever any Sheriff,

If second attachment or seizure be made before sale, by a Coroner, Sheriff on notice thereof must hold surplus for him.

or Deputy Sheriff shall make sale of any share or interest in an incorporated company, of any right in equity to redeem mortgaged real estate, or of any personal property, which shall before such sale, have been attached on mesne process, or taken on execution by a Coroner, and such Sheriff, or Deputy Sheriff is duly notified thereof in writing, he shall hold the monies in his hands, arising from such sale, subject to such attachment or execution, in the same manner as if he were authorized to serve the execution which shall have issued, or may issue on such mesne process, or on which said share or interest, equity of redemption, or personal property, may have been taken by said Coroner.

Sheriff, on notice to pay over such surplus to Coroner, &c.

SEC. 22. *Be it further enacted,* That said Sheriff or Deputy Sheriff, after being notified in writing by said Coroner, of the execution in his the said Coroner's hands, on which said share or interest, equity of redemption, or personal property, shall have been taken, or which issued on the mesne process whereon said share or interest, equity of redemption, or personal property had been attached, of the time of such attachment on mesne process, or taking on execution, and of the whole amount, including fees due on said execution, shall pay over to the said Coroner the amount due on said execution, or so much thereof as shall remain in his hands, after satisfying all executions, in his own hands on which said share or interest, equity of redemption, or personal property had been taken, or which issued on mesne process whereon said share or interest, equity of redemption, or personal property had been attached prior to the time of the attachment on mesne process, or taking on execution as aforesaid, by said Coroner.

In similar cases, coroner to hold and pay over surplus to a sheriff.

SEC. 23. *Be it further enacted,* That whenever any Coroner shall make sale of such share or interest, equity of redemption, or personal property, which shall before such sale, have been attached on mesne process or taken on execution by a Sheriff or Deputy Sheriff, such Coroner shall be subject to the same duties and requirements, in relation to such Sheriff or Deputy Sheriff, as by the twenty-first and twenty-second sections of this Act, a Sheriff is, in like case subject to, in relation to a Coroner.

In similar cases, constable to hold and then pay over surplus to sheriff or coroner.

SEC. 24. *Be it further enacted,* That whenever any Constable shall make sale of any such share or interest, equity of redemption, or personal property, which shall before such sale have been attached on mesne process, or taken on execution by a Sheriff or Deputy Sheriff, or by a Coroner, such Constable shall be subject to the same duties and requirements in relation to such Sheriff or Deputy Sheriff, or Coroner as by the twenty-first and twenty-second sections of this Act, a Sheriff is, in like case subject to, in relation to a Coroner.

Shares held in companies to be attached and sold in no other

SEC. 25. *Be it further enacted,* That the shares and interests held by any person or persons in any such company as aforesaid, may be attached on mesne process and taken and

sold on execution, in the manner provided by this Act, and no other, any thing in the Act incorporating such company to the contrary notwithstanding.

manner than this Act provides.

SEC. 26. *Be it further enacted,* That all proceedings under the authority of the second, ninth, tenth, eleventh and twelfth sections of this Act, may be had in any county in which either the creditor, or the President, either of the Directors, the Treasurer or Clerk of said Corporation may reside or dwell.

In what counties certain proceedings may be had.

SEC. 27. *Be it further enacted,* That when any person shall obtain judgment in any Court within this State, for any sum of money, and the person or persons against whom the judgment is, does not satisfy such judgment, and the creditor can find no personal estate to his acceptance, wherewith to satisfy his execution, and shall think proper to levy his execution upon the debtor's real estate, then the officer to whom the execution is directed and delivered, shall cause three disinterested and discreet men, being freeholders in the county, one to be chosen by the creditor or creditors, one by the debtor or debtors, whose land is to be taken, if they see cause, and a third by the officer; and in case the debtor or debtors shall neglect or refuse to choose as aforesaid, after being duly notified by the officer, if the debtor be living in the county in which such land lies, the officer shall appoint one for such debtor or debtors, to be sworn before one of the Justices of the Peace of the same county, faithfully and impartially to appraise such real estate as shall be shown to them, who shall appraise the same, to satisfy the same execution with all fees, and shall set out such estate by metes and bounds, and the officer shall deliver possession and seizin thereof to the creditor or creditors, his or their attorney. And when the real estate of the debtor or debtors shall be held in joint tenancy, in coparcenary or tenancy in common with the real estate of other persons, then the said officer may extend execution on such debtor or debtors' real estate held as aforesaid, or part thereof, describing the same with as much precision as the nature and situation thereof will admit of, and give the creditor or creditors, his or their attorney, seizin and possession of such debtor or debtors' real estate held as aforesaid, or part thereof, to hold in common with the said other persons; which execution being returned with the doings thereon into the Clerk's office, and before such return into the Clerk's office or afterwards, and within three months, the same shall be recorded in the Registry of Deeds in the county where the land lies, shall make as good title to such creditor or creditors, his or their heirs and assigns, as the debtor had therein; saving always to widows their dower in all lands taken from their husbands by execution.

Made of levying executions on real estate in common cases.

Levy to be recorded in three months in Registry of Deeds, and effect thereof.

SEC. 28. *Be it further enacted,* That when it so happens that the real estate extended upon cannot be divided and set

Execution may in certain cases be extended on

rents and profits;

out by metes and bounds as before prescribed, or by the description before mentioned, then execution shall be extended upon the rents of such real estate, and the officer shall give seizin thereof to the creditor or creditors, his or their attorney; and also in case of extending execution on rents as aforesaid, shall cause the person in possession and improvement, to attorn and become tenant to such creditor or creditors, and to pay the rent to him or them accordingly; and upon refusal thereof, to turn the person so refusing out of possession and give seizin and possession of the same to the creditor to hold and enjoy the same until it shall be redeemed, as by this Act is provided: *Provided always*, That in such case it shall and may be lawful for any debtor or debtors, his or their executors, administrators or assigns, at any time before the debt with interest is fully satisfied, to tender and pay to the creditor or the tenant in possession under him, the full remainder of his debt, interest and charges, to be liquidated by three Justices of the Peace, and to recover the possession of the same, in manner provided in this Act.

Tenant to attorn.

Right of redemption.

Mode of levying executions on saw mill, grist mill, &c.

SEC. 29. *Be it further enacted*, That whenever a creditor in execution, shall think proper to extend and levy the same on any saw mill, grist mill, or other mill, factory, mill privilege, or other real estate, which cannot be divided without prejudice to, or spoiling the whole, and where the whole of such saw mill, grist mill, or other mill, factory, or mill privilege, or other real estate, is not necessary for the satisfying of such execution, the same may be extended and levied in manner before prescribed, upon the same, or upon any undivided part thereof, which shall be sufficient to satisfy such execution; and in case the estate is so situated that the same cannot be set off by metes and bounds, the return upon the execution shall describe the whole estate, with as much precision as the nature of the case will admit; which execution being returned and recorded, in manner before prescribed, shall vest in such creditor in execution, as good and valid a title thereto as the debtor had therein, when the same was attached on mesne process, or taken in execution.

Debtor may redeem real estate taken on execution within one year, paying, &c.

SEC. 30. *Be it further enacted*, That when any tenement or lands in part or in whole, shall be taken in execution for debt, it shall and may be lawful to and for the execution debtor, his heirs or assigns, executors or administrators, within the space of one year next following the extending execution thereon, to tender the creditor or those claiming under him, the debt for which the same tenement was taken, with interest from the time of the extending the execution, and the reasonable and necessary charges and disbursements laid out and expended thereon in repairing or bettering the same, over and above what the rents, profits and improvements thereof shall fall short of reimbursing such charges and interest, to be accounted for by the execution creditor, or those claiming un-

der him, which disbursements, expenses, rents, profits and improvements may be settled by any three Justices of the Peace in the county where the land lays, at the charge and expense of the debtor, one to be chosen by the debtor, and the other by the creditor, if he shall see cause to choose one, otherwise they may be both chosen by the debtor, and the third by the two Justices so chosen by the parties, or one of them as above directed, and which third shall be chosen before the other two proceed to a consideration of the business; and if the creditor or the tenant in possession as aforesaid, upon having a tender made of the sum certified under the hands of the said Justices chosen as aforesaid, or either two of them, to be due to him upon the execution, shall refuse to execute a good and lawful deed of release to the debtor or his heirs, (in case of his decease,) of the land or tenements so taken in his execution, the debtor or his heirs, executors or administrators who shall make such tender, may bring his action of ejectment against the creditor or the person claiming under him; and, upon lodging in Court the money tendered, shall recover the title and possession of the land as fully as the debtor held the same before the extending the execution upon it, together with his costs of suit: *Provided nevertheless*, That if the creditor, or the tenant in possession under him as aforesaid, shall, before the bringing the action, have offered the debtor or his heirs, executors or administrators, to make and execute such deed of release, and shall plead the same with disclaimer to the premises; then and in such case, upon the plaintiff's producing in Court the money so tendered, judgment shall be given for the plaintiff to recover possession of the lands so taken in execution, and the defendant shall recover his cost.

Mode of settling amount of rents, profits, disbursements, &c.

Creditor on receiving payment to execute release to debtor of the estate,

or be removed from the possession by judgment of Court.

SEC. 31. *Be it further enacted*, That whenever any action shall be commenced against any manufacturing corporation that may hereafter be created, or whenever any execution may issue against such corporation on any judgment rendered in any civil action and the said corporation shall not, before the day on which the said execution is returnable after demand thereof made upon the President, Treasurer or Clerk of such corporation by the officer to whom the writ or execution against such corporation has been committed to be served, show to the same officer sufficient personal estate to satisfy any judgment that may be rendered upon such writ, or to satisfy and pay the creditor the sums due upon such execution, then, upon such neglect and default, upon the issuing of an alias execution, the officer to whom such execution may be committed for service, may serve and levy the same writ and execution upon the body or bodies, and real and personal estate or estates of any member or members of such corporation, or upon the body or bodies, and upon the estate real or personal of any person or persons, who were members of such corporation at the time when the debt or debts accrued, upon which such writs or executions may have issued.

Executions against manufacturing corporations, if not satisfied,

may be renewed and satisfied by taking the bodies of any of the members of the corporation.

Attachments of property not dissolved by death of either party,

SEC. 32. *Be it further enacted,* That when any goods or estate are attached upon any writ or process which shall be pending, or may hereafter be pending in the Supreme Judicial Court or Circuit Court of Common Pleas, the same shall not be released or discharged by reason of the death of either party, but be held good to respond the judgment to be given on such suit or process, in the same manner as by law they would have been if such deceased person had been living: *Provided always,* That where any estate attached as aforesaid, shall, by the executor or executors, or administrator or administrators of the same, be represented as insolvent, and a commission of insolvency shall thereupon issue; in all such cases attachments made as aforesaid, shall have no force or efficacy after the death of the original defendant or defendants in the action.

except in cases of a representation of insolvency.

Executions in the name and for the use of the State how to be served.

SEC. 33. *Be it further enacted,* That upon any judgment in any Court of law in this State, in the name or for the use and benefit of this State, for any sum of money, a writ of execution in common form shall issue, and be directed to the proper officer, and the lands of such judgment debtor may be taken on such execution and sold at public vendue to the highest bidder. And in every such case, the officer who shall levy such execution, may and shall execute to the purchaser a good deed of any lands so by him sold. And every such officer, before he shall proceed to sell any lands in manner above described, shall give notice in writing of the time and place of sale to the debtor in person, or by leaving the same at his last and usual place of abode, if he be an inhabitant of this State, twenty days before such sale, and shall also give public notice of the time and place of sale by posting up notifications in two or more public places in the town, plantation or township, within which such land may lie, thirty days at least before the time of sale, and shall likewise cause an advertisement of the time and place of sale to be published three weeks successively, in the newspaper employed by the State to publish the laws, and in a newspaper printed in the county where such land may lie, if any such there be, the last publication to be not less than six days before the time of sale. And the officer may, if he deem it necessary, adjourn such vendue not exceeding ten days at any one time, until the sale of such estate shall be completed: *Provided however,* That the judgment debtor shall have the same right to redeem the same, in the same time and manner, as judgment debtors in execution have to redeem real estate set off on execution.

Attachment of certain articles, though left in defendant's possession, still continued valid.

SEC. 34. *Be it further enacted,* That when hay in a barn, sheep, horses or neat cattle are attached on mesne process at the suit of a bona fide creditor, and are suffered by the officer making such attachment, to remain in the possession of the debtor, on security given for the safe keeping or delivery

thereof to such officer, the same shall not by reason of such possession of the debtor, be subject to a second attachment, to the prejudice of the first attachment.

[Approved March 15, 1821.]

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CHAPTER LXI.

An Act concerning Foreign Attachments.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That any person or persons, body politic or corporate, entitled to any personal action, excepting detinue, replevin, actions on the case for slanderous words or malicious prosecution, or actions of trespass for assault and battery against any person or persons, or body politic or corporate; having any goods, effects or credits so intrusted or deposited in the hands of others, that the same cannot be attached by the ordinary process of law, may cause not only the goods and estate of the person, against whom such action lies, to be attached in his own hands and possession, but also all his goods, effects and credits, so intrusted or deposited to be attached in whose hands or possession soever they may be found, by an original writ to issue under the seal of the Circuit Court of Common Pleas, signed by the Clerk, and attested by the first Justice of the said Court, not a party thereto, in the form prescribed by law. And the officer to whom such writ may be directed, shall serve the same by attaching the goods and estate of the principal of the value required, if so much can be found in his precinct, by reading the said writ to him, or by leaving an attested copy thereof at his last and usual place of abode; if he had been an inhabitant or resident within this State at any time within three years next before the suing out such writ, and by reading the same to each of the trustees, or by leaving an attested copy thereof, at such trustee's usual place of abode; and in case the principal has not been an inhabitant or resident as aforesaid, a service made on the supposed trustee or trustees, in manner aforesaid, shall be deemed a sufficient service; and the goods, effects and credits of the principal, in the hands and possession of his trustee or trustees at the time such writ was served upon him or them, shall stand bound and be held to satisfy such judgment as the plaintiff shall recover against the principal; and when the trustees, named in such writ, do all dwell in one county, such writ shall be made returnable in the county where all the trustees dwell, but when the trustees do not all dwell in one county such writ may be made returnable in any county in which any of the trustees dwell.

Persons who are liable to be summoned as trustees.

Process to be used by a creditor in such cases.

Modes of serving such process under different circumstances.

Lien on principal's goods, &c. created by service of process.

Writ to be returnable in the county where trustees dwell; if they dwell in different counties, then in the county where either of them dwell.

SEC. 2. *Be it further enacted,* That in all such cases it shall and may be lawful for the plaintiff or his attorney to insert

Plaintiff may insert the names of other trustees.

tes at any time before service of the process on the principal.

in the process, which may have been served on one or more trustee or trustees, the name or names of any person or persons, in whose hands or possession he or they may suspect that any goods, effects, rights or credits of the absconding debtor or principal are placed or concealed: *Provided however*, That no such name or names shall be inserted after the said writ or process has been served upon the principal or absconding debtor or debtors.

In case of principal's absence from State at the time of service, action to be continued—unless he return before Court.

SEC. 3. *Be it further enacted*, That if the principal shall be absent from the State when such writ shall be served, the Court shall continue the action two terms, that he may have notice, unless the principal after the service of the writ, and before the sitting of the Court shall have come into the State: in which case, it shall be in the discretion of the Court whether to continue the action or not; and when the principal does not appear in his own person, or by attorney, to answer such suit, the trustees, or any of them having goods, effects or credits of the principal in his or their hands or possession, may appear in his behalf, and in his name plead and defend to final judgment and execution.

Trustee having goods, &c. may appear and plead in behalf of principal.

If trustee appear at first term and is discharged to recover his legal costs;

SEC. 4. *Be it further enacted*, That if any supposed trustee shall come into Court the first term and declare that he had not in his hands or possession, at the time the writ was served on him, any goods, effects or credits of the principal, and shall thereupon submit himself to an examination upon oath, and the said declaration shall appear to the Court to be true, the Court shall award him his legal costs; and if such trustee shall, at the time of service of such writ, dwell in any county, other than that in which the said writ is returnable, the Court shall allow him such further costs, as, with his legal costs, shall, under all the circumstances of the case, be a reasonable compensation to him for his time and expenses in appearing and defending himself against such suit; and every person resident in the county where such writ shall be duly returned, who, being summoned as aforesaid, shall neglect to appear and submit to an examination, as to the supposed goods, effects or credits in his or her hands, and having no reasonable cause to the contrary, in the opinion of the Court where the suit shall be, shall be liable for all costs afterwards arising in such suit, to be recovered and paid out of his own goods and estate, in case judgment shall be finally rendered for the plaintiff; and unless such costs shall be duly recovered against the goods, effects or credits of the principal in the hands of a trustee. And if several persons, resident in such county, being duly summoned as aforesaid, shall neglect to appear as aforesaid, judgment and execution against them jointly, shall be awarded for such costs. And persons resident in other counties than where the writ is returnable, shall not be liable for any costs arising on the original process herein provided.

and if he live in another county. Court may allow him reasonable compensation, &c.

Trustee not appearing first term liable to costs.

Several trustees dwelling in same county, not appearing, shall be joint judgment and execution against them for costs.

SEC. 5. *Be it further enacted,* That where the plaintiff doth not support his action against the principal, and judgment shall be rendered, that he take nothing by his writ, the Court shall award cost against him, as well in favor of the principal as in favor of such of the persons summoned as trustees severally, who have personally appeared in Court and submitted themselves to an examination, upon oath as aforesaid, and several executions shall issue thereupon accordingly. And where all the supposed trustees, or any one or more of them, come into Court, and are discharged upon examination on oath, as aforesaid, or when the suit shall be discontinued by the plaintiff against them, or against any one or more of them, the plaintiff may notwithstanding proceed against the principal, to trial, judgment and execution: *Provided however,* That where all the supposed trustees shall be discharged, as aforesaid, or where the plaintiff shall discontinue his suit against all of them, or wherever it shall appear from the record, that there is not any trustee in such suit; in all such cases the plaintiff shall not proceed in his suit against the principal, unless there shall have been such service of the original writ upon the principal as would authorize the Court to proceed to render a judgment against him, in an action brought and commenced in the common and ordinary mode of process: but the principal in such case may, if he think proper, come into Court and take upon himself the defence of the said suit: *And provided also,* That costs shall not be awarded in favor of any trustee, against whom the suit shall be discontinued as aforesaid, unless he come into Court the first term, and declare that he had not in his hands or possession, any goods, effects or credits of the principal, at the time of the service of the original writ, and thereupon submit himself to an examination upon oath, and such declaration be adjudged by the Court to be true.

When plaintiff does not support his action against principal, costs allowed to principal, and trustees who have appeared.

When all trustees are discharged plaintiff may still proceed against principal,

provided a service has been made on such principal, &c.

but principal may, if he think proper, appear and answer.

Trustee not entitled to costs unless he appear at first term and is discharged by Court.

SEC. 6. *Be it further enacted,* That when any supposed trustee shall, at the time of the service of the writ upon him, dwell in any other county than that in which the writ is returnable he shall not be required to appear in person in the original suit, nor in any suit upon a writ of scire facias founded thereon, but such supposed trustee may appear by attorney, and declare whether he had any, and what goods, effects or credits of the principal in his hands or possession, at the time when the writ was served on him, and thereupon offer to submit himself to an examination on oath; and if the plaintiff shall not see fit further to examine such supposed trustee, his declaration, so made by attorney, shall be deemed and taken to be true: and if the plaintiff shall think proper to examine such supposed trustee on oath, the answers of the trustee, upon such examination, may be sworn to before any Judge of the Circuit Court of Common Pleas for the county in which the trustee may dwell, or before any Justice

Trustee dwelling in other counties not bound to appear at Court in person,

but may appear by attorney and declare whether he had any goods, effects, &c. and offer to submit to examination—

and plaintiff may cause him to be examined before a Judge or Justice of the Peace in his own county, at first or afterwards—

of the Peace; and in all cases, when any supposed trustee shall have appeared in Court and submitted himself to an examination on oath in the manner prescribed by law, his answers upon such examination, may be sworn to before any Judge of the Circuit Court of Common Pleas for the county in which the trustee may dwell, or before any Justice of the Peace; and such examination, being duly filed in the Court in which the writ is pending, shall in every case, have the same effect, and shall be considered in the same manner, in all respects, as if the same had been sworn to in the Court in which the writ is pending.

such examination filed in Court to be sufficient.

When trustee discloses an assignment of goods, &c.

and the assignment is objected to as fraudulent,

assignee may become a party to the suit voluntarily, or

Court may summon him to appear.

His non-appearance to be entered on record.

And if assignee do not appear at second term on further notice, assignment to be ineffectual—

If assignee appear, validity of assignment shall be tried by Jury.

Original defendant may be witness for either party in such case.

Either party may appeal.

How execution is to be awarded against principal, and trustee who has not appeared, &c.

SEC. 7. *Be it further enacted,* That whenever any person summoned as trustee of any debtor, shall in his answers, disclose an assignment to another, of the goods, effects or credits of the principal in his hands, and the plaintiff in the suit shall object that the assignment ought not to have any effect to defeat his attachment, and the Court shall think it just or convenient, that the assignee should become a party to the suit, the person so stated to be assignee, may for the purpose of trying the validity and effect of the assignment, become a party to the suit, upon his appearing voluntarily and claiming to be so admitted, or by coming into Court, upon being notified for that purpose, by a summons, which the Court where the action is pending, is authorized to issue, to be served and returned in such time and manner as the Court shall think the circumstances of the case may require; and if such supposed assignee shall not appear at the time and place named in such summons, his non-appearance shall be entered on the record; or the case may be continued to the next term, for further notice to the assignee, at the discretion of the Court; and if the supposed assignee does not appear in person, or by attorney, the assignment shall have no effect to defeat the plaintiff's attachment; and upon such assignee becoming a party to the suit, the validity of the assignment, or its effect on the case, shall be tried by the Court, or by a Jury, as the case may require: in which trial, in addition to the usual evidence in other cases, the original defendant may be admitted as a witness, upon the application of either party; and the Court may award legal costs for and against any of the parties at its discretion; and either party may appeal from any judgment of the Court, as in other cases.

SEC. 8. *Be it further enacted,* That when the plaintiff shall recover judgment against the principal, and there shall be any trustee summoned, who shall not have come into Court and discharged himself upon oath, and against whom the suit shall not be discontinued; the Court shall award execution against the goods, effects and credits of the principal, in the hands and possession of every such trustee, as well as against the body, goods, and estate of the principal; and the execution shall be in the form prescribed by law.

SEC. 9. *Be it further enacted,* That when any execution, issued as aforesaid, shall be returned not fully satisfied, by reason of the trustee not discovering and exposing sufficient goods, effects and credits of the principal, or by reason of the officer's not finding sufficient goods and estate of the principal, to the acceptance of the plaintiff, to satisfy the same, the plaintiff may sue out against the trustees named in such writ of execution, or against any one or more of them, jointly or severally, a writ or writs of scire facias, in due form of law, requiring the defendants in such writs of scire facias named, to show cause why judgment for the sums remaining unsatisfied, should not be rendered against them; and if any one or more of the defendants, in such writs of scire facias named, the same being returned duly served, shall come into Court and declare, that he had not at the time of the service of the original writ upon him, any goods, effects or credits of the principal in his hands, or possession, and thereupon submit to an examination, upon oath; and if, upon such examination the supposed trustee shall appear not to be chargeable, the Court shall render judgment against him, if resident in the county where the original process was returnable, as the case may be, for costs only: and if not resident in such county; then the supposed trustee, so discharged, shall have costs; but if, upon such examination, it shall appear to the Court that the said trustees, or any one or more of them, had goods, effects or credits of the principal in his or their hands, at the time of serving the original writ as aforesaid, other than such as he or they have discovered and exposed to be taken to satisfy the execution on the first judgment, then the Court shall enter up judgment against him or them to the amount of the sums returned unsatisfied upon the said execution, if there shall appear, upon such examination to have been goods, effects or credits to that amount in his or their hands, not discovered and exposed as aforesaid; but if not, then the Court shall enter up judgment against him or them to the amount of the said goods, effects or credits in his or their hands, not discovered and exposed, as aforesaid: *Provided nevertheless,* That where any trustee has come into Court, upon the original process, and been examined upon oath, as aforesaid; and upon such examination, it has appeared to the Court, that such trustee had goods, effects or credits of the principal, in his hands, at the time of serving such original writ, such trustee shall not be again examined upon the scire facias, but judgment shall be rendered upon his examination had as aforesaid.

When execution is returned unsatisfied, trustee not exposing sufficient goods, &c.

Plaintiff may sue scire facias against trustees

To be duly served.

Proceedings to be had on such scire facias, when trustee appears.

Proviso—where trustee has been examined on original process, judgment shall be rendered on that examination.

Proceedings on scire facias when defendant is defaulted, not having appeared, &c. on the original process

SEC. 10. *Be it further enacted,* That if any trustee, upon whom the writ of scire facias shall be served, shall not appear, but shall be defaulted, he having never been examined upon oath under the original process, he shall be deemed and taken to have had in his hands and possession, at the time of the service of the original writ, goods, effects and credits of

the principal, to the amount of the judgment rendered against him, and judgment shall be rendered against the trustee accordingly. And where there shall be more than one defendant, in any such writ of scire facias, the Court may enter up joint or several judgments, according to the circumstances of the case; and upon all judgments rendered upon such writs of scire facias, execution shall issue in common form against the goods and estate, and for want thereof, against the bodies of such person or persons against whom judgment shall be so rendered.

Court may enter up joint or several judgments;

and in judgments on scire facias execution to issue in common form.

Goods, &c. so taken from trustee shall discharge him from the principal as to the same.

Trustee may plead general issue in suits against him.

Punishment of trustee for wilful false swearing.

Liability of such trustee to pay out of his own estate the amount of plaintiff's demand against principal and double costs.

SEC. 11. *Be it further enacted,* That goods, effects and credits of any person so taken as aforesaid, by process of law, out of the hands of his trustee, shall forever acquit and discharge such trustee from and against all suits, damages and demands whatever, to be commenced or claimed by his principal, his executors or administrators of and for the same: and if any trustee shall be sued on account of any thing by him done pursuant to this Act, he may plead the general issue and give this Act in evidence.

SEC. 12. *Be it further enacted,* That any person summoned as a trustee, as aforesaid, who shall upon his examination, had as aforesaid, knowingly and wilfully, answer falsely, shall upon conviction thereof in the Supreme Judicial Court, be adjudged to be guilty of perjury, and be liable and subject to all the pains, penalties, forfeitures and disabilities thereto by law incident; and shall also out of his own proper estate, be liable and subjected to pay to the plaintiff in the action, his executors or administrators, the full amount of such judgment as he, they or any of them may have recovered against the principal, in case the same be unsatisfied; otherwise, such part thereof as may remain unsatisfied, together with the legal interest thereof, and double costs of suit, to be recovered in a special action on the case.

Where by disclosure it appears that trustee is bound to deliver to the principal specific articles, at a future day, he may deliver same to the officer to satisfy the execution in whole or in part.

SEC. 13. *Be it further enacted,* That in every case where it shall appear, by the answer of the trustee, that he was, at the time of the service of the summons on him holden or bound to deliver to the principal at a future day, any specific article or articles whatsoever, such trustee shall be and hereby is authorized and permitted on demand made by the officer having any execution in his hands, issued upon any judgment, recovered by virtue of this Act, to deliver to him such specific, article or articles, or so much thereof as may be necessary to satisfy such execution, with the legal fees thereon; the value of such article or articles, as between the principal and trustee to be estimated and ascertained by the appraisal of three disinterested and discreet men, one to be chosen by the trustee, one by the officer, and one by the principal, if he see cause; or if he neglect or refuse, then the officer shall appoint two of the said appraisers, who shall all be sworn before a Justice of the Peace in and for the county where such

Value of such articles how to be ascertained.

article or articles are to be delivered, faithfully and impartially to appraise the same: and the said Justice and appraisers shall make, on such execution, a certificate of their respective doings: *Provided however*, That in all cases where by the terms of the contract between the principal and trustee, any mode is pointed out for ascertaining the value of such specific articles, the principal and trustee, or either of them may have their value thus ascertained and estimated: and in either case, the officer shall proceed to sell such articles and conduct in the sale thereof as in other cases of sales of personal property on execution, as is already by law provided; the overplus monies, after satisfying the execution and his fees, he shall pay over to the principal, if within the precinct of the officer, otherwise to the trustee. And in all cases where a part only of such specific articles shall be taken in execution, as aforesaid, the trustee is hereby authorized to deliver the residue to the principal, or make tender thereof within thirty days after such execution shall have been satisfied, in the same manner as by law he might otherwise have delivered the whole.

Proviso—in case of special agreement as to value.

Officer to sell the same as in other cases.

Where part only is sold trustee may deliver residue to principal.

SEC. 14. *Be it further enacted*, That whenever any person who shall be summoned as a trustee as aforesaid, shall die before he may have been examined as aforesaid, his executors or administrators may appear; or if the plaintiff think proper, be compelled to appear and make answer to the suit, in the same way and manner executors and administrators are allowed or compellable to appear and answer to suits and actions in other cases. And in case of the death of any trustee, after his examination, and previous to the rendering of final judgment against the principal, the executors and administrators of such deceased trustee shall be liable and answerable to perform whatever such trustee, by his answer, would have been liable to do and perform, in case he had lived.

If trustee die before examination, his executor or administrator may appear voluntarily, or be compelled to appear and answer as in common cases.

If trustee die after examination and before final judgment against principal—executor or administrator answerable, &c.

SEC. 15. *Be it further enacted*, That no person shall be considered or adjudged to be a trustee, within the intent and meaning of this Act, by reason, or on account of his having made, given, endorsed, negotiated or accepted any negotiable security whatever.

No persons liable as trustees by having given, endorsed, &c. negotiable securities.

SEC. 16. *Be it further enacted*, That whenever any judgment creditor shall discover goods, effects or credits of his debtor, that are not attachable by the common and ordinary process of law, he shall be entitled to the process provided in this Act; and upon the agent, factor or trustees being summoned in the manner this Act directs, all the money, goods, effects and credits in his hands shall be secured to respond the judgment that may be given thereon, and he shall answer thereunto, at the first term, in case his principal has personal or other sufficient and legal notice of the suit, fourteen days before the Court's sitting: *Provided always*, That upon a judg-

Judgment creditors may have the benefit of this Act—discharging the principal's body from prison, (if committed,) within seven days, by note in writing.

ment creditor's pursuing such remedy to recover his debt, he shall, within seven days after the same process on the supposed agent is served, discharge the body of the debtor, (in case he is taken in execution upon the same judgment,) by a note or memorandum, in writing, directed and delivered to the officer who has him in custody, stating the reason and occasion of the discharge of the person of the debtor; and such a discharge shall not annul, or in any manner injure the original judgment: but in case the judgment creditor shall not within the seven days discharge the person of the debtor, in manner aforesaid, the process commenced as aforesaid, shall abate, and the debtor shall recover treble costs.

[Approved February 28, 1821.]

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CHAPTER LXII.

An Act for the Limitation of Actions Real and Personal, and of Writs of Error.

Limitation of writ of right to 30 years.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty-five, no person shall sue or maintain any writ of right, or make any prescription, title or claim, to any lands, tenements or hereditaments, or to any rents, annuities, or portions issuing therefrom, upon the possession or seizin of his or their ancestor or predecessor, beyond the term of thirty years, next before the test of the same writ.

Ancestral or possessory actions limited to 25 years.

SEC. 2. *Be it further enacted,* That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty-five, no person shall sue, have or maintain any writ of entry, upon disseizin done to any of his ancestors or predecessors, on any action possessory, upon the possession of any of his ancestors or predecessors, for any lands, tenements or hereditaments, unless the ancestor or predecessor, under whom the demandants shall claim, shall have been seized or possessed of the lands, tenements or hereditaments demanded, within twenty-five years next before the test of the same writ or bringing such action.

—Of action on demandant's own seizin, 20 years.

SEC. 3. *Be it further enacted,* That after the fifteenth day of March, which will be in the year of our Lord one thousand eight hundred and twenty-five, no person or body corporate or politic, shall sue for, have or maintain any action for any lands, tenements or hereditaments, upon his or their own seizin or possession above twenty years next before the test of the same writ.

Formedons and right of entry.

SEC. 4. *Be it further enacted,* That all writs of formedon in descender, formedon in remainder, or formedon in reverter, of any lands, tenements or hereditaments whatsoever, hereafter to be sued or brought, shall be commenced within twenty years

next after the title or cause of action first descended, and at no time after the said twenty years. And no person, unless by judgment of law, shall at any time hereafter, make any entry into any lands, tenements or hereditaments, but within twenty years next after his right or title, first descended or accrued to the same, and in default thereof, such person so not entering, and his heirs, shall be utterly excluded and disabled from making such entry thereunto: *Provided always*, That when any person that is or shall be entitled to any of the writs of formedon aforesaid, or to make any entry into lands, tenements or hereditaments, shall at the time the said right or title first descended, accrued or fell, be within the age of twenty-one years, feme covert, non compos, imprisoned or beyond seas, or without the limits of the United States, that then such person shall and may bring such suit or make such entry at any time within ten years after the expiration of the said twenty years aforesaid, and not afterwards.

Proviso in favor of femes covert, infants, &c.

SEC. 5. *Be it further enacted*, That if any person shall make such entry into any lands, tenements or hereditaments, which the tenant or those under whom he claims, have had in actual possession for the term of six years or more before such entry, and withhold from such tenant the possession thereof, such tenant shall have right to recover of him so entering, in an action for money laid out and expended, the increased value of the premises, by virtue of the buildings and improvements made by such tenant or those under whom he claims; such right and value to be ascertained by the same principles as regulate such right and value under the Act for the settlement of certain equitable claims arising in real actions: *Provided*, Such entry so made by the proprietor or owner, shall have been made while the tenant was in actual possession of the premises and against his consent.

In certain cases of entry into lands, the tenant, having had possession more than 6 years, may recover of the person entering the value of improvements, &c.

SEC. 6. *Be it further enacted*, That in any writ or action which has been or may be hereafter brought for the recovery of any lands, tenements or hereditaments, it shall not be necessary for limiting the demandant and barring his right of recovery, that the premises defended shall have been surrounded by fences or rendered inaccessible by other obstructions, but it shall be sufficient if the possession, occupancy and improvement thereof by the defendant or those under whom he claims, shall have been open, notorious and exclusive, comports with the ordinary management of similar estates in the possession and occupancy of those who have title thereunto, or satisfactorily indicative of such exercise of ownership as is usual in the improvement of a farm by its owner; and no part of the premises demanded and defended shall be excluded from the operation of the aforesaid limitation, because such part may be woodland or without cultivation.

Nature of the possession and occupancy of the tenant which will bar the action of demandant.

SEC. 7. *Be it further enacted*, That all actions of trespass *quare clausum fregit*, all actions of trespass, detinue, trover or

Limitation of personal actions.

replevin for goods or cattle, all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant or [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, and all actions of assault, menace, battery, wounding and imprisonment, or any of them, 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 of account; and the said actions of trespass, debt, detinue and replevin for goods or cattle, and the said actions of trespass *quare clausum fregit*, within six years next after the cause of such actions or suits, 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 actions upon the case for words, within two years next after the words spoken, and not after: *Provided always*, That if upon any of the said actions or suits, judgment be given for the plaintiff, and the same be reversed by reason of error or a verdict pass for the plaintiff, and for matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, that in all such cases the party, plaintiff, his executor or administrator, as the case shall require, may commence a new action or suit, from time to time, within a year after such judgment reversed or such judgment given against the plaintiff, and not after.

Proviso in case of reversal of judgment, &c.

What shall be deemed the commencement of a suit.

SEC. 8. *Be it further enacted*, That any action of the case, or of debt grounded upon any lending or contract, or for arrearages of rent, which shall be actually declared upon in a proper writ, returnable according to law, purchased therefor, within the term of six years next after the cause of such action accrued; shall be deemed and taken to be duly commenced and sued within the meaning of this Act.

Limitation not to apply to feme covert, infants, &c. until disability is removed.

SEC. 9. *Be it further enacted*, That this Act shall not be understood to bar any infant, feme covert, person imprisoned or beyond sea, without any of the United States, or non compos mentis, from bringing either of the actions before mentioned in the seventh section of this Act, within the term before set and limited for bringing such action, reckoning from the time that such impediment shall be removed: and if any person or persons against whom there is, or hereafter shall be, any cause of suit, for every and any of the species of action herein before enumerated in said seventh section of this Act, who at the time the same accrued was without the limits of this State, and did not leave property or estate therein that could by the common and ordinary process of law be attached; that then and in such case, the person that is entitled to bring such suit or action, shall be at liberty to commence the same within the

respective periods before limited after such person's return into this State.

SEC. 10. *Provided always, And be it further enacted,* That this Act shall not extend to bar any action hereafter brought upon any note in writing, made and signed by any person or persons and attested by any one or more witnesses, whereby such person or persons has promised, or shall promise to pay to any other person or persons, any sum of money mentioned in such note, but all actions upon such note or notes, brought by the original promisee, his executor or administrator shall and may be maintained as if this Act had never been made; any thing herein contained to the contrary notwithstanding.

Nor to actions on cash notes witnessed, when brought by promisee, or his executor or administrator.

SEC. 11. *Be it further enacted,* That any action which shall be actually declared in as aforesaid, and in which the writ purchased therefor, shall fail of a sufficient service or return by any unavoidable accident or by the default, negligence or defect of any officer to whom such writ shall be duly directed, or when such writ shall be abated, or the action thereby commenced shall be avoided by demurrer or otherwise, for informality of proceedings; then and in any such case, the plaintiffs or plaintiff, or his or her executor or administrator, may commence another action upon the same demand and shall thereby save the limitation thereof, any thing in this Act to the contrary notwithstanding: *Provided,* That such second action shall be duly commenced by declaring in the same aforesaid and pursued at the next Circuit Court of Common Pleas of the county in which trial of the cause may be had, or within three months next after the Court whereto such former writ was or shall be returnable, or wherein judgment of abatement or other evidence of such suit shall happen, and not afterwards.

In case of failure of service of writ, &c. or abatement of it, what measures plaintiff may pursue to avoid the limitation.

SEC. 12. *Be it further enacted,* That any action of the case or of debt, grounded upon any lending or contract, or for arrearage of rent, which might have been or which may be sued and prosecuted by or against any person deceased, or who shall cease, at the time of his or her death, or within thirty days next preceding, shall and may be commenced by declaring in the same as aforesaid, and sued by or against the executor or administrator of such deceased person, within two years after the grant of letters testamentary, or of administration, and not afterwards, if otherwise barred by this Act, any thing which may be supposed herein to the contrary notwithstanding.

If creditor or debtor dies and suit might be brought within 30 days next before such death—how limitation applies.

SEC. 13. *Be it further enacted,* That in any action which shall be brought, for any debt upon simple contract, or promise in writing, not under seal, the defendant therein may give in evidence upon the general issue, his or her demands against the plaintiff, for goods delivered, monies paid, or service done, whereof an account shall be duly filed in the Clerk's office of the Court whereto such action is, or shall be brought, seven days, and before a Justice four days, at least, preced-

In actions on simple contract or promise in writing, not under seal, defendant may file account in office 7 days before Court.

In such cases limitation as to the account will relate to the commencement of the action.

ing the time of trial. And in all cases of mutual demands as aforesaid, the account of the defendant, if any time of limitation shall be objected thereto by the plaintiff, shall be considered and allowed as if an action had been duly commenced thereon, by declaring in the same, at the time when the plaintiff's action was or shall be commenced, any law, usage or custom to the contrary notwithstanding.

Limitation of action, on penal statutes.

SEC. 14. *Be it further enacted,* That all actions, suits, bills or informations which shall hereafter be had, brought, sued or commenced, for any forfeiture upon any penal statute, made or to be made, the benefit whereof is or shall be by the said statute limited in whole or in part to the person or persons who shall inform and prosecute in that behalf shall be had, brought, sued or commenced by any person that may lawfully pursue the same as aforesaid, within one year next after the offence committed, or to be committed against the said statute; and in default of such pursuit, then the same shall be had, brought or prosecuted for the State, at any time within two years after the offence committed; and if any action, suit, indictment or information, for any offence against any penal statute shall be brought after the time in that behalf limited, the same shall be void and of none effect, any Act to the contrary notwithstanding: *Provided always,* That when any action, suit or information is or shall be limited by any penal statute, to be had, sued, commenced or brought within a shorter time than is above mentioned, in every such case, the action, suit or information, shall be brought within the time limited by such statute.

Limitation of writs of error.

SEC. 15. *Be it further enacted,* That no judgment in any action or suit heretofore, or which hereafter may be rendered, shall be reversed or avoided for any error or defect therein, unless the writ of error brought for reversing the same be sued out within twenty years next after the rendition of such judgment: *Provided always,* That if any person who is or shall be entitled to such writ of error, shall at the time such title accrued, be within the age of twenty-one years, covert or non compos mentis; then such person, his or her heirs, executors or administrators notwithstanding the said twenty years expired, may bring a writ of error for the reversing of any such judgment, as such person might have done in case this Act had not been made, so as the same writ of error be sued out within five years after the coming of age, discoverture, coming of sound mind, or death of such person, whichever shall first happen, and not afterwards.

Proviso in favor of persons incapacitated, &c.

Limitation of actions against Sheriffs, for misconduct of their deputies.

SEC. 16. *Be it further enacted,* That all actions against Sheriffs, for the misconduct and negligence of their deputies, shall be commenced and sued within four years next after the cause of action.

[Approved March 19, 1821.]

CHAPTER LXIII.

An Act prescribing the Forms of Writs and other Process in the cases therein mentioned.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That in all civil actions, the original and final process in the following cases betwixt party and party, shall be made out in the forms following: that is to say;

Forms of process.

[Summons.]

Original summons.

State of Maine.

SEAL. S— ss. To the Sheriff of our County of S— or his deputy, Greeting.

We command you that you summon A. B. of C. [addition] (if he may be found in your precinct,) to appear before our Justices of our Court of , to be holden at B. within and for our said County of S. on the day of , then and there in our said Court to answer to D. E. of R. within our County of M. [addition] in a plea of ; to the damage of the said D. E., (as he saith,) the sum of dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witness, E. H. Esq. at B. the day of , in the year of our Lord A. D. Clerk.

[Capias or Attachment.]

Capias or attachment.

State of Maine.

SEAL. C— ss. To the Sheriff of our County of C— or his deputy, Greeting.

We command you to attach the goods or estate of R. F. of B. within our County of C— [addition] to the value of dollars; and for want thereof to take the body of the said R. F. (if he may be found in your precinct,) and him safely keep, so that you have him before our Justices of our Court of ; next to be holden at B. within and for our said County of C— on the day of ; then and there in our said Court to answer unto D. S. of R. within our County of H. [addition] in plea of ; to the damage of the said D. S. (as he saith,) the sum of dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witness, E. H. Esq. at P. the day of , in the year of our Lord A. D. Clerk.

[Summons when goods are attached.]

Summons when goods are attached.

State of Maine.

SEAL. C— ss. To A. B. of B. within our County of C—, [addition] Greeting.

We command you that you appear at our next Court of to be holden at B. within and for our County of C— aforesaid, on the day of , then and there to answer to C. D. of R. within our County of M. [addition] in a plea of ; which plea the said C. D. hath commenced against

justice be done, we command you, that you make known unto the said A. B. that he be before our Justices of our said Court of to be holden within or for our said County of S— at B. on the day of , to show cause, (if any he have,) wherefore the said C. D. ought not to have his execution against him the said A. B. for his debt or damage and costs aforesaid; and further to do and receive that which our said Court shall then consider; and there and then have you this writ, with your doings therein. Herein fail not. Witness, E. H. Esq. at B. the day of , in the year of our Lord
A. D. Clerk.

Forms of process in cases before Justices of the Peace.

SEC. 3. *Be it further enacted,* That the several forms of writs and process here under written, shall be, and hereby are established to be the forms to be granted and used in civil causes triable before a Justice of the Peace, that is to say,

Summons for appearance.

[Summons for appearance.]

SEAL. S— ss. To the Sheriff of the said County of S—, or either of his deputies, or the Constables of the towns within the said County, or to any or either of them,
Greeting.

In the name of the State of Maine, you are required to summon and give notice unto T. P. of B. aforesaid, [addition] (if he may be found in your precinct,) that he appear before me J. D. Esq. one of the Justices of the Peace for the County aforesaid, at my dwelling house in B. on the day of at of the clock in the noon; then and there to answer to E. L. of M. [addition] in a plea of , to the damage of the said E. L. (as he saith,) the sum of , as shall then and there appear, with other due damages. And of this writ, with your doings therein, you are to make true return unto myself, at or before the said day of . Dated at B. aforesaid, the day of , in the year of our Lord
J. D.

Copies or attachment.

[Capias or Attachment.]

SEAL. S— ss. To the Sheriff of the said County of S—, or either of his deputies, or the Constables of the town of B. within the said County, or to any or either of them,
Greeting.

In the name of the State of Maine, you are required to attach the goods or estate of T. P. of B. aforesaid, [addition] to the value of ; and for want thereof, to take the body of the said T. P. (if he may be found in your precinct,) and him safely keep, so that he may be had before me J. D. Esq. one of the Justices of the Peace for the County aforesaid, at my dwelling house in B. on the day of at of the clock in the noon; then and there to answer to E. L. of M. [addition] in a plea of ; to the damage of the said E. L. (as he saith,) the sum of , as shall then and there appear, with other due damages. Hereof fail not, and make due return of this writ, and of your doings therein, unto my-

self, at or before the said day of . Dated at B. aforesaid, the day of in the year of our Lord . J. D.

[Summons when Goods are attached.]

SEAL. S— ss. To T. P. of D. in the County of S— Summons when goods are attached.
[addition] Greeting.

In the name of the State of Maine, you are commanded to appear before me J. D. Esq. one of the Justices of the Peace, for the County aforesaid, at my dwelling house in B. on the day of , at of the clock in the noon, to answer unto E. L. of M. [addition] in a plea of ; which plea the said E. L. hath commenced to be heard and tried before me ; and your goods or estate are attached to the value of for security to satisfy the judgment which the said E. L. may recover upon the aforesaid trial. Fail not of appearance at your peril. Dated at B. aforesaid, the day of , in the year of our Lord . J. D.

[Execution.]

SEAL. S— ss. To the Sheriff of our said County of S—, or either of his deputies, or the Constables of the towns within our said County, or any or either of them, Execution.

Greeting.

Whereas E. L. of M. [addition] on the day of , before J. D. Esq. one of our Justices of the Peace for our County aforesaid, recovered judgment against T. P. of B. [addition] for the sum of debt or damage, and dollars and cents for charges of suit, as to us appears of record, whereof execution remains to be done ; We command you, therefore that of the money of the said debtor, or of his goods or chattels within your precinct, at the value thereof in money, you cause to be levied, paid and satisfied unto the said creditor the aforesaid sums, being dollars and cents, in the whole ; and also that out of the money, goods or chattels of the said debtor, you levy more for this writ, together with your own fees.—And for want of such money, goods or chattels of the said debtor, to be by him shown unto you, or found within your precinct, to the acceptance of the said creditor for satisfying the aforesaid sums. We command you to take the body of the said debtor, and him commit unto our gaol in B. and we command the keeper thereof accordingly to receive the said debtor into our said gaol, and him safely keep until he pay the full sums above mentioned, with your fees, or that he be discharged by the said creditor, or otherwise by order of law. Hereof fail not, and make return of this writ with your doings therein unto our said Justice within sixty days next coming. Witness, our said Justice at B. the day of in the year of our Lord . J. D.

SEC. 4. *Be it further enacted*, That the form of the writ of scire facias aforesaid shall be the form of a writ of scire facias upon a judgment recovered before a Justice of the Peace, *mutatis mutandis*.

SEC. 5. *Be it further enacted,* That the writ of dower, and the writ of seizin of dower, shall be sued out in the forms following, to wit :

[Form of Writ of Dower.]

State of Maine.

Writ of Dower. SEAL. S—— ss. To the Sheriff of our County of S——
or his deputy, Greeting.

We command you, that you summon of in our said County of S——, if may be found in your precinct, to appear before our Justices of our Circuit Court of Common Pleas next to be holden at within and for our said County of S——, upon the day in next; then and there in our said Court to answer unto of, in a plea of dower, for that [here the declaration]; to the damage of the said as saith, the sum of dollars, as shall then and there appear. Witness, T. N. Esq. at B. the day of in the year of our Lord L. M. Clerk.

[Form of the Writ of Seizin of Dower.]

State of Maine.

Writ of seizin of Dower. SEAL. S—— ss. To the Sheriff of our said County of S—— or his deputy, Greeting.

Whereas who was the wife of E. D. late of B—— in the County aforesaid, [addition] deceased, before our Justices of our Court of holden at B—— for our County aforesaid, on the day of now last past, did recover seizin against A. B. of B—— aforesaid, [addition] of one third part of a certain messuage or tenement, with the appurtenances, situate in B—— aforesaid, in the possession of the said A. B. [addition] as her dower of the endowment of the said E. D. her certain husband, by our writ of dower, whereof she hath nothing: therefore we command you, that to the said full seizin of one third part of the aforesaid messuage or tenement with the appurtenances, you cause to be had without delay, to hold to in severalty by metes and bounds. We command you also, that of the goods or chattels of the said A. B. within your precinct, you cause to be paid and satisfied unto the said at the value thereof in money, the sum of for damages awarded her by our said Court for her being held and kept out of her dower aforesaid, and costs expended on this suit, with cents more for this writ; and thereof also to satisfy yourself your own fees; and for want of goods or chattels of the said A. B. to be by him shown unto or found within your precinct to satisfy the same, we command you to take his body, and to commit him to the keeper of our gaol in B—— in our County aforesaid, within the said prison, whom we likewise command to receive the said A. B. and him safely to keep until he pay unto the said the full sum above mentioned, and also satisfy your fees. Hereof fail not, and make return of this writ, and how you shall have executed the same to [here insert the

time and place of return as prescribed by law.] Witness, E. H. Esq. at B. the day of in the year of our Lord Clerk.

SEC. 6. *Be it further enacted,* That the trustee writs of attachment and execution shall be sued out in the forms following, to wit: Trustee Writ.

[Form of Trustee Writ of Attachment.]

State of Maine.

SEAL. S— ss. To the Sheriff of our County of S— Trustee Writ of Attachment.
or to either of his deputies, Greeting.

We command you to attach the goods and estate of A. B. of C. within our County of D. [addition] to the value of dollars, and summons the said A. B. (if he may be found in your precinct,) to appear before our Justices of our Circuit Court of Common Pleas next to be holden at within and for our County of on the day of then and there in our said Court, to answer unto E. F. of G. within our County of H. [addition] in a plea of , to the damage of the said E. F. as he saith, the sum of dollars, which shall then and there be made to appear, with other due damages: and whereas the said E. F. saith that the said A. B. has not in his own hands and possession, goods and estate to the value of dollars, aforesaid, which can be come at, to be attached, but has intrusted to, and deposited in the hands and possession of J. K. of , [addition] trustee of the said A. B. goods, effects and credits, to the said value: We command you therefore, that you summon the said J. K. if he may be found in your precinct, to appear before our Justices of our said Court to be holden as aforesaid, to show cause, (if any he have,) why execution to be issued upon such judgment as the said E. F. may recover against the said A. B. in this action, (if any,) should not issue against his goods, effects or credits in the hands and possession of him the said J. K.; and have you there this writ, with your doings therein. Witness, L. M. Esq. at the day of in the year of our Lord one thousand eight hundred and N. O. Clerk.

[Form of Trustee Execution.]

State of Maine.

SEAL. S— ss. To the Sheriff of our County of or his deputy, Greeting. Trustee Execution.

Whereas D. S. of R. within our County of S. [addition] by the consideration of our Justices of our Circuit Court of Common Pleas holden at , within and for our County of aforesaid, on the day of recovered judgment against R. F. of in the County of [addition] aforesaid, for the sum of debt or damage, (as the case may be,) and costs of suit; and whereas by the consideration of the same Court, execution was likewise awarded for the same sums against the goods, effects and credits of the said R. F. in the hands and possession of A. B. of [addition] and C. D. of

[addition] Trustees of the said debtor, as to us appears of record, whereof execution remains to be done: We command you, therefore, that of the goods, chattels, or lands of the said debtor in his own hands and possession, and of the goods, effects and credits of the said debtor in the hands and possession of the said Trustees, jointly and severally, you cause to be paid and satisfied unto the said creditor, at the value thereof in money, the aforesaid sums, being in the whole, with more for this writ; and thereof also to satisfy yourself for your own fees; and for want of goods, chattels or lands of the said debtor, in his own hands and possession, to be by him shown unto you, or found in your precinct, to the acceptance of the said creditor; and for want of goods, effects and credits of the said debtor in the hands and possession of the said Trustees, to be by them discovered and exposed to you, to satisfy the several sums aforesaid, with your own fees: We command you that you take the body of the said debtor, and him commit unto our gaol in in our County of aforesaid, and detain in your custody, within our said gaol, until he pay the full sums aforesaid, with your fees, or that he be discharged by the said creditor or otherwise by order of law. Hereof fail not, and make return of this writ and of your doings therein, [here insert the time and place of return as by law prescribed.] Witness W. C. Esq. at the day of , in the year of our Lord J. S. Clerk.

SEC. 7. *Be it further enacted*, That in proceedings in audita querela the writ of attachment and summons thereon, shall be in form following, to wit:

[Form of Writ of Attachment in Audita Querela.]
State of Maine.

SEAL. — ss. To the Sheriff of our County of
or his deputy,

Greeting.

Writ of attachment in audita querela.

We command you to attach the goods or estate of A. B. of to the value of dollars, and for want thereof to take the body of the said A. B. if he may be found in your precinct, and him safely keep so that you have him before our Justices of our Court next to be holden at within and for our County of on the day of then and there in our said Court to answer unto the grievous complaint of C. D. of , who complaineth and saith [here let the declaration be inserted] by all which the said C. D. as he saith is damaged the sum of dollars, as shall then and there be made to appear. And have you there this writ, with your doings therein. Witness, W. C. Esq. at , this day of , in the year of our Lord . A. H. Clerk.

[Form of Summons in Audita Querela.]

State of Maine.

SEAL. — ss. To A. B. of ,
We command you that you appear at our Court

Summons in audita querela.

Greeting.
Court

next to be holden at _____, within and for our County of _____, on the _____ day of _____, then and there to answer to the grievous complaint of C. D. of _____ [here recite an abstract of the declaration] which complaint is to be heard and tried at the said Court; and your goods or estate are attached to the value of _____ dollars to satisfy the judgment which the said C. D. may recover upon the aforesaid trial. Fail not of appearance at your peril. Witness, W. C. Esq. at _____ the day of _____ in the year of our Lord

A. H. Clerk.

SEC. 8. *Be it further enacted*, That where the writ of audita querela shall be issued, in the form of a writ of summons, the form thereof may be as followeth :

State of Maine.

SEAL. _____ ss. To the Sheriff of our County of _____ or his deputy, _____ Greeting.

We command you that you summons A. B. of _____, if he may be found in your precinct, to appear before our Justices of our _____ Court next to be holden at _____ within and for our County of _____ on the _____ day of _____ then and there in our said Court to answer to the grievous complaint of C. D. of _____ who complaineth and saith [here let the declaration be inserted]; by all which the said C. D. as he saith, is damaged the sum of _____ dollars, as shall then and there be made to appear. And have you there this writ with your doings therein. Witness, W. C. Esquire, at _____ this day of _____ in the year of our Lord

Audita querela
in form of summons.

A. H. Clerk.

SEC. 9. *Be it further enacted*, That in all proceedings in replevin, the writs in the following cases shall be in form following, to wit :

[Form of a Writ of Replevin for liberation of Cattle Impounded.]

State of Maine.

L. S. S— ss. To the Sheriff of our County of S—, or his deputy, or to either of the Constables of the town of B. in the said County, _____ Greeting.

We command you that you replevy [here insert a description of the beast or beasts impounded] belonging to P. D. of B. [addition] now distrained or impounded by S. P. of B. [addition] in the common pound in said B., (or in such other place as they may be restrained,) and them deliver unto the said P. D. Provided, the same are not taken and detained upon mesne process, warrant of distress, or upon execution, as the property of the said P. D. and summon the said S. P. to appear before J. S. one of our Justices of the Peace for our said County of S— at his dwelling house in B. on the _____ day of _____ at _____ of the clock in the _____ noon, to answer unto the said P. D. in a plea of replevin, for that the said S. P. on the _____ day of _____ at a place called A. in B. aforesaid, unlawfully

Writs of replevin for cattle impounded.

took and impounded the said , and the same unjustly detained to this day, to the damage of the said P. D. as he saith, the sum of dollars, as shall then and there appear, with other due damages: Provided, he the said P. D. shall give bond, with sufficient surety or sureties to the said S. P. in the sum of , being double the value of the said beasts, to prosecute his said replevin to final judgment, and to pay such damages and costs as the said S. P. shall recover against him, and also to return the said , in case such shall be the final judgment. And of this writ with your doings hereon, and the bond you shall take, you are to make return to our said Justice on or before the said day of at o'clock. Witness, J. S. our said Justice, at B. in the said County, this day of Anno Domini .
J. S.

[Form of a Writ of Replevin for goods or chattels taken, distrained or attached, which are claimed by a third person, when of the value of more than twenty dollars.]

State of Maine.

Writ of replevin for goods taken, &c.

L. S. S—— ss. To the Sheriff of our County of S—— or his deputy, Greeting.

[Or if the Sheriff or his deputy are defendants, then it may be directed to a Coroner.]

We command you that you replevy the goods and chattels following, viz. [here enumerate and particularly describe them] belonging to P. D. of B. [addition] now taken, detained or attached, (as the case may be,) by S. P. of B. [addition] at in B. aforesaid, and them deliver unto the said P. D. Provided, the same are not taken and detained upon mesne process, warrant of distress, or upon execution, as the property of the said P. D. and summon the said S. P. that he appear before our Justices of our Circuit Court of Common Pleas, next to be holden at B. within and for our County of S—— on the day of to answer unto the said P. D. in a plea of replevin, for that the said S. P. on the day of at said B. unlawfully, and without any justifiable cause, took the goods and chattels of the said P. D. as aforesaid, and them unlawfully detained to this day, to the damage of the said P. D. as he says, the sum of dollars: Provided, he the said P. D. shall give bond to the said S. P. with sufficient surety or sureties in the sum of dollars, being twice the value of the said goods and chattels, to prosecute the said replevin to final judgment, and to pay such damages and costs as the said S. P. shall recover against him; and also to return and restore the same goods and chattels, in like good order and condition as when taken, in case such shall be the final judgment; and have you there this writ, with your doings herein, together with the bond you shall take. Witness, S. N. Esq. at B. this day of Anno Domini .

E. P. Clerk,

[Form of Writ of Restitution on Judgment rendered before a Justice of the Peace.]

State of Maine.

L. s. S—— ss. To the Sheriff of our County of S——
or his deputy, Greeting.

Writ of restitu-
tion from a Jus-
tice of Peace.

Whereas P. D. of B. in our County of S—— [addition] lately replevied the beasts following : [Here insert such description of them as they had in the writ of replevin] which S. P. of B. in our County of S—— [addition] had unlawfully taken and unjustly detained, as the said P. D. suggested, and caused the said S. P. to be summoned before J. S. one of our Justices of the Peace, for our said County of S—— to answer unto the said P. D. for such supposed unlawful taking and detaining, at a day now passed : and whereas upon the day of at B. aforesaid, upon a hearing of the cause of taking and detaining the said beasts, before our said Justice, it appeared that the same taking and detaining was lawful and justifiable ; Whereupon it was then and there considered, that the same beasts be returned, and restored to the said S. P. irrepleviable, and that the said S. P. recover against the said P. D. the sum of damages, for his taking the same by the said process of replevin, and the further sum of

for his costs, arisen in the defence of the said suit, as by the record of our said Justice, before him remaining to us appears ; whereof execution remains to be done : We command you therefore, that you forthwith return and restore the same beasts unto the said S. P. And also that of the money of the said P. D. or of his goods or chattels within your precinct, at the value thereof in money you cause to be levied, paid and satisfied unto the said creditor the aforesaid sums, being in the whole, with cents more for this writ, together with your own fees ; and for want of such money, goods or chattels of the said debtor to be by him shown unto you or found within your precinct, to the acceptance of the said creditor for satisfying the aforesaid sums ; We command you to take the body of the said debtor, and him commit unto our gaol in B. and we command the keeper thereof accordingly, to receive the said debtor into our said gaol, and him safely to keep, until he pay the full sums above mentioned, with your fees, or that he be discharged by the said creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said Justice, within sixty days next coming. Witness, our said Justice at B. the day of in the year of our Lord J. S.

[Form of Writ of Withernam.]

State of Maine.

L. s. S—— ss. To the Sheriff of our County of S——
or his deputy, Greeting.

Withernam.

Whereas P. D. of B. in our County of S—— [addition] lately

replevied the beasts following, viz. [here insert such description of them as they had in the writ of replevin] and which were at the time of the replevy, of the value of which S. P. of B. aforesaid had unlawfully taken and detained, as the said P. D. suggested, and caused the said S. P. to be summoned before J. S. one of our Justices of the Peace, for our said County of S— to answer unto the said P. D. for such supposed unlawful taking and detaining, at a day now passed; and whereas upon the day of at B. aforesaid, upon a hearing of the cause of taking and detaining the said beasts, by our said Justice, it was determined, that the same taking and detaining, was lawful and justifiable: Whereupon it was then and there considered, that the beasts be returned and restored to the said S. P. irrepleviabie, and for his damages and costs; and afterwards on the day of our writ of return and restitution issued, in due form of law, directed to the Sheriff of our said County of S— or his deputy to return the same accordingly: which writ of return and restitution was delivered to C. D. to execute accordingly; who on the day of returned thereon, [here insert the return made by the officer, of his inability to return the beast.] And we being desirous that the said P. D. should not, by his false suggestions and pretentions any longer detain the beasts so by him replevied as aforesaid, command you forthwith to take the beasts of the said P. D. of like kind and value, if any he hath, to be found in your precinct, in withernam, and in default thereof any other of his goods and chattels to the full value, in withernam, and them deliver unto the said S. P. to be by him kept, used and improved, until the said P. D. shall restore him the beasts he took from him, by our writ of replevin, as aforesaid; and also that of the money of the said P. D. or of his goods or chattels to be found within your precinct, at the value thereof in money, you cause to be paid and satisfied unto the said S. P. for this writ together with your own fees for executing the same. Hereof fail not, and make return of this writ, with your doings herein, unto our said Justice, within sixty days next coming. Witness, our said Justice at B. the day of in the year of our Lord J. S.

SEC. 10. *Be it further enacted*, That the form of the writ for the replevying of a person, and of original and alias writs of Withernam shall be as follows, to wit:

[Replevying a person.]

[Form of the original Writ where any person stands committed by lawful authority.]

State of Maine.

L. s. S— ss. To the Sheriff of our County of S—, Greeting.

Writ for replevying a person lawfully committed.

We command you, that justly and without delay, you cause to be replevied C. D. who, (as it is said,) is taken and

detained in our gaol in N. within our said County of S—, by the commitment of A. B. that he the said C. D. may be at our Supreme Judicial Court, next to be holden at within our County aforesaid, upon the day of next, then and there in our said Court to answer to all such things as shall be then and there objected against him, more especially for the offence for which he stands committed, unless, while the writ of habeas corpus is suspended by the Legislature, he stands committed by the Supreme Executive Power of the State, as dangerous to the public safety, or by the same or some subordinate authority of the government, for treason, the death of man, counterfeiting the common currency, house burning, burglary, robbery or some other offence whereof if he is convicted, he may suffer death or banishment; or unless he is holden under execution upon judgment for debt, forfeiture or in withernam, or by distress for taxes, or under sentence after conviction, for fine, or costs, or in punishment. Witness, W. C. Esq. at the day of , in the year of our Lord

L. M. Clerk.

And where the plaintiff is held without order of law, the writ shall be in form following, viz.

State of Maine.

L. S. S— ss. To the Sheriff of our County of S—, Greeting.

Writ for replevying a person committed without order of Law.

We command you that justly and without delay you cause to be replevied C. D. who, (as it is said,) is taken and detained in a place called N. within our said County of S— by the duress of G. H. that he the said C. D. may appear at our Circuit Court of Common Pleas, next to be holden at within and for our said County of S— upon the day of next, then and there in our said Court to demand right and justice against the said G. H. for the duress and imprisonment aforesaid, and to prosecute his replevin as the law directs: Provided, that if he, the said C. D. is held by the said G. H. as his ward, infant, or one to whose service he is entitled, or as a principal to whom the said G. H. is bail, and he shall make you secure by good and lawful mainpernors for his appearing at our Court aforesaid to prosecute his replevin against the said G. H. and to have his body at the same Court, ready to be re-delivered if ordered thereunto, and to pay all such damages and costs, as shall be then and there awarded against him; then and not otherwise you are to deliver him; and if the said C. D. is by you delivered at any day before the sitting of our said Court, you are to summon the said G. H. by serving him with an attested copy of this writ, that he may appear at our said Court, to answer unto the said C. D. upon his replevin. Witness, T. N. Esq. at B. the day of , in the year of our Lord

X. Y. Clerk.

[Original Writ of Withernam.]

State of Maine.

L. S. S— ss. To the Sheriff of our County of S—, Greeting.

Whereas we have heretofore, by our writ for replevyng a person, commanded you that justly and without delay [here the original writ for replevyng a person shall be recited] and you having returned thereupon [here the Sheriff's return shall be recited] We therefore command you that without delay you take the body of the said G. H. if he may be found in your precinct, and him safely keep, so that he may be at our Circuit Court of Common Pleas, next to be holden at within and for our said County of S—, on the day of next, then and there in our said Court to traverse the return aforesaid upon our original writ for replevyng a person, and that if he shall be found guilty of the elongation of the said C. D. he may be held by our alias writ of withernam, until he shall produce the body of the said C. D. that he may be delivered as the law directs. Witness, T. N. Esq. at B. the day of , in the year of our Lord X. Y. Clerk.

And the alias Writ of Withernam shall be in form following, viz.

State of Maine.

Withernam. L. S. S— ss. To the Sheriff of our County of S—, Greeting.

Whereas we commanded you, by our original writ for the replevyng of a person that [here the original writ for replevyng a person shall be recited] upon which writ a return was made, that [here the return shall be recited] whereupon our writ of withernam was duly issued commanding you that [here the writ of withernam shall be recited] and at our said Court the said G. H. [here all the consequent proceedings shall be recited] whereupon it was considered and adjudged by our said Court, that the body of the said G. H. should be taken and held, until he shall produce the body of the said C. D. and until he shall pay the sum of , taxed in costs against him. We therefore command you, that you take the body of the said G. H. into your custody, and him there to hold irrepleviably in one of our gaols in our said County of S— until he shall produce the body of the said C. D. or is discharged by order of law. Witness, , Esq. at B. the day of , in the year of our Lord . Clerk.

SEC. 11. *Be it further enacted*, That in all civil causes, pending in any Court, the subpœna to witnesses shall be in the form following, to wit :

[Subpœna for Witnesses.]

S— ss. To A. B. of C. [addition] Greeting.

You are hereby required in the name of the State of Maine, to make your appearance before the Justices of the

next to be holden at B. within and for the County of S—, on the day of to give evidence of what you know relating to an action or plea of then and there to be heard and tried betwixt A. B. of C. [addition] plaintiff, and D. E. of E. [addition] defendant. Hereof fail not, as you will answer your default under the pains and penalty in the law in that behalf made and provided. Dated at B, the day of , in the year of our Lord , A. D. Clerk.

SEC. 12. *Be it further enacted*, That in all proceedings in forcible entry and detainer, the warrant to summon a jury, the summons to the party complained against, and the writ of restitution shall be in the forms following, to wit :

[Forcible Entry and Detainer.]

[Form of Warrant to Sheriff to summon a Jury.]

State of Maine.

L. S. S— ss. To the Sheriff of the County of S—, Greeting.

Form of warrant to summon a Jury in forcible entry and detainer.

Whereas complaint is made to us the subscribers, two of the Justices of the Peace for and within the County of S—, quorum unus, by A. B. of D. in the same County, gentleman, that E. F. of yeoman, upon the day of at D. aforesaid, with force and arms, and with a strong hand, did unlawfully and forcibly enter into and upon a tract of land of him the said A. B. at D. aforesaid, containing acres bounded as follows, viz. (or into the messuage or tenement of him the said A. B. as the case may be,) and him the said A. B. with force and a strong hand as aforesaid, did expel and unlawfully, put out of the possession of the same, [or if it is a forcible detainer only, then the entry shall be described and the detainer inserted as follows :] and him the said A. B. does unlawfully unjustly, and with a strong hand, deforce and still keep out of the possession of the same. You are therefore commanded in behalf of the said State, to cause to come before us upon the day of at , in the said County, twelve good and lawful men of our County each one of whom having a freehold of the yearly value of five dollars to be empannelled and sworn to inquire into the forcible entry and detainer, (or the detainer,) afore described. Given under our hands and seals the day of , in the year of our Lord ,

R. S. } Justices of the Peace,
N. O. } quorum unus.

[Forcible Entry and Detainer.]

[Form of Summons to the party complained against.]

State of Maine.

L. S. S— ss. To the Sheriff of our County of S—, Greeting.

Summons to the party complained against.

We command you that you summon E. F. of to appear before the subscribers, two of our Justices of the Peace, within and for our said County of S—, quorum unus, at a place called in D— in the said County, at o'clock

in the noon, then and there to answer to, and defend against the complaint of A. B. to them exhibited, wherein he complains that [here the complaint shall be recited] and you are to make a return of this writ, with your doings therein unto our said Justices, upon or before the said day. Witnesses, our said Justices, the day of , in the year of our Lord

[Forcible Entry and Detainer.]
[Form of Writ of Restitution.]

N. O.
R. S.

State of Maine.

L. S. S— ss. To the Sheriff of our County of S—, Greeting.

Whereas at a Court of Inquiry of forcible entry and detainer, held at D. in our County of S—, upon the day of in the year of our Lord , before R. S. and N. O. Esquires, two Justices of the Peace for our said County of S—, quorum unus, the Jurors empannelled and sworn by our said Justices, did return their verdict in writing signed by each of them, that A. B. was upon the day of in the rightful possession of a certain message or tract of land [as in the verdict returned] and that, &c. [as in the verdict] whereupon it was considered by our said Justices, that the said A. B. should have restitution of the same. We therefore command you, that taking with you the force of the County, if necessary, you cause the said E. F. to be forthwith removed from the premises, and the said A. B. to have the peaceable restitution of the same; and also that you levy of the goods, chattels or lands of the said E. F. the sum of being costs taxed against him on the trial aforesaid, together with cents more for this writ and your own fees, and for want of such goods, chattels or lands of the said E. F. by you found, you are commanded to take the body of the said E. F. and him commit to our gaol in L. in our said County of S—, there to remain until he shall pay the sum aforesaid, together with all fees arising on the service of this writ, or until he is delivered by order of law, and make return of this writ, with your doings therein, within twenty days next coming. Witness, our said Justices, at D. aforesaid, the day of , in the year of our Lord

[Approved March 19, 1821.]

R. S.
N. O.

CHAPTER LXIV.

An Act directing the Process in Habeas Corpus.

Preamble.

Whereas the writ commonly called the Writ of Habeas Corpus is a writ of right to which the citizens of this State, by the constitution and the law of the land are at all times entitled, to obtain relief from every wrongful imprisonment, or unlawful restraint of personal liberty:

Who are entitled to writ of habeas corpus.

SEC. 1. BE it enacted by the Senate and House of Representatives, in Legislature assembled, That any person imprisoned in

any common gaol, or otherwise restrained of his personal liberty by any officer or officers, or any other person or persons for any cause or upon any pretence whatever, he, or any person in his behalf, may complain, in writing, to the Supreme Judicial Court of this State, or to any one Judge of said Court, in term time in any county, or to any one or more of the Judges thereof in the vacation time of the said Court; and upon such complaint, and upon view of the copy of the warrant, (if any there be,) by which such person stands committed, or upon his affidavit certified by a Justice of the Peace, or on the oath of the person applying on his behalf, or any other credible witness, or upon the affidavit of such witness, certified as aforesaid, if he lives more than twenty miles from the Court or Judge applied to, that a copy of such warrant has been demanded and denied; the said Court or Judge in term time, and the said Judge in the vacation, hereby are respectively authorized and required to award a writ of habeas corpus, directed to the officer or person imprisoning or restraining the complainant, returnable forthwith to such Court or Judge who awarded the same, or to any other Judge of said Court; except the complaint be in favor of persons committed for treason or felony, or for suspicion thereof, or as accessory to the latter before the fact, plainly and specially expressed in the warrant of commitment, or persons convict or in execution by legal process, criminal or civil, or committed by mesne process in any civil action for want of reasonable bail, and persons with regard to whom the benefit of the said writ shall be suspended by the Legislature agreeably to the Constitution: *Provided*, That nothing in this Act contained shall be construed to hinder or restrain the said Supreme Judicial Court, in term time, or any one or more Judges thereof in the vacation, from bailing any person wherever and for whatever offence committed at their discretion, whenever the circumstances of the case shall appear to require it, persons committed by the Governor and Council, Senate or House of Representatives, agreeably to, and for the causes mentioned in the Constitution, always excepted.

and mode of applying for it.

Sup. J. Court, or any Judge thereof may grant the writ,

returnable to said Court, or any Judge thereof.

Persons confined for certain offences, &c. not allowed the writ?

But said Court or Judge may bail for any of these, special cases excepted.

Form of writs to be issued in different cases.

SEC. 2. *Be it further enacted*, That such writ, when awarded by the said Court, shall be signed by the Clerk, tested by the first Justice who is not party thereto, and sealed with the seal thereof; but when awarded by any Judge, in the vacation, shall only be under the hand and seal of such Judge, and shall direct the place to which the complainant shall be brought; and the form of such writ when awarded by the Supreme Judicial Court, shall be as follows, viz.

State of Maine.

(L. s.) S— ss. To ———, Greeting.

We command you that the body of A. B. of ———, in our prison, under your custody, [or by you imprisoned and restrained of his liberty, as the case may be,] as it is said, to—

gether with the day and cause of his taking and detaining, by whatsoever name the said A. B. shall be called or charged, you have before our Justices of our Supreme Judicial Court, holden at B——, within and for the County of S——, immediately after the receipt of this writ, to do and receive what our said Justices shall then and there consider concerning him, (or her,) in this behalf, and have there this writ. Witness, , Esq. at B. this day of , in the year of our Lord
Clerk.

And the like form shall be used by the Judge, *mutatis mutandis*, when such writ shall be awarded by him.

Duty of those to whom the writ is directed, and nature of the return to be made.

SEC. 3. *Be it further enacted*, That when any person shall bring and offer such writ of habeas corpus to the officer or person to whom the same shall be directed, he shall receive the same; and upon payment or tender of such charges for bringing the complainant from the place of imprisonment, as the Court or Judge who grants the writ shall order, if the person complaining be confined in a common gaol, or under the custody of an officer, otherwise without such payment or tender, to the place mentioned in the writ, such officer or person shall have the body of the complainant before the Court or Judge before whom the writ is made returnable, (unless committed and detained for some one or more of the causes aforesaid,) at the place therein mentioned within three days, if within twenty miles from the place of imprisonment; if more than twenty but within one hundred miles, then within ten days; if above one hundred miles, then within twenty days after the receipt thereof, and shall then return the same, and certify thereon the true and all the cause or causes of his or her taking and detaining.

In certain cases if writ be made returnable before a Judge it may be returned to the Court; and vice versa in case of adjournment of Court.

SEC. 4. *Be it further enacted*, That if after the awarding of such writ by any Judge of the said Supreme Judicial Court, in the vacation, but before the return thereof, the said Court shall sit in any county, the said writ, with the body of the complainant and causes of taking and detaining, may be returned, had and certified to the said Court by the Judge who awarded the same: but if after awarding such writ by the said Court, in term time but before the return thereof, the said Court shall rise, or be adjourned, the same, with the body of the complainant, and causes of taking and detaining, shall be returned, had and certified before some Judge of the said Supreme Judicial Court.

On return of the writ, Court or Judge must within 3 days proceed to examine, &c. and bail or commit, as case may require.

SEC. 5. *Be it further enacted*, That when any person shall be brought by writ of habeas corpus as aforesaid, before the said Court, or any Judge thereof, such Court or Judge shall within three days after proceed to examine the said causes; and if committed for an offence or cause bailable by law, they shall bail him by recognizing him with sufficient surety or sureties in a reasonable sum having regard to his quality and circumstances, and the nature of the offence, to appear at such

Court as shall have cognizance of the offence; and shall certify the recognizance into such Court; if committed upon mesne process in any civil action for want of bail and the bail required shall appear excessive, it shall be ascertained what bail is reasonable, and he shall be discharged on giving the same; but if it shall appear that the complainant is imprisoned or restrained without due order of law, or sufficient cause, he shall be discharged from such commitment or restraint.

SEC. 6. *Be it further enacted*, That if any officer, in whose custody any prisoner shall be, shall not within six hours after demand made, deliver such prisoner a true copy of the warrant or process by which he stands committed, such officer shall forfeit to the party grieved, the sum of two hundred dollars.

Penalty on an officer, if he do not deliver his prisoner, in 6 hours, a copy of warrant, &c. by which he is holden.

SEC. 7. *Be it further enacted*, That if any minor, under the age of twenty-one years, shall be hereafter enlisted within this State, into the army of the United States without the consent in writing, of his parent, guardian or master, either of the Justices of the Supreme Judicial Court, or of the Circuit Court of Common Pleas, are hereby respectively authorized and required on application therefor, to award a writ of habeas corpus returnable forthwith, directed to the officer or person restraining such minor; and such Justice or Judge is hereby authorized and required, after a full hearing of the parties who shall appear before him, to discharge such minor so enlisted.

If any minor be enlisted into U. S. army without consent of parents, &c. any Judge of S. J. Court or C. C. Common Pleas shall issue habeas corpus on application therefor :

SEC. 8. *Be it further enacted*, That the Justice or Judge aforesaid is hereby authorized and empowered to inquire into the causes of the imprisonment or restraint of any person brought before him, on such writ of habeas corpus, the return of the officer or person on said writ to the contrary notwithstanding.

Proceedings to be had on such writ.

SEC. 9. *Be it further enacted*, That if any officer or person, to whom any writ of habeas corpus shall be directed shall refuse to receive the same, or, after receipt thereof, shall refuse or neglect to yield such obedience thereto as this Act requires, (the complainant performing the conditions required,) unless prevented by the sickness of the prisoner, or other necessity, he, for such refusal or neglect, in each and every particular shall forfeit to the party grieved the sum of four hundred dollars; and for any false return to such writ shall be further liable to the action of the party.

Penalty against person to whom the writ is directed, for not receiving and obeying it—or making a false return.

SEC. 10. *Be it further enacted*, That the Court or Judge respectively may further punish every disobedience to such writs as for a contempt, and compel obedience thereto, by process of attachment. And in order to prevent any attempts that might be made to deprive any prisoner of the benefit of his habeas corpus, by shifting the custody of such prisoner from one prison or officer to another or sending him away :

Court or Judge may further punish disobedience to such writ as a contempt.

Sac. 11. *Be it further enacted*, That every person duly

Persons ordered to be committed, to be carried to common gaol, &c. soon as may be—and not confined elsewhere, except—

Penalty for removing prisoners, &c. without habeas corpus.

No person discharged on habeas corpus to be again restrained for same cause, unless, &c.

No penalty in this law to prevent recovery of damages at common law.

Any other person may appear for one secured, securing costs.

ordered to be committed for any criminal or supposed criminal matter, shall be carried as soon as may be, and confined in some common gaol and not elsewhere, (except persons sent to the work house or house of correction for due cause,) and shall not be delivered from one officer to another, except for the more easy and speedy conveyance of the prisoner to such gaol, nor be removed without his consent, from one county to another unless by habeas corpus, or some other legal writ, under the penalty of forfeiting for every offence to the party grieved, the sum of four hundred dollars.

SEC. 12. *Be it further enacted*, That no person enlarged by habeas corpus shall be again imprisoned or restrained of his liberty for the same cause, unless he shall be indicted therefor, or convicted thereof, or shall neglect to find bail when ordered thereunto by some Court of record: *Provided*, That no penalty established by this Act shall be construed to bar any action at common law for false imprisonment or unlawful restraint: And when any person shall be unlawfully carried out of the State, or imprisoned in a secret place, any other person shall be permitted to appear for him in any action brought in his name: *Provided*, Such person shall stipulate for the payment of costs as the Court shall direct.

[Approved February 27, 1821.]

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CHAPTER LXV.

An Act relating to the Writ of Audita Querela, and the proceedings thereupon.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That in all cases where by law a writ of audita querela lieth, the same may be sued out in the form of a writ of attachment, or a writ of summons, at the election of the complainant: and in all cases where the said writ is brought to set aside or annul any proceedings had upon a writ of execution, the said writ of audita querela shall be sued out of and be returnable to the Court to which the said writ of execution was returnable: and in all other cases the said writ shall be sued out of and be returnable to the Circuit Court of Common Pleas to be holden in such county whereof one of the parties thereto is an inhabitant or resident, unless where the complainant is not an inhabitant or resident within this State; and in such case the said writ may be sued out of and returnable to any Circuit Court of Common Pleas within this State, at the election of the complainant.

SEC. 2. *Be it further enacted*, That in all cases the said writ of audita querela shall be under the seal of the Court out of which the same shall issue signed by the Clerk thereof, and tested by the first Justice who is not a party to the same; and the said writ before the service thereof shall be endorsed by one or more of the complainants, or by his or their attorney,

Audita querela, how and from what Courts to be issued.

Form of Writ.

by writing his or their names on the back thereof towards the bottom; and such endorser shall be liable to pay to the respondent such cost as he shall have final judgment for, in that suit, to be recovered by action of debt. To be endorsed.

SEC. 3. *Be it further enacted*, That the said writ of audita querela may be served upon the adverse party in the same manner as writs of attachment or scire facias are directed by law to be served; and upon default of the respondent after such service without appearance, the Court may proceed to hear and try the same suit, and thereupon to proceed to final judgment and execution, in the same manner as by law they are authorized when the respondent after appearance becomes defaulted. And in all cases after the said writ is returned served as aforesaid, the Court, in which the suit thereupon is pending, shall have full power to hear and try the said cause, and thereupon to proceed to judgment and execution according as to law and justice doth appertain. Mode of service.

SEC. 4. *Be it further enacted*, That where the said writ of audita querela shall be issued in the form of a writ of attachment with summons, or by original summons, they shall be in form prescribed by law. When issued as writ of attachment—form.

SEC. 5. *Be it further enacted*, That the officer to whom such writ of attachment is directed, shall have the same power and authority, and be under the same obligations by virtue of said writ, to attach the body of the respondent or his goods, or estate, as he hath or is under by virtue of any other writ of attachment sued out pursuant to the laws of this State and to him directed; and in the same manner and under the same restrictions and regulations, as are by law provided in other cases, the body of the respondent shall be holden to bail and the goods or estate so attached be liable to be taken in execution. Power and duty of officer.

SEC. 6. *Be it further enacted*, That where the complainant in any writ of audita querela may, by other subsequent action at law, recover of the respondent any recompense in damages or otherwise, for the wrongs done him by the service of such execution for the setting aside and annulling of the proceedings upon which the said writ of audita querela is brought, in all such cases the complainant may have the same remedy upon his writ of audita querela and in his declaration therein may declare for the same recompense in damages or otherwise, and judgment shall be rendered and execution issue thereupon accordingly. Damages may be recovered in certain cases.

SEC. 7. *Be it further enacted*, That the general issue in all actions prosecuted on writs of audita querela may be the plea of not guilty; and upon such plea being duly pleaded by the respondent, either party may give any special matter in evidence by which the truth and justice of the cause may be known: *Provided nevertheless*, That the respondent may plead any special matter in bar or the said general issue at his election. Form of pleading.

Appeal allowed from C. C. C. Pleas to S. J. Court.

SEC. 8. *Be it further enacted,* That in cases where the writ of audita querela is returnable to the Circuit Court of Common Pleas in any county within this State, and judgment given in said Court, the party aggrieved thereat may appeal to the Supreme Judicial Court of this State, next to be holden within the same county, the said appeal to be granted and prosecuted under the same regulations and restrictions as appeals in other actions from the judgment of any Circuit Court of Common Pleas, are to be granted and prosecuted; and when the appellant shall fail to prosecute his appeal with effect, the Supreme Judicial Court may upon complaint filed by the appellee affirm the judgment rendered by the Circuit Court of Common Pleas with additional damages and costs, and award execution accordingly.

Court may liberate plaintiff from prison on certain conditions.

SEC. 9. *Be it further enacted,* That in cases where the complainant in such writ of audita querela is in gaol by virtue only of such execution, the Court to which such writ is returnable, or the Supreme Judicial Court upon the appeal may at their discretion, according to the circumstances of the case, enlarge and liberate the complainant from gaol and admit him to bail, upon his sureties, (being sufficient freeholders within this State to be approved of by the Court,) giving bond, together with the complainant jointly and severally to the respondent, in such penalty as shall be directed by the Court, conditioned, if final judgment be rendered for the respondent, that the complainant shall within thirty days after the entering such final judgment, surrender himself to the gaol keeper to be detained in custody under the same execution, or within that time satisfy the same execution, and also such final judgment as shall be rendered as aforesaid for the respondent. And if the said complainant shall surrender himself to the gaol keeper as aforesaid, he shall be in custody under said execution, as fully and to all intents and purposes as if the said writ of audita querela had not been brought, nor the said complainant admitted to bail.

[Approved January 23, 1821.]

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CHAPTER LXVI.

An Act establishing the Right to the Writ for replevying a Person.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That every person within this State, who shall be imprisoned, confined, or held in duress, shall be entitled as of right, to the writ for replevying a person, and to be thereby delivered; unless, while the writ of habeas corpus is suspended by the Legislature, he shall stand committed by the special order of the Supreme Executive Power of the State as dangerous to the public safety, or by the same, or by some subordinate authority of the govern

Who are entitled to the writ.

ment, for treason, the death of man, counterfeiting the common currency, house burning, burglary, robbery, or some other offence, for which if he is convicted, he may suffer death or banishment, or unless he is held in execution upon judgment of debt, forfeiture, withernam, or by distress for taxes, or under sentence after conviction, for fine, costs or in punishment. And where any person stands committed by lawful authority for any crime for which he may not suffer death, or otherwise than is above in this Act specified, the writ shall be in form prescribed by law.

SEC. 2. *Be it further enacted,* That if the plaintiff stands committed for any crime not before in this Act mentioned, or for any other offence, whereof if he is convicted, he may not have sentence of death or banishment thereof passed upon him, he shall have his writ from the Clerk of the Supreme Judicial Court fourteen days before the return day of the same; and the same writ shall be made returnable in the same county where the imprisonment happens, and unto the next Supreme Judicial Court, to be there holden: but if he is held by any person without due order of law, he shall have his writ from the Clerk of the Circuit Court of Common Pleas of the county wherein he is held returnable, fourteen days at the least from the day of the date; and where the plaintiff is delivered by a writ returnable into the Supreme Judicial Court, having been committed for any offence, and from which commitment he is replevisable, he shall, before he is delivered, recognize before the Sheriff of the county, in person, with sufficient surety or sureties in a reasonable sum for his appearance at the same Court, to answer, abide and perform the order and sentence of the same; which recognizance shall be returned into Court by the Sheriff; and when the plaintiff shall be delivered by a writ returnable into the Circuit Court of Common Pleas, he shall before his deliverance give bond to the use of the defendant with sufficient surety or sureties, at the discretion of the Sheriff, to appear at the Court to which the writ is returnable; and there to prosecute his replevin against the defendant, to have his body there ready to be re-delivered, as the Court shall order, and to pay all damages and costs that may be awarded against him; and the Sheriff shall be answerable, if the sureties shall prove insufficient, unless they are such as the defendant agrees to.

Writ in certain cases to issue from Sup. Jud. Court—

In others, from C. C. Pleas.

Proceedings in S. J. Court.

Proceedings in C. C. Pleas.

In what cases the plaintiff shall not be set at liberty.

SEC. 3. *Be it further enacted,* That if the plaintiff shall not prosecute, or in prosecuting, shall be unable to support his replevin, then the defendant shall recover his reasonable costs; and if it shall be found upon the trial, that the plaintiff is the ward or infant of the defendant, or that he the said defendant is entitled to the service of the plaintiff, or that the defendant is bail to the plaintiff, then the defendant shall have judgment against the plaintiff for a re-delivery of his

body and for such damages as the Jury shall assess against the plaintiff, with reasonable costs. .

If Sheriff return that defendant has eloiued plaintiff's body—what proceedings shall be had.

SEC. 4. *Be it further enacted,* That if the Sheriff shall return upon the writ, for replevyng a person, issuing from the Circuit Court of Common Pleas, that the defendant hath eloiued the plaintiff's body, so that he cannot deliver him, then the plaintiff shall on motion to the Court, have a capias in withernam to take the defendant's body, and to keep the same until he shall produce the plaintiff to be delivered according to the commandment of the original writ: *Provided nevertheless,* That if the defendant shall give full and sufficient bail for his appearance at the Court whereunto the writ is returnable, then and there to traverse the return of the Sheriff upon the writ for replevyng a person, that the Sheriff shall take such bail; or if the defendant cannot procure such bail, and is thereupon committed by the Sheriff, he may nevertheless at the next term, (and not afterwards,) be allowed to traverse the Sheriff's return of elongation, or to plead any matter of justification in the same manner as he might have done to the original replevin: and if the Jury shall not find that he is guilty of eloiuing the plaintiff as set forth in the return, or if they find that the justification is supported, the defendant shall be allowed his costs against the plaintiff; but if the defendant will not traverse the return, and put himself upon the county; or if upon traversing the same, he shall be found guilty of the elongation of the plaintiff; or if upon pleading a justification, he shall not support the same, then the Court shall order him into the custody of the Sheriff, and shall issue an alias writ of withernam to hold him, until he shall produce the body of the plaintiff, or until he can prove that the plaintiff is dead; which fact may be tried at any term of the same Court, and in the same county, by a Jury upon the information and at the expense of the defendant. And the original writ of withernam shall be in form prescribed by law.

Any person stipulating for damages may appear for plaintiff.

SEC. 5. *Be it further enacted,* That in any stage of the proceedings upon process pursuant to this Act, any person shall be permitted to appear for the plaintiff, who will stipulate as the Court shall direct for the payment of all costs and damages that may be awarded against the plaintiff, although he can produce no special power for that purpose.

[Approved January 27, 1821.]

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CHAPTER LXVII.

An Act regulating Bail in Civil Actions.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when bail is given in any civil action for the appearance of the party to answer the suit and to abide the order and judgment of the Court thereon, the

Officer to return bail bound with writ.

officer who served the writ, shall return the bail bond taken by him, with the original writ to the Court or Justice before whom the same may be returnable, and if judgment be obtained against the defendant, in any such action, the Clerk of the Court or Justice of the Peace who may issue execution on said judgment, shall on the margin of said execution insert the names of the persons who became bail in said action, with the places of abode, and addition of said bail: *Provided*, The same be named in the bail bond, and the officer who may receive said execution shall notify the bail personally, or by leaving a written notice signed by said officer, at the usual places of abode of the bail, if living within the county in which said officer lives, at least fifteen days before the expiration thereof, certifying that he cannot find the principal debtor, nor whereof to satisfy said execution, for which notice, said officer shall have a right to demand, recover and receive of, and from said bail the usual fees for service of writs, with travel from the officer's dwelling house to that of the bail, calculated on the road most usually travelled, and shall minute in said notice the amount of said fees, which the bail shall pay in twenty days, unless the bail shall at least one day before the execution is returnable, produce and deliver to the officer the principal debtor for whom bail was given; and it shall be lawful for the person, who may have become, or may hereafter become bail, to commit to the common gaol in the county where such arrest was made, or in that to which the writ is returnable, the principal for whom he has become bound, leaving with the gaoler or prison keeper of such county within fifteen days after such commitment, an attested copy of the writ or process, whereby the arrest was made, and of the return endorsed; and such gaoler or prison keeper is hereby authorized and required to receive the person so committed into custody, in the same manner as if he had been committed by the officer making the arrest; and the person so committed shall be entitled to the liberties and privileges of the prison limits upon the same terms and conditions, and under the same restrictions as are provided where the principal is committed by order of Court. And the bail so committing their principal shall ever after be discharged from the bail bond by them given: *Provided however*, That no person shall have the benefit of the foregoing provision of this Act, unless he shall have committed his principal as aforesaid, before final judgment upon *scire facias*; and if the commitment shall have been made after the writ of *scire facias* shall have issued he shall pay the costs of that suit before he shall be discharged: *And provided also*, That any bail, who shall claim a discharge under this section, shall have notified in writing the plaintiff in the original suit or his attorney, of the time when and the place where the principal has been committed, within fifteen days from the time of such commitment.

Name of bail to be inserted in margin of execution.

Officer to notify bail, &c. 15 days before return day.

Officer's fees.

Bail may commit principal, &c.

Duty of gaoler.

Proviso.

Sec. 2. *Be it further enacted*, That every person who shall

Bail may bring principal into Court and be discharged.

Bail liable if principal avoid.

No return of avoidance good unless execution is in officer's hands 30 days before return day.

Plaintiff may have scire facias against the bail, and judgment,

unless bail bring in the principal before judgment, pay costs, &c.

Debtor discharged from gaol unless taken in execution in 15 days.

Proceedings in case of bail in actions before a Justice.

thus become bail, may at any time before final judgment upon the original suit, bring the principal into Court and deliver him into the custody thereof, and be thereby discharged of his suretyship. And in case of the principal's avoidance and the return of *non est inventus* upon the execution, the bail shall be obliged to satisfy the judgment out of his own estate, unless he shall have discharged himself in some one of the modes provided in this Act. And no return of *non est inventus* made by any officer on any execution shall be considered as evidence of the debtor's avoidance so that the bail may be rendered liable on *scire facias*, unless such officer shall certify on such execution, that he has had the same in his hands at least thirty days before the expiration thereof.

SEC. 3. *Be it further enacted*, That when the principal shall avoid, so that his goods, chattels or lands cannot be found to satisfy the execution, nor his body found to be taken therewith, the person for whom judgment was given shall be entitled to his writ of *scire facias* from the same Court against the bail. And in case no just cause is shown, judgment shall be given against them for the damages and costs recovered against the principal, with additional damages and cost, and execution shall be awarded against them accordingly: *Provided nevertheless*, That if the bail shall bring his principal into Court before judgment is given upon the *scire facias*, and there deliver him to the order of the Court and shall pay the costs which may have then arisen upon the *scire facias*, then the bail shall be discharged; and the principal shall be committed to gaol, there to remain for the space of fifteen days in order to his being taken in execution. And if the creditor shall not, within fifteen days next after the surrender of the principal take him in execution, the Sheriff shall discharge him upon his paying the legal prison fees.

SEC. 4. *Be it further enacted*, That whenever bail shall hereafter be taken on mesne process in any civil action, triable before any Justice of the Peace, and there shall have been a return of *non est inventus* upon the execution which issued on a judgment rendered on such process, the said Justice may proceed, within one year from the rendition of such judgment, to issue a *scire facias* upon the same judgment against such bail, which writ being duly served seven days at least before the time therein set for trial and returned, the said Justice may proceed to take cognizance thereof; and if no just cause is shown to the contrary, to render judgment against such bail for the debt or damage, and costs recovered against the principal, with additional damages and costs and to issue execution accordingly. And it shall be no bar to such *scire facias*, that the debt and costs on the original judgment, when added together, exceed the sum of twenty dollars; but the plaintiff shall be entitled to receive his costs of suit as in other cases on such *scire facias*.

SEC. 5. *Be it further enacted,* That if the bail shall, at any time before final judgment upon the original suit is rendered against him, or upon the return of such *scire facias*, and before judgment thereon shall be rendered against him, bring his principal before such Justice, and shall procure the Sheriff of the county or his deputy, or any Constable of the town wherein such Justice may reside, to attend and receive him, said Justice shall thereupon order him into the custody of such officer; and the principal shall be committed to gaol, and there remain and be proceeded with as is provided in this Act; and upon the payment of the costs which may have arisen on such *scire facias*, the bail shall be discharged from their suretyship as in other cases.

Bail may bring principal before Justice and procure an officer to attend;

Justice may commit him to such officer, and bail be discharged, paying costs, &c.

SEC. 6. *Be it further enacted,* That when any principal, surrendered as aforesaid, shall be ordered into custody, the said Justice shall make out, and deliver to the officer receiving him, a warrant or mittimus, of the tenor following, to wit:

In such case Justice to give mittimus to officer.

State of Maine.

—, ss. To the Sheriff of the County of _____, or his deputy, or to any Constable of the town of _____, and to the Keeper of the gaol in said County, _____ Greeting.

(SEAL.) Whereas A. B. of C. in said County [addition] at a Court this day holden before me, has been surrendered by D. E. of F. in said County _____, who was bail for the said A. B. in an action wherein one G. H. was plaintiff and the said A. B. was defendant, you, the said Sheriff, Deputy Sheriff, and Constable, are severally required to receive the said A. B. into your custody, and him forthwith to convey to the common gaol of said County; and you the said keeper are hereby required to receive the said A. B. in order to his being taken in execution upon the suit aforesaid. Hereof fail not; and of this warrant and your doings thereon, you are to make due return to myself, and as soon as may be. Given under my hand and seal, the _____ day of _____, Anno Domini _____

Form of mittimus.

Justice of the Peace.

And if the plaintiff shall not within fifteen days next after such surrender, in case the same shall be made upon *scire facias*, or if the same shall be made upon the original process, then within fifteen days next after final judgment, take the said principal in execution, he shall be discharged upon his paying the legal prison fees.

Debtor, if not taken in execution in 15 days to be discharged.

SEC. 7. *Be it further enacted,* That it shall be the duty of any officer as aforesaid upon the request of such person or persons being bail as aforesaid, to repair to said Justice's Court, in order to receive the principal as aforesaid; and such officer shall be allowed and paid by the bail for his receiving and committing said principal on said warrant or mittimus, the same fees as are provided by law for committing any defendant to prison on mesne process. And all and every such officer or officers, shall have the like power and

Penalty for officer's refusing to attend before Justice.

authority, and shall be under the like obligations in all respects and regards whatsoever, to execute and return such warrant or mittimus, issued by such Justice, upon the surrender as aforesaid, as he or they by law have and are under to execute and return any writ or execution whatever; and shall be subject and liable to all the like action or actions, for any fraud or falsehood and neglect of their duty, as is provided by law in other cases.

Limitation of scire facias against bail.

SEC. 8. *Be it further enacted*, That no *scire facias* shall be served upon the bail, unless it be done within one year next after the entering up final judgment against the principal.

Remedy of bail against principal.

SEC. 9. *Be it further enacted*, That the bail may have their remedy by action on the case against their principal for all damages sustained by their becoming his sureties.

[Approved March 19, 1821.]

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CHAPTER LXVIII.

An Act respecting Bailable Offences.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That any one or more of the Justices of the Circuit Court of Common Pleas, or any two Justices of the Peace and of the quorum for any county, on application made to them by any person who now is, or hereafter may be, confined in gaol for a bailable offence, or for not finding sureties, on recognizance, may proceed to inquire into the same, and admit any such person to bail; and for this purpose shall have and exercise the same power concurrently, which any one or more of the Justices of the Supreme Judicial Court, may or can do; any law, usage or custom to the contrary notwithstanding. And the power hereby given shall be considered to extend to taking the recognizance of any person, committed after conviction, where the sentence is in part, or in whole, to find sureties for good behaviour.

[Approved March 10, 1821.]

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CHAPTER LXIX.

An Act directing and regulating the Process of Outlawry.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any person that now is charged, or hereafter shall stand charged of any criminal offence before the Supreme Judicial Court of this State, by the indictment or presentment of a Grand Jury, whether the same indictment or presentment be originally found in that Court, or removed thither from any inferior jurisdiction, by appeal, or writ of certiorari, shall abscond to avoid answering, or abiding and performing the judgment that may be given thereon, whether such absconding be before or after

Who may admit persons to bail.

Who may be bailed.

Extent of the power to bail.

Persons liable to the process of outlawry.

the Jury shall indict or present the offender, a writ shall issue to the Sheriff of the county where such offender was an inhabitant or resident, at the time of finding the same bill, directing him to make known unto such offender, that unless he shall appear on the first day of the next sitting of the said Supreme Judicial Court, and there traverse the same charge, and abide the judgment that may be given thereon, or appear and give such security therefor by way of recognizance as the said Court shall order, such person will then and there be declared an outlaw, and be subjected to all the penalties and disabilities in this Act declared to be incident to a person under sentence of outlawry, and the mode of executing the said writ of scire facias shall be, by leaving an authenticated copy thereof certified by the Sheriff at the offender's dwelling house or last place of abode, sixty days at the least before the same process shall be returnable, and shall cause an abstract or notification of the subject matter in the same writ mentioned, sixty days before the return day at the least, to be printed in one of the most public weekly newspapers, and to be continued five several weeks inclusive; and shall cause him to be publicly called in every Circuit Court of Common Pleas in his county, that shall be holden while the same process shall be in his custody; which writ of scire facias being served and returned in manner aforesaid, and filed in Court, shall be entered on the docket, and the party against whom the same is sued, after having been publicly called in the said Supreme Judicial Court, to appear and answer the charge alleged against him as aforesaid; if he shall not appear upon such notice and proclamation, his default shall be recorded, and such offender may by the same Court be declared an outlaw, without any other act or ceremony; any former law, usage or custom to the contrary notwithstanding: *Provided always*, It shall be in the power of the said Court, when the offence charged shall be by law bailable, to continue the same scire facias, or suspend passing judgment of outlawry thereon, until the next or some succeeding term, in case sufficient bail shall be given for the offender's answering and abiding the judgment of the said Court thereon. And that it may regularly and certainly be determined when a person may be said to have absconded to escape punishment:

SEC. 2. *Be it further enacted*, That any person after having appeared and pleaded to an indictment or presentment, who shall have departed without leave of the Court, or shall have broken gaol after commitment upon, and before conviction on the charge alleged in the bill, or shall fall or neglect to appear and answer according to the tenor of a recognizance regularly taken for that purpose, or when the Sheriff of the same county whereof the offender was an inhabitant, or resident at the time of his committing the offence for which he

Form of writ
and nature of
proceedings
against him.

When a person
has appeared
and pleaded to
indictment, &c.
and departed
without leave-
proceedings
against him.

shall stand indicted, or his deputy shall make return upon a capias issued in consequence of the bill, wherein the term of four months at the least shall have elapsed, between the issuing the capias and the return day thereof, that after making diligent search and inquiry after such offender, he could not find him in his precinct, shall be deemed and taken as sufficient evidence of the absconding of such person within the intent of this Act.

If non est inventus be returned on the capias and alias capias issued from C. C. C. Pleas—no like process need issue from S. J. Court.

SEC. 3. *Be it further enacted,* That a capias and an alias capias issued from the Circuit Court of Common Pleas, on a bill of indictment or presentment there found, wherein fifty days at the least shall have elapsed between the issuing and return of the same writs respectively, and returned by the proper officer, that after diligent search and inquiry after such offender he could not find him in his precinct, before the removal of the record into the Supreme Judicial Court, shall render the issuing a like process in the Supreme Judicial Court before scire facias utlagatum unnecessary.

How capias from S. Judicial Court is to be made returnable.

SEC. 4. *Be it further enacted,* That where a capias shall issue from the Supreme Judicial Court, to apprehend an offender on a bill of indictment or presentment in any county where the said Court shall be held but once a year, the same capias may be made returnable to some session of the said Court in some other county, at the expiration of five or six months, if the said Court shall so order, to the end scire facias utlagatum may timely issue returnable to the next term, if the offender should not be taken on the capias.

Persons against whom a judgment of outlawry is in force—how far disqualified.

SEC. 5. *Be it further enacted,* That all persons against whom judgment of outlawry shall be given, shall during the time the same judgment shall continue in force, be, and hereby are disabled from bringing or maintaining, in their own right any civil action or suit, in any Court of Law or Equity within this State, excepting a writ of error for reversing his outlawry; and shall be under such other disabilities and disqualifications in civil society as a person convicted and sentenced for the offence charged in the bill upon which he may be outlawed: and in all cases where a greater forfeiture does not by law accrue to the State upon a conviction and judgment on such bill of indictment, shall forfeit the issues and profits of all his real estate during the life of the outlaw, in case the judgment of outlawry shall so long remain in force; and be further liable to be apprehended, upon capias utlagatum, and sentenced in the same manner as if he was convicted by a Jury of the charge alleged in the bill.

Real estate of a person outlawed, bound to respond judgment, &c.

SEC. 6. *Be it further enacted,* That the real estate of every person outlawed, shall be held liable, and be bound, from the time of issuing the scire facias utlagatum to respond the judgment that shall be given on the indictment or presentment, so far as relates to the fine and cost.

SEC. 7. *Be it further enacted,* That the lands and tenements

of all persons recognizing to the use of this State, before any authority duly authorized and empowered to take the same, are and shall be liable to respond the sum mentioned in the same recognizance, from the time the same is taken and acknowledged, notwithstanding any transfer or alienation thereof.

Estate of persons recognizing to State, also bound, though alienated.

SEC. 8. *Be it further enacted*, That every offender that may be outlawed, upon his appearing in open Court, and confessing the charge, and receiving sentence thereon, or appearing and traversing the charge, shall be acquitted by a Jury or on demurrer, or any other plea, the same shall be adjudged insufficient in law to compel the person accused to answer thereunto, or support a judgment thereon: in every such case, the proceedings shall be construed to operate as a full and effectual reversal of the judgment of outlawry as though a formal reversal had been given upon a writ of error expressly brought for that purpose: *Provided*, The appearance upon which acquittal shall be given shall be voluntary and without compulsion, and within one year and a day after judgment of outlawry shall be pronounced, and the cost accruing on the process of outlawry shall be first satisfied and paid.

Proceedings when a person outlawed appears in Court and confesses or traverses, &c.

[Approved February 24, 1821.]

CHAPTER LXX.

An Act for regulating Marriage, and for the orderly solemnization thereof

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That no man or woman shall intermarry within the degrees hereafter named, that is to say:

Degrees, within which marriages are void as incestuous.

No Man shall marry his

Mother,
Grandmother,
Daughter,
Son's Daughter,
Daughter's Daughter,
Step Mother,
Grandfather's Wife,
Son's Wife,
Son's Son's Wife,
Daughter's Son's Wife,
Wife's Mother,
Wife's Grandmother,
Wife's Daughter,
Wife's Son's Daughter,
Wife's Daughter's Daughter,
Sister,
Brother's Daughter,
Sister's Daughter,
Father's Sister,
Mother's Sister.

No Woman shall marry her

Father,
Grandfather,
Son,
Son's Son,
Daughter's Son,
Step Father,
Grandmother's Husband,
Daughter's Husband,
Son's Daughter's Husband,
Daughter's Daughter's Husband,
Husband's Father,
Husband's Grandfather,
Husband's Son,
Husband's Son's Son,
Husband's Daughter's Son,
Brother,
Brother's Son,
Sister's Son,
Father's Brother,
Mother's Brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void.

Certain other marriages to be void.

SEC. 2. *Be it further enacted,* That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, and all marriages between any white person and any Negro, Indian or Mulatto shall be absolutely void.

Persons authorized to solemnize marriages.

SEC. 3. *Be it further enacted,* That every Justice of the Peace, and also every ordained Minister of the Gospel, who shall be duly appointed and commissioned for that purpose by the Governor, with the advice of Council, be, and they respectively are authorized and empowered to solemnize marriages within the county, where they reside, between persons who may lawfully enter into that relation, when one or both of the parties are resident within the county in which such Justice or Minister resides.

Governor to appoint and commission ordained ministers to marry.

SEC. 4. *Be it further enacted,* That the Governor with the advice of Council be, and he is authorized to appoint and commission such ordained Ministers of the Gospel, as the public good may require, to solemnize marriages within the county in which they may reside, who shall hold the said office during his pleasure: and said commission shall be conclusive evidence, that the person therein named is an ordained Minister of the Gospel; and whenever said commission shall be revoked, an attested copy of such revocation shall be filed in the office of the Clerk of said county.

Intentions of marriage to be published, &c.

SEC. 5. *Be it further enacted,* That all persons desiring to be joined in marriage, shall have such their intentions published at three public religious meetings, on different days, at three days distance exclusively, at least, from each other, in the town or plantation wherein they respectively dwell; or shall have their intentions of marriage posted up by the Clerk of such town or plantation, fourteen days in some public place, within the same town or plantation, fairly written; and shall also produce to the Justice or Minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the Clerk of such town or plantation respectively; and where a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the State, shall be first had to such marriage. And in case the parties or either of them live in a town or place, where there shall be no Clerk, then publishment shall be made in the town next adjoining, in manner aforesaid, and a certificate from the Clerk of the same town, of such publishment, shall be produced as aforesaid, previous to their marriage.

Certificates to be delivered to Minister or Justice.

Consent of parent or guardian necessary in certain cases.

Publishment in adjoining town in case.

If bans are forbidden what proceedings must be had.

SEC. 6. *Be it further enacted,* That if at any time the bans of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or plantation Clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall

have been duly inquired into, and determined before two Justices of the same county, quorum unus: *Provided*, The person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two Justices as aforesaid, and procure their determination thereon: unless the said Justices shall certify unto the said Clerk, that a further time is necessary for their determination on the reasons filed; in which case the Clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the Justices shall sooner determine; according to whose determination, the Clerk shall govern himself herein; and if the said Justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the State, then the person so forbidding shall pay all the costs that may have arisen in consequence of such objection; and the said Justices shall make up judgment and issue execution accordingly.

SEC. 7. *Be it further enacted*, That if any person shall deface or pull down any publishment posted up in writing as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of four dollars, to the use of the town. And if any Justice of the Peace or Minister, shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of one hundred dollars, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Circuit Court of Common Pleas, within the same county, by the Treasurer thereof, who is hereby enjoined upon due information thereof, to prosecute and sue for the said penalty without delay, or by the parent, guardian, or other person under whose immediate care and government either of the parties were at the time of such marriage; and every Justice or Minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof, in the Supreme Judicial Court, upon presentment or indictment, he shall suffer solitary imprisonment for a term not exceeding twenty days, and be confined to hard labor for a term not exceeding five years.

Penalty for pulling down publishment.

For marrying persons contrary to law.

Punishment of those who solemnize marriages not being authorized.

SEC. 8. *Be it further enacted*, That every Justice and Minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April yearly and every year, shall make a return to the Clerk of the town or plantation in which he lives, certifying the names of all the persons, who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together. And if any

Justices and ministers to keep record of marriages and make return to town clerk.

Penalty for neglect.

Justice or Minister shall neglect to make such return, within the month of April annually, he shall forfeit the sum of fifty dollars, to be recovered by action of debt in the Circuit Court of Common Pleas, one half thereof to the use of the county, and the other half to the use of the person who may sue for the same.

Marriages among Quakers, according to their forms, valid.

SEC. 9. *Be it further enacted,* That any marriages which shall be had and solemnized, among the people called Quakers or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, any thing in this Act to the contrary notwithstanding; and the Clerk or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate under his hand of all marriages had and solemnized in the society or meeting to which he belongs, and shall deliver the same to the Clerk of the town, in which the Clerk of said meeting resides; and if he shall neglect so to do, he shall forfeit the sum of fifty dollars, the one half to the use of the county, and the other half to the use of the prosecutor, to be recovered by an action of debt.

Clerk of their meetings to make return of marriages to clerk of town.

Penalty for neglect.

No minister not commissioned, to marry after May 1, 1821.

SEC. 10. *Be it further enacted,* That no Minister of the Gospel, not appointed and commissioned as aforesaid, shall solemnize any marriage after the first day of May next.

[Approved February 19, 1821.]

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CHAPTER LXXI.

An Act regulating Divorces.

Sup. J. Court to decide all questions of Divorce and Alimony.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That all questions of divorce and alimony shall be heard and tried by the Supreme Judicial Court holden for the county where the parties live, and that the decree of the same Court shall be final.

Libel to be filed in Clerk's office, and opposite party to be served with copy if in the State—

SEC. 2. *Be it further enacted,* That no cause of divorce or alimony shall be brought before the same Court, unless the party suing or complaining shall file his or her libel in the office of the Clerk of the said Court, therein sitting forth the cause of his or her complaint specially, and shall cause the other party, if in this State, to be served with an attested copy of the same, and with a summons to appear at the Court, fourteen days at least before the sitting of said Court where the cause is to be tried; otherwise, in such manner as the said Court shall direct; and the said Court shall have all the powers necessary to the conducting and finally issuing such causes, according to the true intendment of this Act.

If not, such notice must be given as the Court may order.

Divorces from bond of matrimony, in what cases decreed.

SEC. 3. *Be it further enacted,* That divorces from the bonds of matrimony shall be decreed, in case the parties are within the degrees by law prohibited, or either of them had a former wife or husband alive at the time of solemnizing such

second marriage, or for impotency or adultery in either of the parties, and for no other cause; and that divorce from bed and board may and shall be granted for the cause of extreme cruelty in either of the parties, or whenever any husband shall utterly desert his wife, or shall grossly or wantonly and cruelly neglect or refuse to provide suitable maintenance for her, being of sufficient ability thereto.

In what cases from bed and board.

SEC. 4. *Be it further enacted,* That when it shall appear that the adultery or cruelty complained of, is occasioned by the collusion of the parties, and done with an intention to procure a divorce, or that both parties have been guilty of adultery, in such case no divorce shall be decreed.

In cases of collusion, or adultery of both parties, no divorce to be decreed.

SEC. 5. *Be it further enacted,* That when a divorce shall be had for the causes of affinity, consanguinity, or of impotency of either of the parties, the wife shall have restored to her all her lands, tenements and hereditaments; and a judgment may be passed for a restoration to her of all, or such part of the personal estate specifically, or the value thereof, which hath come to her husband's hands by force of the marriage, as the Justices of the Supreme Judicial Court, from all the circumstances of the case, shall determine equitable; and they may make use of such kind of process to carry their judgment into effect, as shall be necessary; and the Court, in case they think proper, may compel the husband to disclose, on oath, what personal estate he hath received in right of his wife, and how the same hath been disposed of, and what proportion thereof remained in his hands at the time of such divorce: and when the divorce shall be for the cause of adultery, committed by the husband, in addition to her dower, to be assigned her in the lands of her husband, in the same manner as if such husband was naturally dead, and to the real estate which her husband held in her right, the Court by whom such divorce may be decreed, shall have power to assign to the wife for her own use, all the personal estate which the husband hath received by reason of the marriage, or such part thereof as shall be just and reasonable, under all the circumstances of the case, or a sum of money equal in value to the whole of the said personal estate; or to so much thereof as the Court may judge proper should be so assigned to her. But if the personal estate or money which the Court are by this Act authorized to assign to the woman so divorced, together with her dower in her husband's real estate, should be insufficient for her reasonable and comfortable support, then the Court may allow her reasonable alimony out of her husband's estate, so long as she shall remain unmarried, in the same manner as alimony may be allowed to a woman divorced from bed and board, for the cause of extreme cruelty in the husband: regard to be had, in making such allowance, to the character, circumstances and property of the husband, and the character and situation of the wife. And where the divorce shall be occasioned by

In cases of divorce for affinity, consanguinity or impotency, wife shall have all her lands restored to her.

Court may restore to her such part of her personal estate, as they think proper.

And may compel husband to disclose on oath an account of property.

When divorce is decreed for adultery of husband, wife to have dower, the real estate held in her right and all or part of the personal estate received of her by her husband, as Court may order.

And if these be insufficient, Court may allow her alimony out of her husband's estate.

In cases of divorce for adultery of wife, what the husband shall hold.

Proviso.

In case of divorce for cruelty or desertion of husband, what proceedings shall be had as to property.

On application of either party Court may make alterations as to alimony, restorations, &c.

In case of libel by wife for divorce from bed and board and service on husband, his lands, &c. held to answer, &c. in case divorce be decreed.

In case divorce be decreed what proceedings shall be had as to property.

In case of divorce for the cruelty of wife, what proceedings shall be had as to property.

Punishment for cohabiting or living in the same house after divorce from bond of matrimony.

Decree of divorce for adultery not to bar children of their inheritance.

adultery committed by the wife, the husband shall hold her personal estate forever, and her real estate during his natural life, in case they have had issue born alive of her body during the marriage; otherwise during her natural life only, if he shall survive her: *Provided nevertheless*, That the Court may allow her for her subsistence so much of such personal or real estate as they shall judge necessary. And whenever a decree of divorce from bed and board shall be made because of the cruelty of the husband or of his utterly deserting his wife, or grossly or wantonly and cruelly neglecting or refusing to provide suitable maintenance for her, being of sufficient ability thereto, the wife, if there be no issue living at the time of the divorce, shall be restored to all her lands, tenements and hereditaments, and shall be allowed out of his personal estate such alimony as the Court shall think reasonable, having regard to the personal property that came to the husband by the marriage, and to his ability; but if there be issue living at the time of the divorce, then the Court, with respect to ordering restoration, or granting alimony as aforesaid, may do as they shall judge the circumstances of the case may require; and upon application from either party, may from time to time, make such alterations therein as may be necessary. And whenever the wife shall file in the Clerk's office a libel against her husband praying for a divorce from bed and board for any of the causes mentioned in this Act, and shall cause the same to be served on him, all his lands within the State shall be considered as attached and bound to answer the order or judgment of the Court, in case a divorce is decreed upon said libel; and in such cases the Court may order and adjudge, that the whole or any part of the real estate of the husband, or of the rents and profits of the same, shall be assigned and set off to the wife, for and during her life, and may make use of such process to enforce such judgment, as may be deemed necessary and proper. And in case a divorce shall be decreed for cruelty in the wife, whether there shall be issue or not of the marriage, at the time of the divorce, the Court may order to her a restoration of the whole, or such part of her lands, tenements and hereditaments, and may also assign alimony as they may judge proper.

SEC. 6. *Be it further enacted*, If any persons who shall be divorced for the cause either of affinity or consanguinity shall, after such divorce, cohabit together, such persons so offending shall be liable to all the pains and penalties provided by the laws then in being against incest; and if any persons shall cohabit or live together in the same house after a divorce, for the cause of prior marriage or adultery, such persons shall be liable to all the pains and penalties provided by the laws then in being against adultery. *Provided always*, That no decree of divorce for or on account of adultery, shall bar the issue of such marriage from inheriting; but the question of the

right of such child or children to inherit shall be tried and settled upon the principles of common law, in the same manner as though this Act had never been made.

[Approved February 10, 1821.]

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CHAPTER LXXII.

An Act for the maintenanc of Bastard Children.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever any woman who hath been delivered of a bastard child, or being pregnant with a child which if born alive may be a bastard, shall accuse any man of being the father thereof before any Justice of the Peace, and desire a prosecution against the man whom she accuses of being the father of the child, the Justice shall then proceed to take her accusation and examination, in writing, under oath, respecting the man so accused, and the time and place where she was begotten with child, with such other circumstances as he shall judge necessary for the discovery of the truth of such accusation, and at his discretion may bind him that is so accused to the next Circuit Court of Common Pleas, with sufficient surety or sureties, to answer to such accusation, and abide the order of Court thereon. And if the woman be not then delivered, or be unable personally to attend the said Court, may order the continuance or renewal of his and her bond, that they may be forth coming at the next Circuit Court of Common Pleas after the birth of the child, and the continuance of such bonds aforesaid to the next Circuit Court of Common Pleas entered thereon by order of the said Court, (unless the surety or sureties shall object thereto,) shall have the same force and effect as a recognizance taken in Court for the next term. And if she being put upon the discovery of the truth respecting the same accusation in the time of her travail, shall thereupon accuse the same person of being the father of the child, of which she is about to be delivered, and shall continue constant in such accusation, and shall prosecute him as the father of such child before the Circuit Court of Common Pleas in the manner herein prescribed, (in which prosecution she shall be admitted as a competent witness, and her credibility be left to the Jury,) and such examination shall be given in evidence on the trial of the issue, or if by default or by his plea he shall admit the truth of the allegations contained in said prosecution, he shall be adjudged the reputed father of such child, and stand charged with the maintenance thereof, with the assistance of the mother, as the Justices of the same Court shall order; and shall give security to perform the said order, and to save the town or place which might be otherwise chargeable with the maintenance of such child, free from charge for

When a woman shall accuse a man as father of a bastard child, before a Justice of the Peace, what proceedings shall be had.

Accused to be held to give bond to appear and answer at next C. C. Pleas.

If woman be unable to attend Court, or not delivered, cause may be continued and bond renewed or continued.

What proof necessary, and what admissible on trial.

Adjudication by the Court, on verdict or default, and order thereon.

its maintenance, and may be committed to prison until he find sureties for the same, unless the pleas and proofs made and produced on the behalf of the man so accused, and other circumstances, be such as the Jury, by whom the issue, whether he is guilty or not guilty, shall be tried, shall find him not guilty; in which case the Justices of the said Court shall acquit him thereof; and the verdict of the Jury of the same Court whether guilty or not guilty, shall be final respecting such issue: *Provided*, That no woman shall be admitted as a witness as aforesaid, who has been convicted of any crime, which would by law disqualify her from being a witness in any other cause: *And provided also*, That no woman, after she has made an application as aforesaid to a Justice of the Peace for a prosecution against the putative father of a bastard child, and after such Justice has taken her accusation and examination on oath, shall be allowed to make any settlement with such father, or give any discharge, which shall be given in evidence on the trial of any such complaint to affect or bar the same, if it is objected to in writing by the overseers of the poor of any town, interested in the maintenance and support of such mother or bastard child.

Form of the issue to be tried.

Proviso as to the testimony of the woman.

Her settlement with or discharge of the man accused, after complaint made, not to be good, or offered in evidence, if objected to by the overseers of the poor, &c.

Any Justice may issue a warrant to arrest the accused, on complaint on oath, accompanied by the accusation and examination taken before another Justice.

Same proceedings to be had.

SEC. 2. *Be it further enacted*, That any Justice of the Peace in any county, in this State, may issue his warrant, directed to the proper officer in his own county on any such complaint made on oath, and accompanied by the accusation and examination of such woman, directed to and made before any other Justice of the Peace; and such Justice, so issuing his warrant, may proceed to require of the man accused, when apprehended and brought before him, a bond with sufficient sureties as in this Act is provided, conditioned for his appearance at the Circuit Court of Common Pleas next to be holden in the county where the complaint was made.

[Approved February 14, 1821.]

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CHAPTER LXXIII.

An Act to establish Courts of Sessions.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That there shall be a Court of Sessions in the several counties within this State, to consist of one Chief Justice and not exceeding four nor less than two Associate Justices, at the discretion of the Governor and Council, a majority of whom appointed for any county may constitute a quorum for doing business; to be appointed and commissioned by the Governor with advice and consent of Council, as soon as conveniently may be, who are hereby vested with all powers relative to the erection and repair of gaols, and other county buildings, the allowance and settlement of county accounts, the estimate, apportionment and

Courts established.

Jurisdiction.

issuing warrants, for assessing county taxes, granting licenses, laying out, altering and discontinuing highways, appointing Committees and ordering Juries for that purpose ; as well as all other duties appertaining to a Court of Sessions.

SEC. 2. *Be it further enacted*, That the Courts of Sessions shall be holden within and for the several counties in this State, at the times and places following, to wit :—Within and for the county of York, at York, on the Tuesday next preceding the third Monday of April, and at Alfred on the Tuesday next preceding the second Monday in September ; within and for the county of Oxford, at Paris, on the third Tuesday of June and first Tuesday of October ; within and for the county of Cumberland, at Portland, on the fourth Tuesday in March, and on the second Tuesday in September ; within and for the county of Kennebec, at Augusta, on the last Tuesday in April and on the first Tuesday in August ; within and for the county of Somerset, at Norridgewock, on the second Tuesday in March, and on the second Tuesday in September ; within and for the county of Lincoln, at Wiscasset, on the Thursday succeeding the fourth Monday in April ; at Warren, on the Thursday succeeding the second Monday in January ; at Topsham, on the Thursday succeeding the fourth Monday in August ; within and for the county of Hancock, at Castine, on the Thursday next succeeding the third Tuesday of March, and on the Thursday next succeeding the third Tuesday of November ; within and for the county of Washington, at Machias, on the first Tuesday in March, and on the first Tuesday in September ; within and for the county of Penobscot, at Bangor, on the first Tuesday of March, and on the first Tuesday of September.

Terms of the Courts.

SEC. 3. *Be it further enacted*, That all matters, taken for, returnable to, or are now pending in the several Courts of Sessions, shall be returnable to, have day, be proceeded in, and determined by the respective Courts of Sessions, within and for the same counties, at the term thereof next to be holden as by this Act provided. And the Clerks of the Circuit Court of Common Pleas, within the several counties shall be Clerks of the Court of Sessions.

Matters now pending.

Clerks.

SEC. 4. *Be it further enacted*, That the Justices of the Court of Sessions, shall receive for their services three dollars for each day, during their attendance in said Court, and one dollar for every ten miles travel, to be paid out of the county Treasury.

Pay of Justices.

SEC. 5. *Be it further enacted*, That whenever it shall happen, that there is not a majority of said Justices, assembled at the time for holding the said Court, any one or more of said Justices shall have power to adjourn said Court, until a quorum shall be assembled.

Less than a quorum may adjourn.

SEC. 6. *Be it further enacted*, That all Acts heretofore made respecting Courts of Sessions, and which are inconsis-

Repeal of former laws.

ent with the provisions of this Act, be, and the same are hereby repealed.

[Approved June 27, 1820.]

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CHAPTER LXXIV.

An Act to alter the time for holding the Court of Sessions for the county of Oxford.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this Act, the times for holding the several terms of the Court of Sessions within the county of Oxford, instead of the times now designated by law, shall be and hereby are established as follows, viz.—At Paris, on the third Tuesday of June, and the second Tuesday of October, annually.

[Approved March 19, 1821.]

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CHAPTER LXXV.

An Act determining the times and places for holding the Circuit Court of Common Pleas in the county of York.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this Act, the times for holding the Circuit Court of Common Pleas, within and for the county of York, shall be as follows, to wit;—At Alfred, on the second Monday of February; at York, on the last Monday of May; and at Alfred, on the fourth Monday of September, annually.

SEC. 2. *Be it further enacted,* That all writs, recognizances, warrants, complaints, appeals, and every other process, matter or thing, which, before the passing of this Act, might or ought to be returned to, or entered at the Court aforesaid, at any time heretofore appointed for holding the same, and which is altered by this Act; and all parties and persons who have been or may be required to appear and attend at the aforesaid times; and all actions, suits, matters and things, which may be pending in the said Court, at the times aforesaid, shall be returned to, entered at, appear, attend and have day, and be tried and determined in the said Court, at the times and places appointed by this Act; and all laws heretofore passed in any manner repugnant to, or inconsistent with, the provisions of this Act, are hereby repealed.

[Approved March 17, 1821.]

Times and places.

Saving clause as to processes depending, &c.

CHAPTER LXXVI.

An Act describing the power of Justices of the Peace in Civil and Criminal Cases.

SEC. 1. **BE** it enacted by the Senate, and House of Representatives, in Legislature assembled, That it shall be within the power, and be the duty of every Justice of the Peace within his county, to punish by fine not exceeding five dollars, all assaults and batteries that are not of a high and aggravated nature, and to examine into all homicides, murders, treasons, and felonies done and committed in his county, and commit to prison all persons guilty, or suspected to be guilty of manslaughter, murder, treason or other capital offence; and to cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terror of the good citizens of this State, or such others as may utter any menaces or threatening speeches; and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require; and for his keeping the peace, and being of the good behaviour, until the sitting of the Court he is to appear before; and to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a Justice of the Peace; and require sureties for the good behaviour of dangerous and disorderly persons; and commit all such persons as shall refuse so to recognize, and find such surety or sureties as aforesaid; and take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within his jurisdiction.

General jurisdiction of Justices of the Peace, and their duty in criminal cases, in arresting, trying, recognizing and committing offenders.

SEC. 2. *Be it further enacted,* That all fines and forfeitures accruing for the breach of any bye-law, in any town within this State, may be prosecuted for, and recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are prosecuted before the Justices of the Peace within this State.

Breaches of the bye-laws of towns may be prosecuted before Justices of the Peace.

SEC. 3. *Be it further enacted,* That any person aggrieved at the sentence given against him, by any justice of the Peace, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable sum, not less than twenty dollars, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of the whole process, and all writings filed before the Justice, at the Court appeal-

Persons aggrieved may appeal to the C. Court of Com. Pleas.

Must recognize with sureties,

and produce copies of case at C. C. Common Pleas.

Failing to prosecute his appeal, his default to be entered.

Court may order such case to be laid before Grand Jury, or arrest appellant, and affirm sentence, &c.

Justices may command assistance of sheriff, deputies and constables at riots, affrays, &c.

Justices may, on their own view, (in absence of sheriff, deputies or constables,) require any person to apprehend offenders.

Penalty for refusing to obey such Justice.

If the Justice be known or declared—plea of ignorance of his office not admissible.

Justices may grant subpoenas for witnesses in criminal cases :

But not on behalf of the State without consent of Attorney General, or County Attorney, except before himself.

Justices to account annually to State, County and Town Treasurers for all fines, &c.

Penalty for neglect.

ed to. And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be noted upon their record. And the said Court may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against him, with all additional costs.

SEC. 4. *Be it further enacted,* That each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing such assistance, in a sum not exceeding six dollars ; to be disposed of for the use of the town where the offence shall be committed ; and levied by warrant of distress on the offender's goods and chattels, and for want thereof on his body.

SEC. 5. *Be it further enacted,* That any Justice of the Peace for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatever, shall have authority, (in the absence of the Sheriff, Deputy Sheriff or Constable,) to require any person or persons to apprehend and bring before him such offender or offenders. And every person so required, who shall refuse or neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.

SEC. 6. *Be it further enacted,* That Justices of the Peace within their respective counties, be, and they are hereby authorized and empowered to grant subpoenas for witnesses in all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before themselves or any other Justice : *Provided,* That no Justice of the Peace shall grant subpoenas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.

SEC. 7. *Be it further enacted,* That the Justices of the Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong.

SEC. 8. *Be it further enacted,* That all civil actions, where- in the debt or damage does not exceed twenty dollars, (and wherein the title of real estate is not in question, and specially pleaded by the defendant,) shall, and may be heard, tried, adjudged and determined by any Justice of the Peace within his county; and the Justices are severally empowered to grant summons, *capias* and attachment, at the request of any person applying for the same, directed to some proper officer within the same county, empowered by law to execute the same. And such summons or *capias* and attachment shall be duly served by such officer, seven days at the least before the day therein set for trial, otherwise the party sued shall not be held to answer thereon; and if after such process shall be duly served, the party sued, after being duly called, shall not appear to answer to the same suit, the charge against him in the declaration shall be taken to be true, and the Justice shall give judgment against him for such damages as he shall find the plaintiff to have sustained, with costs; and if the person sued shall appear to defend the suit or oppose the same, the Justice shall award such damages as he shall find the plaintiff to have sustained: *Provided,* That no more damages than the sum of twenty dollars shall be awarded in any action originally brought or tried before a Justice of the Peace; but if the plaintiff shall not support his action, shall fail to prosecute, or become nonsuit, the Justice shall award to the party sued, his reasonable costs, taxed as the law directs. And upon all judgments given by a Justice of the Peace in civil actions, he shall award execution thereon in form by law prescribed.

Justice's jurisdiction in civil actions, (where title to real estate is not in question,) to extend to 20 dollars.

Justices may issue summons, *capias*, attachment, &c.

—to be served seven days before trial.

Proceedings before Justice.

Judgment, &c. if plaintiff prevail.

Damages not to exceed 20 dollars.

Judgment in case defendant prevail.

Execution.

SEC. 9. *Be it further enacted,* That the amount of the sum or several sums, specified, expressed or supposed to be demanded by the plaintiff in his declaration, shall not be considered as any objection against the Justice's jurisdiction, provided the *ad damnum*, or damage is not laid or stated to exceed twenty dollars.

Justice to have jurisdiction where the *ad damnum* does not exceed 20 dollars.

SEC. 10. *Be it further enacted,* That any party aggrieved at the judgment of any Justice of the Peace, in a civil action, where both parties have appeared and plead, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county; and shall before his appeal is allowed, recognize with a surety or sureties, in such reasonable sum as the Justice shall order, not exceeding thirty dollars, to pay all intervening damages and costs, and to prosecute his appeal with effect; and shall be held to produce a copy of the whole case, at the Court appealed to, and both parties shall be allowed to offer any evidence upon the trial at the Circuit Court of Common Pleas, in the same manner as if the cause had been originally commenced there. And no other appeal shall be had on such action after one trial at the Circuit Court of Common Pleas. And the Circuit Court of Common Pleas, when any person recognized as before men-

Party aggrieved may appeal to C. C. Common Pleas.

—Must recognize to prosecute.

and produce copies at C. C. P. cas. Proceedings in that Court.

No further appeal.

Defendant in trespass failing to bring for-

ward the action according to his recognition.—Plaintiff to have his damages.

Appellant failing to prosecute, on complaint judgment may be affirmed.

In action of trespass when defendant pleads title to real estate—mode of proceeding before Justice.

Appeal allowed in such cases from C. C. C. Pleas to S. J. Court.

General issue may be plead in all actions before Justices and special matter given in evidence except where title to real estate is relied on by defendant.

Justices may grant subpoenas in all civil actions.

May adjourn their Courts by proclamation:

No Justice to be of counsel in any suit before himself.

tioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs which accrued both in the same Court and before the Justice. And the Circuit Court of Common Pleas shall, when any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

SEC. 11. *Be it further enacted,* That when an action of trespass shall be brought before any Justice of the Peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. And when the defendant in any such action shall plead the title of himself or any other person in justification, the Justice upon having such plea plead, shall order the defendant to recognize to the adverse party in a reasonable sum, with sufficient surety or sureties to enter the said action at the next Circuit Court of Common Pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a Justice's judgment; and if such pleader shall refuse so to recognize, the Justice shall render judgment against him, in the same manner as if he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judgment of the Circuit Court of Common Pleas, in the same manner as if the suit had been originally commenced there.

SEC. 12. *Be it further enacted,* That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence, under the general issue, which by law he might avail himself of under any special plea in excuse or justification, any law, usage or custom to the contrary notwithstanding.

SEC. 13. *Be it further enacted,* That each Justice of the Peace may grant subpoenas for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees. And every Justice of the Peace shall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he shall not be of counsel to either party, or undertake to advise or assist any party in suit before him.

SEC. 14. *Be it further enacted,* That when an executor or administrator shall be guilty of committing waste, whereby he is rendered unable to pay the judgment recovered before any Justice of the Peace, against the goods and estate of the deceased in his hands, out of the same, the Justice may proceed against the proper goods and estate of such executor or administrator, in the same manner as the Circuit Court of Common Pleas are empowered to do.

In case of waste by executor or administrator, Justice may proceed as C. C. Pleas may in such cases.

SEC. 15. *Be it further enacted,* That each Justice of the Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a scire facias upon the same judgment, to the party against whom such judgment was rendered up, for him to show cause if any he hath, why execution should not be issued against him. And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the scire facias. *Provided always,* That either party may appeal from the judgment as in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his scire facias; and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Justice, shall be allowed in evidence in all cases, where an authenticated copy of the original might be received.

Justice to keep record of his proceedings.

When Justice shall die before a judgment given by him is satisfied, what proceedings to be had.

Appeal allowed to either party.

Justice to whom complaint is made in such cases, may summon the person possessing the record to produce it.

Punishment for refusal so to do.

Duty of the Justice when the record is produced, to transcribe it into his own records. Copy of such transcript to be evidence.

Justices, whose commissions expire before judgment or satisfaction, may proceed, under a new commission, if seasonably obtained, to render judgment. &c.

SEC. 16. *Be it further enacted,* That all Justices of the Peace before whom actions may be commenced under former commissions, and such commissions shall expire before judgment shall be rendered thereon, or judgment being rendered, the same remains in whole or in part unsatisfied, such Justices of the Peace who shall hereafter have their said commissions seasonably renewed, and being duly qualified agreeably to the Constitution of this State, to act under such commissions, be and they hereby are authorized and empowered to render judgment, and issue execution on all such ac-

tions, commenced as aforesaid, in the same manner as if the commissions under which such actions may be commenced, were in full force.

[Approved March 15, 1821.]

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CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for preventing unnecessary costs attending the same.

Justices may take recognizances for debts.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every Justice of the Peace in this State shall have power within his county to take recognizances for the payment of debts of any person who shall come before him for that purpose: which recognizance may be in substance as follows:—

Form of recognizance.

Know all men, that I, A. B. of _____, in the County of _____, do owe unto C. D. of _____, the sum of _____, to be paid to the said C. D. on the _____ day of _____; and if I shall fail of the payment of the debt aforesaid, by the time aforesaid, I will and grant that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof of my body. Dated at _____, this _____ day of _____, in the year of our Lord _____.

Witness, my hand and seal _____ A. B.
 ss. Acknowledged the day and year last abovesaid.
 Before E. F. Justice of the Peace.

To be recorded by the Justice.

SEC. 2. *Be it further enacted,* That every Justice of the Peace taking any such recognizance, shall immediately record the same at large in a book to be kept by him for that purpose; and after the same is recorded, may deliver it to the Conusee; and upon the Conusee's lodging the same with the said Justice, at any time within three years from the time when the same is payable, and requesting a writ of execution, it shall be the duty of such Justice to issue a writ of execution thereon for such sum as shall appear to be due on the same; which writ of execution shall be in substance as follows:

Execution may issue thereon within 3 years.

State of Maine.

(SEAL.) To the Sheriff of the County of _____, or his deputy, or either of the Constables of the town of _____, in said County, _____ Greeting.

Form of execution.

Because A. B. of _____, in the County of _____, on the _____ day of _____, in the year of our Lord _____ before E. F. Esq. one of the Justices of the Peace for the said County of _____, acknowledged that he was indebted to C. D. of _____, in the county of _____ in the sum of _____ which he ought to have paid on the _____ day of _____, and remains unpaid as it is said

: We command you therefore, that of the goods, chattels or real estate of the said A. B. within your precinct, you cause to be paid and satisfied unto the said C. D. at the value

thereof in money, the sum last abovesaid, with _____, for this writ; and thereof also to satisfy yourself your own lawful fees: and for want of goods, chattels or real estate of the said A. B. to be found within your precinct to the acceptance of the said C. D. to satisfy the sums aforesaid and your said fees; we command you to take the body of the said A. B., and him commit unto our gaol in our County of _____ aforesaid, there to be detained in the said gaol until he pay the full sums abovesaid, with your said fees; or that the said A. B. be discharged by the said C. D. the creditor, or otherwise by order of law: Hereof fail not and make due return of this writ with your doings therein unto the above named Justice within sixty days next coming. Witness, the said Justice at _____, the _____ day of _____, in the year of our Lord _____.

E. F. Justice of the Peace.

Which writ of execution the said Justice is authorized to direct to any proper officer or officers in any county in this State; who are hereby required to execute the same according to the precept thereof. And all such officers are hereby declared liable for any malfesance or misfesance of which they may be guilty in relation to any such execution which may be delivered to them; which execution said Justice is authorized to renew at any time within one year from the time the last execution was returnable.

Power and duty of officer in serving it.

Renewable in one year.

SEC. 3. *Be it further enacted*, That whenever three years shall have elapsed after the time of payment limited by any such recognizance without any execution having been issued on the same, or whenever the Justice who took the same shall have deceased or removed from the State or become otherwise disqualified, the Conusee may have his action of debt on the same, in the same manner as a creditor is entitled to have his action on any judgment of any Court of record in this State. X

Conusee may sue on recognizance in certain cases.

[Approved January 27, 1821.]

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CHAPTER LXXVIII.

An Act for rendering the decision of Civil Causes as speedy and as little expensive as possible.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any persons who may have a dispute, of what nature soever, shall agree to have the dispute determined by referees mutually chosen by the parties for the purpose, it shall and may be lawful for the person or persons making the demand in the action, to make out a particular statement thereof under his or their hands in writing, and to lodge the same with some one Justice of the Peace; and the said Justice of the Peace, upon application of the parties for the purpose, shall make out an agreement to be

Persons having matter in dispute may refer the same by rule before Justice of the Peace.

The S. & H. have decided that debt (to be) by rule after the expiration of three years.

Demand in writing and signed.

annexed to the aforesaid demand, and to be by them or their lawful agents or attorneys, subscribed, and acknowledged in substance as follows :

Form of submission,

Town of A , in the County of S , 182 .
Know all men, that A. B. of in the County of [addi-
tion] and C. D. of in the County of [addition] have
agreed to submit the demand made by the said A. B. against
the said C. D. which is hereunto annexed, (and all other de-
mands, as the case may be,) to the determination of E. F. G.
H. and I. K. the report of whom, or the major part of whom,
being made as soon as may be to any Circuit Court of Com-
mon Pleas, to be holden in and for the said County of S ,
judgment thereon to be final. And if either of the parties shall
neglect to appear before the referees, after proper notice being
given them, of the time and place appointed by the referees,
for hearing the parties in this action, the referees shall have
power to proceed ex parte. A. B. C. D.—S—— ss.—182 .

and acknowl-
edgment.

Then the above named A. B. and C. D. personally appeared,
and acknowledged the above instrument by them subscribed
to be their free act. Before me, L. M. Justice of the Peace.

Report to be
made to next
C. C. C. Pleas.

SEC. 2. *Be it further enacted*, That the determination of
the referees who may be appointed agreeably to this Act,
shall be made to the next Circuit Court of Common Pleas, to
be holden in and for the county in which the Justice of the
Peace may have lived at the time he issued the agreement as
aforesaid ; and the Circuit Court of Common Pleas to whom
the report of the referees may be made as aforesaid, shall
have cognizance thereof in the same way and manner, and
the same doings shall be had thereon, as though the same
had been made by referees appointed by a rule of the same
Court.

Report may by
consent of par-
ties be made
known to them
before Court ;

SEC. 3. *Be it further enacted*, That where the parties shall
agree that the determination of the referees may be made
known, prior to its being made to the Circuit Court of Com-
mon Pleas as aforesaid, it shall and may be lawful for the
referees to make known the determination to the parties, with-
out its affecting in any degree the validity thereof ; and if the
determination shall be so made known to the parties, it shall
and may be lawful for the party who may be found indebted
agreeably to the determination aforesaid, to discharge him or
themselves therefrom, and thereby prevent any further pro-
cess thereon, by paying the same unto the person or persons
to whom it may be so awarded.

and sum award-
ed paid.

Power of ref-
erees.

SEC. 4. *Be it further enacted*, That the referees who may
be appointed in pursuance of this Act, shall be vested with all
the authority, which is possessed by referees appointed by a
rule of Court. And witnesses shall be summoned to appear
before them, and be sworn in the same manner as witnesses
before referees appointed by a rule of Court as aforesaid.

SEC. 5. *Be it further enacted*, That upon any report of

referees returned into any Circuit Court of Common Pleas, in pursuance of this Act, and also upon any report made by referees appointed by a rule of any Circuit Court of Common Pleas, wherein it is agreed, at the time of entering into such rule, that the report of said referees shall be final, the judgment of said Circuit Court of Common Pleas, shall be final accordingly.

Judgment on reports of referees to be final.

[Approved January 27, 1821.]

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CHAPTER LXXIX.

An Act directing the proceedings against Forcible Entry and Detainer.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That two Justices of the Peace, quorum unus, shall have authority to inquire by a Jury, as hereinafter directed, as well against those who make unlawful and forcible entry into lands or tenements and with a strong hand detain the same, as against those who, having a lawful and peaceable entry into lands or tenements, unlawfully and by force hold the same; and if it be found upon such inquiry, that an unlawful and forcible entry hath been made, and that the same lands or tenements are held and detained with force and strong hand, or that the same after a lawful entry are held unlawfully and with force and a strong hand, then that such Justices shall cause the party complaining to have restitution thereof.

Two Justices, quorum unus, may inquire and decide by Jury.

SEC. 2. *Be it further enacted,* That when complaint shall be formally made in writing to any two Justices of the Peace, quorum unus, of any unlawful and forcible entry into any lands or tenements and detainer as aforesaid, or of any unlawful and forcible detainer of the same after a peaceable entry, they shall make out their warrant under their hands and seal, directed to the Sheriff of the same county or his deputy, commanding him in behalf of the State, to cause to come before them, twelve good and lawful men of the same county, and they shall be empannelled to inquire into the forcible entry or forcible detainer complained of, which warrant shall be in the form prescribed by law; and the said Justices shall make out their summons to the party complained against, in form prescribed by law. Which summons shall be served upon the party complained against, or a copy thereof left at his usual place of abode, seven days before the day appointed by the Justices for the trial; and if after the service of such summons, the party does not appear to defend, the Justices shall proceed to the inquiry in the same manner as if he was present; and when the Jury shall appear, and shall have elected a foreman as in other cases, the Justices shall lay before the Jury the exhibited complaint and shall administer the following oath to them, viz :

Made of proceeding on complaint to Justices.

Jury to be empannelled.

Summons to issue to party complained against.

Made of service, &c.

[Foreman's Oath.]

Foreman's
oath.

You, as Foreman of this Jury do solemnly swear, that you will well and truly try, whether the complaint of A. B. now laid before you, is true according to your evidence. So help you GOD.

[The other Jurors' Oath.]

Other Jurors'
oath.

The same oath which your Foreman hath taken on his part, you and every of you shall well and truly observe and keep. So help you GOD.

And if the Jury shall find the same true, then they shall return their verdict in form following:

Form of ver-
dict.

At a Court of inquiry held before R. S. and N. O. Esquires, two of the Justices of the Peace, within and for the said county of S. quorum unus, at D. in the said county of S. upon the day of in the year of our Lord , the Jury upon their oaths do find, that the lands or tenements in D. aforesaid, bounded, (or described,) as follows, as in the complaint upon day of in the year of our Lord was in the lawful and rightful possession of the said A. B.; and that the said E. F. did upon the same day unlawfully with force and arms, and with a strong hand, enter forcibly upon the same, (or being lawfully upon the same did unlawfully with force and a strong hand,) expel and drive out the said A. B.; and that he doth still continue wrongfully to detain the possession from him the said A. B. Wherefore the Jury find upon their oaths aforesaid, that the said A. B. ought to have restitution thereof without delay. And if by accident or challenge there shall happen not to be a full Jury the Sheriff shall fill the pannel de talibus circumstantibus, as in other cases. And if the Jury, after a full hearing of the cause, shall find the complaint laid before them supported by evidence, they shall all sign their verdict in form aforesaid; otherwise the defendant shall be allowed his legal cost, and have his execution therefor.

Verdict to be
signed by all
the Jurors.

SEC. 3. *Be it further enacted*, That if the Jury shall return their verdict, signed by the whole pannel, that the complaint is supported, the Justices shall enter up judgment for the complainant to have restitution of the premises, and shall award their writ of restitution accordingly; and no appeal shall be allowed from the judgment of the Justices: *Provided nevertheless*, That the proceedings may be removed by certiorari into the Supreme Judicial Court, holden in such county, and be there quashed for irregularity, if any such there may be; nor shall such judgment be a bar to any after action brought by either party. Which writ of restitution shall be in form prescribed by law.

No appeal.

Proceedings
may be remov-
ed by certiorari.Tenants hold-
ing over, liable
to this process.

SEC. 4. *Be it further enacted*, That whenever any tenant whose estate in the premises is determined, shall unlawfully refuse to quit any house, land or tenement after thirty days notice given him in writing for that purpose by the lessor, his heirs or assigns, he shall be liable to the process provided by

this Act; and the form of the virdict of the Jury shall be the same, mutatis mutandis, as in case of forcible entry and detainer: *Provided nevertheless*, That this Act shall not extend unto any person, who hath had the occupation or been in the quiet possession of any lands or tenements by the space of three whole years together, next before, and whose estate therein is not ended or determined. X

[Approved February 5, 1821.]

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CHAPTER LXXX.

An Act directing the mode of process, to be adopted in replevying of Cattle or Beasts distrained, and also of Goods and Chattels.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any person shall have his cattle restrained or impounded, in order to obtain satisfaction for damages they may have committed, or to obtain a forfeiture, supposed to have been incurred for their going at large out of the inclosure of the ownèr, in violation of law, in order to have the legality of such distraint or impounding determined, he may have and prosecute a writ of replevin for the liberation of the cattle thus impounded, in the form prescribed by law.

Owner of estate impounded may have writ of replevin.

SEC. 2. *Be it further enacted*, That when it shall appear from the plea of the defendant in replevin, that the cattle were taken and impounded, damage feasant, or for the recovery of a penalty incurred for their being found going at large, out of the inclosure of the owner, in violation of law; and upon the issue it shall be determined that the cause of taking and detaining was lawful and justifiable, judgment shall, instead of a return of the cattle, be rendered for the defendant in replevin, to recover such reasonable damages, as upon a consideration of the circumstances of the case, the Justice, (or a Jury in case it comes before one,) shall assess, together with his costs of taking and impounding, and costs of defence: but if upon the trial of the issue, it shall appear, that the cattle were taken or detained without sufficient or justifiable cause, the plaintiff in replevin shall recover such reasonable damages for the taking and detaining, as the Justice, (or Jury, in case it comes before one,) shall assess, together with his costs; but when, from the matter of the plea of the defendant in replevin, damages with propriety cannot be assessed, or that a restoration of the property replevied is the best recompense the parties can have, and upon the issue it shall be found, that the cattle were taken and detained lawfully, and for justifiable cause, the judgment shall be rendered, that the cattle be returned and restored to the defendant, irrepleviable, and for costs, and he be entitled to a writ of return and restitution accordingly.

In certain cases judgment for defendants damages may be given, instead of return, if legally taken.

If illegally taken, plaintiff shall have damages.

In certain cases defendant may have return instead of damages.

SEC. 3. *Be it further enacted*, That when it shall appear

to the satisfaction of the Legislature that the crime of...

When from plea it appears that the damages demanded exceed 20 dollars,

what proceedings are to be had.

When goods are taken, distrained, attached or detained and claimed by third person, form of proceeding.

Mode of assessing damages in different cases.

Attachment on mesne process continued in certain cases.

Damages recovered by officer to be to use of creditor.

from the plea or avowry of the defendant in replevin, that the sum demanded in damage for the taking and detaining exceeds twenty dollars, or that the property of the beast taken, is the question between the parties, (in case the value exceeds twenty dollars,) or that the right to soil and freehold is coming in question, in every such case, the Justice shall not proceed to try the issue, but shall order the defendant in replevin to recognize in a reasonable sum, with sufficient surety or sureties, to the adverse party, to enter the said action at the next Circuit Court of Common Pleas or the Supreme Judicial Court, to be held in the same county, as the plaintiff in replevin shall then and there elect and choose, and to prosecute the same to effect; and if such defendant in replevin shall neglect or refuse thus to recognize, the Justice shall render judgment against him in the same manner as if, he refused to make answer to the same suit. And in case such defendant shall, after recognizing fail of entering or prosecuting the same action, the plaintiff may enter and prosecute the action, or have his remedy on the recognizance, at his election.

SEC. 4. *Be it further enacted,* That when any goods or chattels shall be taken, distrained, attached, or unlawfully detained, which shall be claimed by a third person, and the person thus claiming the same, shall think proper to replevy them, in case such goods and chattels are of the value of more than twenty dollars, he may take out and prosecute his writ of replevin from the Clerk's office of the Circuit Court of Common Pleas, in the county where the goods and chattels are thus taken, distrained or attached in form prescribed by law. And in case the plaintiff in replevin shall neglect to enter and prosecute the suit, the defendant may upon complaint have judgment for a return and restoration of the goods and chattels replevied, and the damages for the taking to the amount of six per cent. on the bond, with reasonable costs, and a writ of return and restitution thereupon accordingly. And if upon a trial of the issue, judgment shall be rendered for a return and restitution, the interest of six per cent. upon the penal sum of the bond, shall be taken as a rule for estimating the plaintiff's damages, in case they were taken on execution. And if the taking shall have been upon execution, the goods and chattels returned shall be held responsible for the space of twenty days after the return; and if on mesne process, until thirty days shall have expired, after final judgment thereon, in case judgment shall not have been given; but if final judgment on the mesne process shall have been given before the return, then for the space of twenty days only after the return, to the end, the creditor, at whose suit they were originally taken, may have a complete remedy, and the benefit of his attachment. And the monies recovered by way of damages, by any officer who has taken or attached any goods or chattels, at the suit of a creditor shall be considered and taken as recov-

ered to the use of the creditor;—and when received, be paid over to him accordingly.

SEC. 5. *Be it further enacted,* That when the Sheriff or other officer, unto whom the writ of return and restitution shall be directed, shall not be able to find the beast or other property in his precinct, which shall, by the same precept, be directed to be returned and restored irrepleviably, and the same shall appear in writing by the return of the officer thereon, the Court from whence the same issued, may, upon motion, grant a writ of *withernam* against the plaintiff in replevin, to compel a complete and specific performance of the judgment, which writ of *withernam* shall be in form prescribed by law.

Court may issue writ of *withernam*, in case.

SEC. 6. *Be it further enacted,* That when the writ of return and restoration or writ, in *withernam*; shall issue from any other Court of law, or for any other property than beasts, the Court from whence the same shall issue, shall so vary the form as to them shall appear expedient to carry the same into full force and effect, as the nature and circumstances of the case shall require.

Court may vary form of writs in certain cases.

[Approved January 27, 1821.]

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CHAPTER LXXXI.

An Act prescribing the mode of recovering Forfeitures of Personal Property liable thereto by law.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That whenever any personal property shall be liable to forfeiture for any offence, any person or persons entitled thereto, or interested therein in whole or in part, may seize and shall safely keep the same till a final decree be had thereon, unless the owner or person from whom it was taken, claiming the same for himself, or some other person, shall give bond, with sufficient surety to the party seizing, to pay the appraised value thereof, when and if it shall be finally decreed forfeited; which value shall be appraised upon oath by three judicious and disinterested men, mutually chosen by the parties, or, (in case of disagreement or refusal of the party seizing,) appointed by a Justice of the Peace, in the county where the property was seized; but upon the giving or tendering such bonds, the property shall be delivered to such owner or claimant, and if no claimant shall appear, the party seizing shall be held to cause an inventory and appraisal of the property seized, to be made by three disinterested persons under oath, who shall be appointed by a Justice of the Peace in the county where the property shall be seized; which appraised value shall be the rule by which to determine where the libel shall be commenced.

When personal property is seized as forfeited,

it may be restored to the owner, he giving bonds, &c. for appraised value,

to be ascertained by men on oath, chosen by the parties or appointed by a Justice.

And if no person appear to claim the property, it must be also appraised on oath.

SEC. 2. *Be it further enacted,* That if the property seized exceed twenty dollars in value, the party seizing the same

If property seized exceed the value of 20

dollars, the party seizing to libel it within 20 days in C. C. Com. Pleas.

Court to give notice.

Manner.

If property is claimed, Court may try the cause by Jury.

and for good cause decree forfeiture.

If Jury find the seizure groundless, damages may be decreed to claimant.

Either party may appeal.

In case property seized be under 20 dollars, the proceedings must be had before a Justice of Peace.

Appeal allowed to C. C. Com. Pleas.

Depositions may be used as in other cases.

Judgments for costs, &c. on complaint for affirmation.

shall within twenty days after the seizure, but not afterwards, file a libel in the Clerk's office of the Circuit Court of Common Pleas in the county where the offence was committed, stating the cause of seizure, and praying for a decree of forfeiture; whereupon the Clerk shall make out a notification to all persons to appear at such Court, and show cause, if any they have, why such property should not be decreed forfeit for such cause of seizure; which notifications the libellant shall cause to be inserted in some newspaper printed in the same county, if there be one, otherwise in some newspaper printed in the next or nearest county, or in Portland, fourteen days at least before the sitting of the Court at which the libel is to be tried; and upon entry of such libel, at the time when civil actions are to be entered in such Court, the Court shall have power to hear and determine the cause by a Jury, where there is a claimant, but without one, if, upon proclamation made, no claimant appears, and to decree the forfeiture and disposition of such property according to law, and may decree a sale and distribution of the proceeds, deducting charges where they think proper, and may also award costs against the claimants: and if such libel be not supported, or be discontinued, restitution of the property shall be decreed to the claimants, with cost. And if the Jury on the trial, where the libel is tried by a Jury, find the seizure groundless and without probable cause, they shall assess, and the Court shall decree reasonable damages for the claimant with costs. And either party aggrieved at the decree of such Court, may appeal therefrom to the Supreme Judicial Court next to be holden in the same county; who shall have power, upon such appeal, finally to hear and determine the cause, and decree thereupon in manner aforesaid.

SEC. 3. *Be it further enacted,* That when the property seized shall not exceed the value of twenty dollars, the libel shall be preferred to some Justice of the Peace in the same county where the offence was committed, within the time aforesaid; who shall have power to hear, determine and decree thereupon as aforesaid, having first caused a like notification to be posted up, and which the libellant shall be held to do at some public place in the same county, seven days before the time of trial; saving to either party aggrieved liberty of appeal from the decree of such Justice to next Circuit Court of Common Pleas to be held in and for said county; who shall have power finally to hear, determine and decree in the cause aforesaid; and depositions taken for legal cause, and according to law, may be used on the trial, as well before said Justice as before said Courts. And if any such appeal is not entered and prosecuted, the Court to which the same was made, upon complaint, may affirm the decree appealed from, with additional damages and costs, or with additional costs only, as the case may require.

[Approved March 5, 1821.]

CHAPTER LXXXII.

An Act providing for the payment of Costs in Criminal Prosecutions.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That in all cases wherein any costs in any criminal prosecution, commenced either before the Supreme Judicial Court or Circuit Court of Common Pleas in any county in this State, the Court before whom such prosecution so commenced, (having cognizance of the offence,) shall have power to allow and tax such costs for Justices, officers and their assistants, Jurors and witnesses, and for Court and other charges, upon such prosecution, and previous to its determination, not exceeding the fees that are or may be stated by law; whether the person accused be brought to trial or not, or whether he be convicted or acquitted upon trial: and all such costs so taxed, shall be paid out of the county treasury: *Provided,* That no Justice of the Peace shall hereafter have power to issue summonses for witnesses to appear at any Court, or before any Justice of the Peace, except on complaint brought before himself, to give evidence in behalf of the State upon any criminal suit, unless it be by the request of the Attorney General or County Attorney, which request shall be expressed in the summons: and when any Justice of the Peace shall issue any summons, at the request of the party prosecuted, it shall be so expressed in the summons, and the witness shall therein be required to appear and give evidence upon condition such person prosecuted pays him his legal fees, but not otherwise.

Courts authorized to allow and tax costs in cases before them, for Jurors, witnesses, officers, Justices, &c.

To be paid out of the county treasury.

Justices of the Peace not to summon witnesses for State, in criminal cases, unless, &c.

SEC. 2. *Be it further enacted,* That the Clerk of each of said Courts shall attest and deliver to the county Treasurer copies of all bills of costs allowed by the said Courts, and certificates of all fines and forfeitures imposed and accruing to the State, or to the county, either before the rising thereof or as soon after as may be: and shall also deliver him a separate certificate of all the bills of costs allowed by said Courts, setting down therein the sum total only of each, for the purpose hereafter mentioned; and the Clerks of said Courts shall also be held to return into the treasury of the State, a certificate of all fines and forfeitures imposed to the use of the State by their respective Courts.

Clerks to deliver to county Treasurer attested copies of bills of costs allowed, and certificates of fines, &c.

And also to return to the State treasury certificate of fines imposed to use of State.

SEC. 3. *Be it further enacted,* That all Sheriffs, Coroners and Constables who may hereafter receive any fines, forfeitures or bills of cost, in pursuance of the judgment or sentence of either of said Courts, as well where such fines or forfeitures accrue to the State, as where they accrue to the county, except debts and costs received upon executions in favor of the State, shall forthwith pay the same to the Treasurer of the county in which they shall be received: and if any Sheriff or other officer, receiving such fine or forfeiture, or bills of costs, shall neglect to pay the same for the space of ten days

Sheriffs, Coroners and Constables to pay fines, penalties, costs, &c. by them collected, to the county Treasurer.

Penalty for neglect.

after receipt thereof, he shall forfeit and pay double the amount of such fine or forfeiture, and bill of costs to such county Treasurer; who is hereby empowered and directed to sue for the same forthwith, to be recovered with costs, by action of debt in the Circuit Court of Common Pleas, in the same county, one third of said penalty to the use of such county Treasurer, the other two thirds to the use of the State. And if any Sheriff or other officer, shall permit any person who may be sentenced to pay any fine, forfeiture, or bill of cost, and committed to the custody of such Sheriff or other officer or gaoler, till such sentence be performed, to go at large without payment, unless by order of law, and shall not pay such fine, forfeitures and costs, to the county Treasurer, within twenty days next after such escape, he shall be held to pay double the sum of such fine, forfeitures and costs; and the Treasurer of the county shall have power to sue for and recover the same, in the same manner and to the same use as is herein before provided. And every Sheriff and other officer aforementioned, shall be held to produce to said Courts respectively, at every session thereof in their county, receipts in full from the county Treasurer, for all fines, forfeitures and costs imposed by said Courts respectively, received and paid, previous to the sitting of such Courts, or to assign the cause why they have not received, or not paid the same, in order that such Court, may order a prosecution against such as shall appear to be delinquent.

SEC. 4. *Be it further enacted,* That every Justice of the Peace, be, and he hereby is directed to pay all fines and forfeitures by him received upon convictions and sentences before himself, as well those which accrue to the State as those which accrue to the county, to the Treasurer of the county whereof he is Justice of the Peace; and that he render his account and pay such fines on or before the first day of October next, and afterwards once in every six months. And if any Justice of the Peace shall neglect to account for, and pay in such fines and forfeitures to the Treasurer of the county, whereof he is Justice as aforesaid, he shall forfeit and pay for every such neglect the sum of thirty dollars to such county Treasurer, to be by him recovered as aforesaid with costs, one half of such forfeiture to his own use, and the other half to the use of the State. And it shall be the duty of every county Treasurer, from time to time, to call upon the Justices of the Peace within his county, and to require them to account to him for and pay in such fines and forfeitures, and to prosecute such as shall be delinquent.

SEC. 5. *Be it further enacted,* That every county Treasurer, shall, within two months after the rising of the Supreme Judicial Court, make out and transmit to the Treasurer of the State an account upon oath, therein charging the State with all bills of costs allowed and taxed by said Court, and by the

How recovered and appropriated.

Penalty for Sheriff, &c. permitting a person sentenced to pay a fine &c. to go at large before payment of such fine or costs.

How recovered and appropriated.

Sheriff and other officers to produce to the Courts, &c. County Treasurer's receipts for such sums, &c.

Justices of Peace to pay fines and forfeitures received by him to the county treasurer and account semi-annually.

Penalty for neglect, how recovered and applied.

Duty of county treasurer to require Justices so to account, and prosecute for neglect.

County treasurer to transmit to State treasurer an account, on oath, of bills of costs in Courts.

Circuit Court of Common Pleas in and for each county respectively, for which the Clerk's certificates above mentioned shall be sufficient vouchers; and a commission of five per cent. on all monies received and paid, and giving credit for all fines, forfeitures and costs accruing to the State and by him received as aforesaid, and pay the balance of such account, if in favor of the State, to the Treasurer thereof; but if such balance be in favor of the county Treasurer, it shall be paid him or his order, out of any unappropriated monies in the Treasury, as soon as may be by the Treasurer of the State, said account having been first laid by him before the Governor and Council for their examination and allowance, and their warrant thereupon by him obtained for payment of the same. And any county Treasurer who shall neglect to make out and transmit his account as aforesaid, and to pay the balance if any be due, to the State, as aforesaid, within the time aforesaid, shall forfeit and pay the sum of one hundred dollars to the use of the State, to be recovered with costs, by action of debt, in the Circuit Court of Common Pleas; in the county whereof he is Treasurer: and the Attorney General, upon notice of such neglect, from the Treasurer of the State, which he is hereby required forthwith to give, shall be, and hereby is authorized and required to prosecute such action without delay, to final judgment and execution. And the said county Treasurer shall be also held notwithstanding the recovery of the penalty aforesaid, to account for and pay the balance of all such fines, forfeitures and costs, accruing to the State, into the Treasury thereof.

Mode of adjusting and payment of balance of such accounts.

Penalty for neglect of this duty by County Treasurer.

Mode of recovering penalty.

Attorney General required, to prosecute such delinquents.

Sec. 6. *Be it further enacted,* That it shall be the duty of every county Treasurer, in addition to the accounts required by the fifth section of this Act to be exhibited, to make out and exhibit on the third Wednesday of January annually, to the Governor and Council a general account of their proceedings, therein crediting the State for all monies by them respectively received, by warrants on the Treasury, or for fines, forfeitures and bills of cost, and from whom: and in the same account charging the State for all payments by them actually made before that time, and the balance due, if any, to credit to the State in a new account; and every county Treasurer shall at the same time, make out and transmit as aforesaid, an account of all sums due, and to whom, on any bills of cost allowed and taxed by the Supreme Judicial Court and Circuit Court of Common Pleas, and also an account of all fines and forfeitures, and bills of cost within their counties respectively, which belong to the State, and which may be then remaining unpaid, and from whom the same shall be due; and shall be further held to make out and exhibit such other statements, accounts and returns, as the Governor and Council shall judge to be necessary or expedient, for a just and accurate settlement of said Treasury transactions with the State under

County treasurer to render a general account annually to Governor and Council, of fines, bills of costs, &c.

Substance and form of such account.

this Act, and as the said Governor and Council shall from time to time require.

Sums allowed by Courts to individuals, on criminal prosecutions, not to be paid, unless demanded within 3 years.

SEC. 7. *Be it further enacted,* That all sums taxed or allowed, or which may hereafter be taxed or allowed, and all other charges which have arisen or may arise, in any criminal prosecution before the Supreme Judicial Court, or any Circuit Court of Common Pleas, and which by law are chargeable to the State, shall be claimed and demanded by the person or persons who are or may be entitled to receive the same of the county Treasurer, within three years next after the same were or may be taxed or allowed, and not afterwards. And all persons not claiming or demanding such allowances, within the time above limited, shall be forever afterwards debarred therefrom. And it shall be the duty of every county Treasurer in his general account, required to be exhibited to the Governor and Council on the third Wednesday of January, to credit the State with all such sums allowed by either of said Courts remaining in the county Treasury not claimed or demanded within the time abovementioned; and also for all sums taxed in any bill of cost on a criminal prosecution, for the fees of the Attorney General when no other person is entitled thereto, and the amount of such sums shall be deducted from the county Treasurer's account against the State; and every county Treasurer shall account with his county, for all sums received out of the treasury of the State, for Jury fees, and for gaoler's charges for the maintenance of prisoners.

Sums not demanded within that time, to be credited to the State by the county treasurer.

Sums taxed for fees of Attorney General in cases, &c. to be credited State.

How prisoners are to be supported, who are not able to support themselves—and mode of proceeding in such cases.

SEC. 8. *Be it further enacted,* That the charges of supporting prisoners, committed by due process of law, unable to support themselves, who now are, or hereafter may be confined in any gaol, upon charge or conviction of crimes and offences committed against the said State, shall be, and hereby are made the proper charge thereof: *Provided however,* That in no case shall there be allowed by the State, more than at the rate of one dollar a week for any such prisoner, or more than the actual charges incurred for his support, being less than that sum: and the said charges shall be examined, allowed and paid as follows, to wit: The gaol keeper of each gaol in the State, shall render on oath, to the Court of Sessions of the county at each term thereof, an account of the charges incurred for the support of prisoners in the respective gaols, committed as aforesaid, stating therein the time when each prisoner was committed, for what offence, how long held, and when discharged, (if discharged,) and shall exhibit the warrants of commitment and discharge, and leave copies thereof with the said Court; and in the same account, the said gaol keeper shall credit all monies and effects whatever, received or to be received of the prisoner, or of any person on his account, and the said Court shall examine the said account, and inquire what part thereof the prisoner may be able to pay; and for such part as

he shall be found unable to pay, the said Court shall make a reasonable allowance to the said gaol keeper, to be paid out of the county treasury.

SEC. 9. *Be it further enacted,* That every county Treasurer shall charge to the State, not exceeding the rate aforesaid, the several sums he shall so pay out of the county treasury, with two and a half per cent. for his services, and shall include the same in the accounts which he is required to render to the Treasurer of the State in and by this Act. And said payments shall make part of the debit of said accounts against the State, to be settled, allowed and discharged, as in this Act is provided.

Compensation allowed by State to County Treasurer.

[Approved March 19, 1821]



HACPTER LXXXIII.

An Act authorizing Courts to liberate or dispose of poor Convicts in service.

SEC. 1. **BE** it enacted by the Senate, and House of Representatives, in Legislature assembled, That where any person shall have been convicted of any crime, either before a Justice of the Peace, or any Circuit Court of Common Pleas, or in the Supreme Judicial Court, and imprisoned three months for costs of prosecution only, the Circuit Court of Common Pleas, for the county where the person has been imprisoned, may order the Sheriff to dispose of such convict in service to any person whomsoever, for a term not exceeding two years, for payment of the costs for which he has been imprisoned as aforesaid; and if such disposal cannot be made, the same Court may order the Sheriff to liberate such convict, on such terms, or on such conditions as they may think most beneficial to the State and county. And either of said Courts, holden for the same county, may, at any term hereafter, on motion as aforesaid, order the Sheriff of their respective counties to liberate any convict in such county in manner as aforesaid, after his having been imprisoned three months for costs as aforesaid. And when the costs aforesaid are not obtained by means of the liberation, they shall be paid as is provided by law for the payment of costs where there is no conviction. And the several Sheriffs are hereby required duly to execute the aforesaid orders, and to make return of their doings therein to the respective Courts.

Persons imprisoned for three months for costs, after conviction before Sup. Ju. Court, C.C.C. Pleas, or Justice of the Peace, may be disposed of in service;

and if such disposal cannot be made, convict may be liberated on such conditions as the Courts may direct.

Costs how paid when not obtained of convict.

SEC. 2. *Be it further enacted,* That the Justices of the Supreme Judicial Court, and the Justices of the several Circuit Courts of Common Pleas, within this State, be, and they hereby are authorized, at any term of their respective Courts, on motion made for that purpose, to order the Sheriff of said county, to liberate from prison any poor convict who shall have been committed to prison by the order of any Justice of the Peace, or of the said Circuit Court of Common Pleas, or

When prisoner has been confined 3 months for fine and costs, and is unable to pay, S. J. Court or C. C. Com. Pleas may order him liberated on giving note to county treasurer for amount of costs.

of the Supreme Judicial Court within said county, when it shall be made to appear to said Circuit Court of Common Pleas, or the Supreme Judicial Court, that said convict has lain in prison for the term of three months, for fine and costs only, and that he stands committed for no other cause, and that he has not estate sufficient to pay said fine and costs: upon condition, however, that the Court shall order said convict to give his own note for the amount of said fine and cost, payable to the Treasurer of said county, to the use of said county. And upon condition that before the Justices of the Supreme Judicial Court and Circuit Courts of Common Pleas shall liberate such poor convict, they shall require of said convict a schedule in writing signed by him or her, stating the particulars of the property by him or her owned, together with an oath in writing by him or her signed, that the schedule contains a true account of all property of which he or she is the owner in possession, reversion or remainder, to his or her knowledge and belief. And that he or she has not sufficient wherewith to support him or herself in prison or to pay prison charges. And has not directly or indirectly sold, conveyed or intrusted to any person since the sentence passed by which said convict was committed to prison, any goods, effects or credits, nor any real estate, with intent to evade the performance of the sentence against him or her. And if any such convict shall knowingly and wilfully make any false schedule or oath in relation to the matters aforesaid, or any of them, and be thereof convicted in the Supreme Judicial Court, he or she shall receive no benefit from the said liberation, but shall be liable to be again imprisoned till he or she performs the original sentence.

In such case prisoner must give, under oath, a schedule of his property, &c.

Penalty for giving false schedule.

[Approved March 20, 1821.]

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CHAPTER LXXXIV.

An Act regulating the Selecting, Empannelling and Service of Jurors.

Selectmen to keep a Jury list.

Once in three years prepare a list.

Persons exempted from serving as Jurors.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Selectmen, in each town in this State, on or before the second Monday of September next, shall provide and at all times cause to be kept in their respective towns, one Jury box; and shall, once at least in every three years afterwards prepare a list of such persons, under the age of seventy years, in their respective towns, as they shall judge best qualified to serve as Jurors, being persons of good moral character, and qualified as the Constitution directs, to vote in the choice of Representatives, excepting the Governor, Counsellors, Judges and Clerks of the Common Law Courts, Secretary and Treasurer of the State, Loan officers and Revenue officers, Judges and Registers of Probate, Registers of Deeds, settled Ministers of the Gospel, offi-

cers of any College, Preceptors of Incorporated Academies, Physicians and Surgeons regularly authorized, Cashiers of incorporated Banks, Sheriffs and their Deputies, Marshals and their Deputies, Counsellors and Attornies at Law, Justices of the Court of Sessions, Criers of the Judicial Courts, Constables and constant Ferrymen; and having written their names upon tickets, they shall cause them to be placed in the Jury box, and shall then lay the whole of their doings before the town for a revision, who may confirm the same, or make such alterations therein as they may deem proper: and the said box shall be held and kept by the Town Clerk; and the persons whose names shall be continued in said box, shall be liable to be drawn, and serve on any Jury, at any Court for which they may be drawn, once in every three years, and not oftener.

Box to be kept by town clerk.

SEC. 2. *Be it further enacted,* That it shall be the duty of the several towns, to provide and have constantly kept in said box, ready to be drawn when required, a number of Jurors, not less than one, and not more than two, for every hundred persons, which said town may contain, computing by the last census which may have been taken, next before the preparing the box.

Number liable to be drawn in each town.

SEC. 3. *Be it further enacted,* That if any person whose name shall be in the box aforesaid, shall be convicted of any scandalous crime, or be guilty of any gross immorality, his name shall be withdrawn from the box by the Selectmen.

Persons convicted, &c. their names to be taken from the box.

SEC. 4. *Be it further enacted,* That the Courts of Sessions in the several counties in this State, within one year next after every new census, and as much oftener as any considerable change in the state of population shall render useful and necessary, shall divide their respective counties into at least four Jury districts, and more if it shall be found in practice convenient, not exceeding twelve, each to contain so many adjoining towns as shall make the number of inhabitants in each division as nearly equal, according to the last census for the time being, as may be, without dividing a town; and such Jury districts shall be numbered and distinguished numerically; and the said Courts of Sessions shall cause copies of such divisions to be delivered to the Clerks of the respective Courts at which the course of trials is or may be by Juries, who shall issue their *venire facias*, in due form, directed to the respective Constables of as many towns in one such Jury district, and for as many Jurors as shall be, as near as may be in proportion to the number of Jurors sent for in the other districts, to serve at the same Court, always collecting the grand and traverse Jurors so far as shall be practical and convenient as uniformly from all parts of the county, as the situation of towns, the number of their inhabitants, and a practical rotation and equalization of the service of Jurors will permit; never taking more than two grand and two traverse Jurors

Court of Sessions to divide counties into Jury districts.

Rule to be observed by Clerks in sending venires.

from the same town, to serve at the same Court, unless from necessity, some extraordinary occasion, or to equalize their services on the principles aforesaid.

Grand Jurors
at C. C. Com-
mon Pleas to
serve the year.

SEC. 5. *Be it further enacted,* That the Grand Jurors who shall be returned to serve at the Circuit Court of Common Pleas, shall serve at every term of said Court, which shall be held throughout the year. And venirens for such a Jury, shall be issued forty days at least, before the second Monday of September annually. And the Sheriff of each county, as soon as he shall receive the venirens for Jurors from the Clerk of either Court, shall without any delay, forward the same to the Constables of the towns to whom they shall be directed; and the Constables of their respective towns, on the reception thereof, shall, in the usual form, notify the freeholders and other inhabitants, in their towns, qualified to vote in the election of Representatives, and particularly the Selectmen and Town Clerk, to assemble and be present at the drafts and selection of the Jurors called for; which meeting shall be held at least six days, and not more than twenty days, before the sitting of the Court to which the venire shall be returnable.

Sheriff to dis-
tribute the ve-
nires.

Constables' du-
ty, &c.

Mode of draw-
ing Jurors.

SEC. 6. *Be it further enacted,* That when any town shall be duly assembled, in pursuance of a venire facias, for the purpose aforesaid, the Town Clerk, or in his absence, one of the Selectmen, shall carry into the meeting the box containing the names of those persons who have been selected to serve as Jurymen, at the Court from which the venire issued; which box shall be unlocked in the meeting, and the tickets mixed by the major part of the Selectmen, who are to be present; and one of the Selectmen shall draw out as many tickets as there shall be Jurors required by venire. The persons whose names shall be thus drawn, shall be returned to serve as Jurors unless from sickness, absence beyond sea, without the limits, or in different parts of the State, they shall be considered by the town as unable to attend the Court for which they had been drafted; or had served on a Jury within three years from that day. In either of these cases, or in case of a Coroner's being drawn at a time when the duties of a Sheriff shall be devolved on him by reason of a vacancy in that office, the persons' names being returned into the box, others shall be drawn in their stead; but any person being thus excused, or who shall be returned, and shall not appear at Court, or appearing, shall be there excused, shall not be considered as serving, or be excused on another draft, should it happen within the term of three years, the minute on his ticket notwithstanding.

Constables to
notify Jurors
who have been
drawn.

SEC. 7. *Be it further enacted,* That the Selectmen who shall draw from the box the ticket of any person to serve as a Juror, and who shall not be excused by the town, for either of the causes aforesaid, shall endorse thereon the date of the draft, and then return the same into the box; and it shall be the duty of the Constable to notify the persons thus designated

to serve as Jurors, four days at least, before the sitting of the Court, on which they are to attend, either by reading to them the venire, with the minutes of their having been drafted as aforesaid, thereon; or by leaving at their usual abode, a written notification of their having been so drawn, and also of the time and place of the sitting of the Court, and when they are to attend. And he shall make a seasonable return of the venire to the Court to which it is returnable, with his doings thereon. And whenever there shall be a renewal, or an exchange of any of the tickets in the box, for others, of the same persons, the Selectmen shall transfer from the back of the old tickets to the new ones, the minutes of such drafts as has been made within the three preceding years.

SEC. 8. *Be it further enacted,* That when by a deficiency of either of the grand, or traverse Jurors of any Court, it cannot conveniently proceed in its business, it may cause writs of venire facias for the drawing and returning so many Jurors as shall be deemed necessary, to be forthwith issued, and directed to the Constables of such towns in the county as the Court, under the existing circumstances, shall judge most proper; conforming as far as the business of the Court will permit, to the principles by which, under this Act, Jurors are to be selected, and their services equalized: and the Jurors so drawn, shall be notified by the Constables to attend on the Court immediately. And when from challenges or otherwise, there shall not be a Jury to determine any civil or criminal cause, which may be called on for trial, the Sheriff or his deputy, or in case of an interest or relationship in him, to a party in the suit, a Coroner, or such other disinterested person as the Court shall appoint, shall, by order of the Court, return Jurymen *de talibus circumstantibus*, sufficient to complete the panel: *Provided,* No person shall be considered as competent to be returned, whose name shall not, to the satisfaction of the Court, appear to be contained in the box aforesaid, unless the parties consent, and also provided that there shall be seven at least on the panel, of the Jurors returned by the venire.

In case of deficiency of grand or traverse Jurors Court may issue venire returnable forthwith.

Sheriff or Coroner may return Jurors de talibus circumstantibus.

Proviso.

SEC. 9. *Be it further enacted,* That the Justices of the respective Courts aforesaid, shall on motion from either party, in a suit, put any Juror upon oath, whether he is any way related to either party, or hath formed or given any opinion, or is sensible of any particular interest or prejudice in the cause; and if thereupon, it shall appear to the Court, that such Juror does not stand indifferent in the cause, another Juror shall be called or returned, and be placed for the trial of that cause in his stead.

Jurors may be examined on oath as to their interest, &c.

SEC. 10. *Be it further enacted,* That from the return on the venires, the Clerk of each Court shall prepare, or have prepared, at the opening of every Court, separate alphabetical lists of the names of the persons who shall be returned as grand or traverse Jurors, respectively. And each Court, in

Clerk of Court to prepare alphabetical list of Jurors.

Mode of empan-
nelling Grand
Jury.

empannelling the Grand Jury, shall cause the two persons who shall stand first on the Grand Jury lists to be called and sworn, and after them the others, in succession, as they shall be named in said list, and in such divisions as has been usual, or as by the Court may be deemed proper.

Mode of em-
pannelling
Traverse Jury.

SEC. 11. *Be it further enacted,* That the respective Courts in empannelling the traverse Jurors, shall cause the names of the two first persons which shall stand on the list of Jurors of trials respectively, to be called, who shall be first sworn, and then the others in succession, as they shall be named in said list, and in such divisions as has been usual, or as the Court may deem proper. And the first twelve persons, thus empannelled, shall be the Jury; and when there shall have been venires, and returns for two Juries, shall be called the first Jury; and the next on said list being called and sworn as aforesaid, to the number of twelve shall form the second Jury: *Provided,* And in case of the Court's excusing for cause, any person of either of said Juries, and there being any supernumeraries, the vacancy shall be supplied, and the pannels be filled and completed, on the above mentioned principles, in the same manner as if the person excused, had not been named in the Jury list; and provided also, in case of supernumeraries, on request, the Court may excuse individuals of either panel, who may not have sufficient reasons to exempt them from serving, so far as their places can be supplied by the supernumeraries, and by their consent.

SEC. 12. *Be it further enacted,* That the oaths which shall be administered to the grand and traverse Jury, respectively when they shall be empannelled, shall be in the forms following, namely:

[Grand Jurors' oath.]

Grand Jurors'
oath.

You as Grand Jurors of this inquest for the body of this county of S. solemnly swear that you will diligently inquire, and true presentment make of all such matters and things, as shall be given you in charge; the State's counsel, your fellows', and your own, you shall keep secret; you shall present no man for envy, hatred or malice; neither shall you leave any man unrepresented, for love, fear, favor, affection, or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God.

[The other Grand Jurors' oath.]

The same oath which your fellows have taken, on their part, you and each of you, on your behalf, shall well and truly observe and keep. So help you God.

[The form of the traverse Jurors' oath in civil causes.]

Traverse Ju-
rors' oath.

You, and each of you swear, that in all causes betwixt party and party that shall be committed to you, you will give a true verdict therein, according to the law and the evidence given you. So help you God.

[Form of the oath in criminal causes, not capital.]

You swear, that you will well and truly try the issue between the State and the defendant or defendants, (as the case may be,) according to your evidence. So help you God.

Oath in criminal causes.

[Form of the oath in capital causes.]

You swear, that you will well and truly try, and true deliverance make, between the State, and the prisoner at the bar, whom you shall have in charge, according to your evidence. So help you God.

Oath in capital causes.

Provided, That any person conscientiously scrupulous of taking an oath, shall instead thereof be allowed to make affirmation, substituting the word, "affirm," instead of the word "swear," and also the words, "this you do under the pains and penalties of perjury," instead of the words, "So help you God."

Affirmation in cases of scrupulosity.

SEC. 13. *Be it further enacted,* That it shall be the duty of the Grand Jury, who shall be thus sworn, empannelled and instructed by the charge from the Court, so soon as they shall retire for the purpose of discharging the duties of their office, first to elect by ballot their foreman, and to notify the Court, by the officer who shall be appointed to attend on them, of the person who shall have been thus elected, and who shall be thereupon foreman of the Jury for the then existing term, and as such be recorded by the clerk accordingly. But in case of the absence of such foreman, by sickness, or any other cause, it shall become necessary during the same session of the Jury, to appoint another foreman, they shall proceed in a similar manner to elect, and to announce to the Court the choice of another foreman in his stead. And the foreman of each Grand Jury, in the presence of the Attorney General or County Attorney, shall have power to swear any witness to testify before such Grand Jury, and it shall be his duty to return to the Court which empannelled them, a list of all witnesses so sworn, before said Grand Jury be discharged from their attendance upon the said Court; which list shall be filed and entered of record by the Clerk thereof. And the traverse Jurors being thus empannelled, shall respectively, either retire and choose by ballot their respective foreman, or shall make such a choice on their retiring with the first cause with which they shall be charged, as may best accommodate the arrangements and business of the Court, of which choice, the Court shall be notified on the Jury's return.

Grand Jury to elect foreman by ballot.

Foreman may, in presence of Attorney for State swear witnesses.

Traverse Jurors to choose foreman by ballot.

SEC. 14. *Be it further enacted,* That if at any time, from the existing state of the country, the nature or quantum of the business pending, or from any other cause, the Courts respectively, shall be of opinion that it will be a hardship on one set of traverse Jurors to serve the whole of the term, and that it would best meet the interest of the public and of individuals, to have a second set of Jurors to serve a part of the term, it shall be in the discretion of the Court to direct their Clerk,

Provisional Jurors may be required to be drawn.

when they shall issue their venire to the Constables, in manner before directed, for the usual number of Jurors, to require in the same venire, that a second draft of an additional number, equal to the first number, shall be made, which shall be called provisional Jurors, and shall form the second set, so far as they shall be needed, and especially sent for by the Court. And the Constables shall also notify these Jurors four days before the sitting of the Court, of their being drawn as provisional Jurymen, in the same manner as is provided for the notification of the first set of Jurors. And such provisional Jurors shall hold themselves in readiness, and if called for by the Court, shall attend and serve, at any time in the course of that term. And in all cases, when provisional Jurors shall be drawn as aforesaid, it shall be in the discretion of the Court, at any time during the session, to excuse, on request, from further attendance, any individual of the first set of Jurors, on the condition of his giving seasonable and personal notice to such a provisional Juror or Jurors, for his or their immediate attendance, as shall be designated and called for, by the discretion of the Court.

Such Jurors to be notified and ready when called for.

Court may excuse Jurors of first set.

Powers and duties of grand and traverse Jurors.

SEC. 15. *Be it further enacted,* That it shall be the business of the Grand Juries to present all crimes, offences, and breaches of the law, cognizable by the respective Courts at which they shall attend; and of the traverse Juries, respectively, to try, according to the established forms and principles of law, all causes which shall be committed to them, and to decide at their discretion by a general verdict, both the fact and the law, involved in the issue; or to find a special verdict, or a general verdict, subject to the opinion of the Court, on a case or point stated and reserved by agreement of the parties, or their counsel, under the direction of the Court, as making a part of the record, to be entered as such; and in case such Jurors, after a due and thorough deliberation on any civil cause, with which they may be charged, shall return into Court without having been able to agree on a verdict, it shall be in the discretion of the Court explaining to them its understanding of questions of law, if any should be proposed, and re-stating what any witness had testified, should that be requested by the Jury, to send them out again for further deliberation; and if the Jury should return a second time without being able to agree on a verdict, they shall not be liable to be sent out a third time, unless they shall state some legal difficulties for explanation, which had not been previously attended to by the Court. And if any person obtaining a verdict in his favor in any Court in this State, shall, during the session of the said Court, in which such verdict shall be obtained, give to any of the Jurors in said cause, knowing him or them to be such, any victuals, drink or entertainment, or other article by way of treat or gratuity, whether before or after such verdict, on due proof thereof it shall be a sufficient

Party prevailing not to treat the Jury.

reason, at the discretion of the Court, to set aside the verdict, at the election of the adverse party, and award a new trial of the cause.

SEC. 16. *Be it further enacted,* That in all cases relating to real estates, either party may have a Jury to view the place in question, if the Court shall be of opinion, that such view is necessary to a just decision: *Provided,* The party moving therefor shall advance such a reasonable sum to the Jury, as the Court shall order to be taxed against the adverse party in the event of a decision of the cause against him, on its merits, or through the default of the adverse party.

In real actions a view may be had.

Provide as to costs.

SEC. 17. *Be it further enacted,* That the Justices of either of the Courts aforesaid shall have power to order the writ of venire facias, which may be issued either for the grand or traverse Jurors, to be returned on such day of the term, as they may judge will best serve the purposes of justice, and facilitate the business of said Court.

Venires for Jurors may be returnable on any day the Court may direct.

SEC. 18. *Be it further enacted,* That the manner in which Constables, upon the receipt of venires for Jurors, shall notify the qualified inhabitants of their respective towns to assemble, and to be present at their drafts as aforesaid, shall, unless otherwise ordered by said towns respectively, be the same as has been or shall be established therein for notifying and warning their annual town meetings. But if any town shall, at a legal town meeting, have ordered that the notifications shall be by the Constables, giving notice to the Selectmen or the major part of them, and the Town Clerk, or by any other mode, such notification shall be sufficient.

Town meetings for Jurors, how to be notified.

SEC. 19. *Be it further enacted,* That the grand and traverse Jurors who shall attend at the Supreme Judicial Court, and Circuit Court of Common Pleas, shall each be allowed one dollar and twenty-five cents a day for their attendance, and six cents a mile for their travel out and home; to be paid out of the county treasuries respectively.

Compensation of Jurors.

SEC. 20. *Be it further enacted,* That the Selectmen, Town, Constable, Clerk of the town, Clerk of the Court, Sheriff or Juror, who having no justifiable cause therefor, shall neglect to discharge the duties incumbent on them, him or it, respectively, by this Act, shall be subjected to the respective fines and amercements named to be assessed, ordered and imposed by the Court, in reference to whose Jurors such neglect or failures may have taken place; namely, a fine not exceeding twenty dollars, at the discretion of the Court, on any Selectmen or town Clerk, who shall so neglect to perform his or their duty herein prescribed, as by means whereof the Jurors called for from his or their town shall not be returned; a fine not exceeding twenty dollars, at the discretion of the Court, on any Constable, who shall so neglect to perform the duties devolved on him by this Act, by means whereof there shall be a failure of the Jurors called from his town as aforesaid;

Penalty on any officers for neglect of duty, and appropriation.

a fine or amercement not exceeding one hundred dollars, at the discretion of the Court, on any town which shall so neglect the duties herein enjoined on it, as thereby to occasion a failure of the Jurors called for from such a town; a fine at the discretion of the Court, not exceeding fifty dollars, on their Clerk, or the Sheriff, who shall so neglect the duties enjoined on them, respectively, by this Act, as to prevent a compliance with any of its provisions; a fine on any Juror drawn, notified and returned, in the manner as above described, who shall unnecessarily fail in his attendance, and not being an inhabitant of Portland, not exceeding twenty dollars, and if an inhabitant of that town, not exceeding forty dollars, to be divided equally among the Jurors who shall attend and serve; and a fine not exceeding eighty dollars, on any town Clerk or Selectman, who shall be guilty of any fraud, either in practising on the Jury box previously to a draft, or in the drawing a Juror, or in returning the name of any Juror into the box, which had been fairly drawn out, and drawing or substituting some other one in his stead, or in any other way whatsoever; and all such fines which the Selectmen, Constable, town Clerk, Sheriff or Clerk of a Court, shall incur by virtue of this Act, for any neglect, shall be to the use of the county in which the offender dwelt at the time of the neglect, to be recovered by indictment, information, or an action brought by the Treasurer of the county, before any Court having jurisdiction of the offence: *Provided*, The action shall be brought within twelve months after the offence shall have been committed; such fines or amercements as shall be ordered or imposed on towns for any neglect of their duties as before specified, shall be to the use of the county in which the offending town may be; and all fines and forfeitures for any of the frauds, by Town Clerks or Selectmen as above mentioned, shall be recovered by action of debt, in any Court having jurisdiction thereof; one moiety thereof to be and enure to the State, the other moiety to him or them who shall prosecute and recover the same.

Limitation of actions for penalty.

[Approved February 14, 1821.]

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CHAPTER LXXXV,

An Act prescribing the mode of taking Depositions.

In what cases and circumstances depositions may be taken.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any civil cause shall be pending in any Court, or before any Justice of the Peace in this State, and the writ, original summons, or complaint therein shall have been served on the defendant, or be pending before Referees or Arbitrators, and either party in the cause shall think it necessary to have the testimony therein of any person who shall live more than thirty miles from

the place of trial by a Court, Jury, Referees or Arbitrators, or shall be bound on a voyage to sea before, or be about to go out of the State, and not to return in time for the trial; or shall be so sick, infirm or aged, as not to be able to travel and attend at the trial; then the deposition of such person may be taken before any Justice of the Peace not being of counsel or attorney to either party, or interested in the event of the cause: *Provided*, Notice be given, and proceedings be had as hereinafter directed.

SEC. 2. *Be it further enacted*, That when either party in the cause shall apply to a Justice of the Peace to take such deposition, he shall give notice to the adverse party, if in this State, in substance as follows, to wit:

On application to a Justice notice to be given to adverse party if in this State.

(L. s.) ss. To of , in the county of [addition.] Greeting.

Whereas A. B. of in the county of [addition] has requested me to take the deposition of of in the county of , [addition] to be used in an action of pending between you and the said A. B. and the house of in , and the day of in the year of our Lord at of the clock in the noon are appointed the time and place for the said deponent to testify what he knows relating to the said action: You are hereby notified that you may then and there be present, and put such interrogatories as you may think fit.—Given under my hand and seal at , on the day of in the year of our Lord .

Form of notice.

Justice of the Peace.

Provided nevertheless, That the notification to the adverse party may be issued by the Justice before whom the deposition is to be taken, or by any other Justice of the Peace within the State, *mutatis mutandis*, at the election of the party, at whose request such deposition is to be taken; and *Provided further*, That notice may be given verbally, by the Justice taking said deposition, or notice may be dispensed with, if the adverse party or his attorney shall, in writing, waive the same. And when the adverse party is not present at the taking of such deposition, the Justice taking the same shall certify that he was duly notified. And the service of this notification on the said adverse party, or his attorney, by leaving an attested copy thereof at his last and usual place of abode, allowing time for his attendance after being notified, not less than at the rate of one day, Lord's days exclusive, for every twenty miles travel; and such service being proved by the affidavit of a disinterested witness, or by the return on said notification of the Sheriff or his deputy of the county, or of the Constable of the town where the said adverse party or his attorney shall live, shall be deemed sufficient notice. But no person for the purposes of this Act, shall be considered as the attorney of another, until such attorney shall have endorsed the writ; or endorsed his name

Notice may be issued by the Justice taking the deposition, or any other Justice.

Justice may give verbal notice, or it may be waived in writing.

Justice must certify notice.

Manner of giving notice.

Who to be considered as an attorney to be notified.

on the summons to be left with the defendant in the cause ; or until he shall have appeared for his principal in the cause, before the Justice of the Peace, Referees or Arbitrators, or in the Court where the said action shall be pending, or shall have given notice in writing, stating he is attorney in the cause, to the other party or his attorney. And where there are several plaintiffs or defendants in any action, such notice to one of them, or the notice aforesaid to be given by the said Justice, given to one of them, shall be deemed sufficient.

Where there are several plaintiffs or defendants notice to one good.

Deponent to be cautioned and sworn before being examined.

Deposition to be written by Justice, deponent or a disinterested person.

Justice to hand it into Court, &c.

or make a formal caption, and seal it up.

• SEC. 3. *Be it further enacted,* That every person deposing as aforesaid, shall first be cautioned and sworn or affirmed to testify the truth, the whole truth and nothing but the truth, and being afterwards carefully examined shall subscribe the testimony by him or her given, after the same shall be reduced to writing, which shall be done only by the Justice taking the deposition, or by the deponent, or some disinterested person in the presence of the said Justice ; and the deposition so taken shall be retained by such Justice until he deliver the same together with a certificate of the reasons for taking such deposition, and of notice, if any, with his own hand to the Court, Justice, Referees or Arbitrators, for which it may have been taken, or shall, together with such certificate as aforesaid, be sealed up by him, and directed to such Court, Justice, Referees or Arbitrators, and remain under his seal until opened in Court, or by such Justice, Referees or Arbitrators : which certificate shall be in substance as follows, to wit :

ss. On the day of , in the year of our Lord , the aforesaid deponent was examined and cautioned, and sworn, (or affirmed,) agreeably to law, to the deposition aforesaid by him subscribed, taken at the request of , and to be used in an action of now pending between him and before [here name the Court, Justice, Referees or Arbitrators]; and the adverse party was, or was not present, (as the case may be,) the said deponent living more than thirty miles from the place of trial, or being about to go out of the State and not to return in time for the trial, or being bound on a voyage to sea, or being so sick, or being so infirm, or being so aged as to be unable to travel and attend at the trial, is the cause of taking this deposition. Justice of the Peace.

SEC. 4. *Be it further enacted,* That such Justice when requested by the party applying as aforesaid, shall issue his summons to the deponent in substance as follows, to wit :

(L. S.) ss. To of in the county of [addition] Greeting.

Whereas A. B. of in the county of [addition] has requested me to take your deposition, to be used in an action now pending between him and , and the house of in and the day of in the year of our Lord at of the clock in the noon, are appointed the time

Form of summons to deponent.

and place for taking the same deposition: You are hereby required in the name of the State of Maine, then and there to appear to testify what you know relating to the said action. Hereof fail not. Given under my hand and seal at the day of _____ in the year of our Lord _____ Justice of the Peace.

Which summons when served, and the service thereof proved as before prescribed, in the case of the said notification, shall be deemed good and sufficient; and if any deponent so summoned shall neglect to appear at the time and place appointed in the summons, and having tendered to him or her thirty-four cents for his or her time, and four cents a mile for his or her travel, computing from the deponent's said place of abode to the place of caption, and back, such deponent shall be subject to like actions, forfeitures and attachment as are provided by law where witnesses are summoned to Court and do not appear.

Manner of serving such summons, to be effectual.

Penalty for non attendance of such witness.

SEC. 5. *Be it further enacted,* That if on the trial of any cause, either party shall make it appear probable to the Court, that it will not be in his power to produce the witnesses, there testifying on the appeal or review of the cause, and shall move that their testimony be taken down in writing, it shall be done by the Clerk of the said Court, or by such Justice of the Peace as the Court shall appoint; and if any appeal or review be had, such testimony may be used, if it shall appear to the satisfaction of the Court that the witnesses are then living more than thirty miles from the place of trial, or dead, or gone out of the State, or on a voyage to sea, or so sick, infirm or aged as then to be unable to travel and attend at the trial, and not otherwise. And in every case, (as oral testimony examined and cross-examined in open Court is to be preferred to depositions, when it can be reasonably had,) where the deposition of a witness shall have been taken, it shall not be used in the cause at the trial, by the Court, Justice, Referees or Arbitrators, if the adverse party shall then make it appear that the reasons for taking the said deposition no longer exist; but that the witness is within the said distance, and able personally to appear.

In certain cases testimony may be taken in open Court, to be used on appeal, &c.

But not to be used if the witnesses can be produced.

SEC. 6. *Be it further enacted,* That all depositions taken out of this State before any Justice of the Peace, Public Notary or other person legally empowered to take depositions in the State or County where such depositions shall be taken and certified, may be admitted as evidence in any civil action, or rejected at the discretion of the Court: *Provided nevertheless,* That if the adverse party or his attorney shall live within twenty miles of the place of caption, no deposition shall be admitted, unless it shall appear by the caption or affidavit, that such adverse party or his attorney was notified of the time and place of caption.

Depositions taken out of the State may be admitted or rejected at the discretion of the Court.

Provided adverse party be notified, if within twenty miles.

SEC. 7. *Be it further enacted,* That the Justices of the Su-

Judicial Courts may grant dedimus for taking depositions, on such terms as they may deem proper.

preme Judicial Court and of the Circuit Court of Common Pleas, may grant a dedimus protestatem to have depositions taken, either within or without the State, in any action, suit or controversy pending in said Courts respectively, on such terms and conditions as they from time to time shall prescribe.

Depositions in perpetuum, how taken and certified.

SEC. 8. *Be it further enacted,* That where any deposition shall be taken in perpetual remembrance of a thing, it shall be done by two Justices of the Peace, quorum unus, and they shall cause such as they know to be interested, to be duly notified of the time and place of the caption, if within twenty miles thereof, or in this State; and if without that distance, their attorney, if any they have; and the deposition being reduced to writing by one of the Justices or by the deponent in their presence and subscribed, the said Justices shall administer the oath and certify the caption and the names of all persons, whom they notified of the taking thereof, in substance as follows, to wit :

State of Maine.

Form of the caption.

ss. Town of _____ this _____ day of _____ in the year of our Lord _____ personally appeared before us, the subscribers, two Justices of the Peace in and for the county of _____ quorum unus, the aforesaid deponent, and after being carefully examined, and duly cautioned to testify the whole truth and nothing but the truth, made oath, or affirmed, that the foregoing deposition by him subscribed is true. Taken at the request of _____ to be preserved in perpetual remembrance of the thing. And we duly notified A. B., C. D., E. F., being all the persons living within twenty miles of this place of caption, or in this State, we knew to be interested in the property to which the said deposition relates; and attended, [if any person so notified did attend,] or _____ we not knowing any persons, living within twenty miles of said place of caption, or within the State, interested in the property whereto the aforesaid deposition relates, did not notify any persons to attend.

Deposition to be recorded within 90 days in county where land lies,

And the same deposition and caption shall within ninety days be recorded in the office of the Register of Deeds in the county where the land lies, if the deposition respected real estates; and if the same respected personal estates, then in the said office of the county where the person lives for whose use such deposition was taken; and such certificate shall be certified on the deposition, and the same deposition so certified, or a copy of the said record, may in the case of the death of such deponent, absence out of the State, or inability to attend the Court as aforesaid, be used as evidence in any cause to which it may relate.

or where person lives for whom taken if it relates only to personal estate.

Certified copy of such deposition to be legal proof, if deponent cannot attend.

Persons scrupulous of taking an oath may affirm.

SEC. 9. *Be it further enacted,* That every person who shall be conscientiously scrupulous of taking an oath, and who on any lawful occasion shall be required to take an oath as a witness in any cause, shall instead of the usual form be permitted

to affirm in these words, to wit: "I, A. B. do affirm under the pains and penalties of perjury," which affirmation shall be deemed of the same force and effect, as his or her oath would have been on the same occasion, taken in the usual form. And if any person making such affirmation shall be convicted wilfully, falsely and corruptly to have testified in any matter or thing, he or she so offending shall incur the same penalties and forfeitures as by the laws of this State are enacted against persons convicted of wilful and corrupt perjury.

Form of affirmation.

Wilful and false affirmation punished as perjury.

SEC. 10. *Be it further enacted,* That if any person shall wilfully, falsely and corruptly swear or affirm, in giving or making any deposition or affidavit in this Act provided to be taken, he or she shall incur the same penalties, as if the testimony had been taken in open Court, and wilful perjury committed in giving the same.

Same penalties for false swearing in giving depositions as for false swearing in open Court.

[Approved March 15, 1821.]

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CHAPTER LXXXVI.

An Act for the relief of Persons who are scrupulous of taking Oaths.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That whenever any person shall be required to take or subscribe any oath, before he enters on the discharge of any office, place or business, or on any other lawful occasion, and such person shall be conscientiously scrupulous of taking or subscribing an oath, he or she shall be permitted to make or subscribe affirmation, instead of the oath which is or may be by law prescribed, changing such parts of any such oath as ought to be changed, conformably to the Constitution of this State.

Certain persons, scrupulous of taking an oath, may take and subscribe an affirmation.

SEC. 2. *Be it further enacted,* That if any person shall wilfully, falsely and corruptly, make or subscribe any such affirmation as aforesaid, he or she shall be liable to the same pains and penalties as are or may be by law provided against persons who wilfully, falsely and corruptly take or subscribe the oath for which such affirmation is substituted.

False and corrupt affirmation, to be punished as perjury.

[Approved February 19, 1821.]

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CHAPTER LXXXVII.

An Act for admitting Inhabitans of Towns and certain other Corporations as Witnesses.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That in all suits at law whether of a civil or criminal nature, now depending, or that hereafter may be depending in any Court, or before any Justice of the Peace, within this State, wherein any county, town, public corporation, charitable, religious or literary incorporated socie-

Inhabitants of counties, towns, public corporations, &c. may be admitted as witnesses, in actions where the counties, towns or cor-

porations of which they are inhabitants or members are parties or interested.

Provided they have no other interest nor otherwise disqualified.

ty, is or may be a party, or interested in the event of the suit, any inhabitant of such county or town or member of such other incorporated society, shall and may be admitted as a competent witness; and his deposition may be used, if duly taken, and for legal cause, in the trial of the cause as well for as against such county, town or other corporation: *Provided*, He hath no other interest therein, than as an inhabitant or member of such county, town or other corporation, and is not otherwise legally disqualified; any law, usage or custom to the contrary notwithstanding.

[Approved February 28, 1821.]

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CHAPTER LXXXVIII.

An Act regulating Damages on Inland Bills of Exchange.

In actions on protested Bills of Exchange payable out of this State.

Rule of estimating damages.

On protested bills for 100 dollars or more payable in the State at distance of 75 miles from place where drawn.

Rule for estimating damages.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any Bill of Exchange, drawn or endorsed within this State, payable at any place without the State, and within the United States, and the territories thereof, which upon being duly presented for acceptance or payment, shall not be accepted, or paid, according to the order of said bill, or the terms of said acceptance, (if any,) and shall thereupon be regularly protested, every person drawing or endorsing such bill within the State, who shall be liable by law for the contents of said bill, to any holder or party thereto, shall, in addition to the contents of said bill, and to the cost and lawful interest, be liable for, and pay damages, at the following rates, viz: Upon all such bills payable within the States of New-Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut or New-York, three per cent. on the amount of such bill; if payable within the States of New-Jersey, Pennsylvania, Delaware, Maryland, Virginia or District of Columbia, five per cent.; if payable within the States of North Carolina, South Carolina or Georgia, six per cent.; if payable within any other of the United States, or the territories thereof, nine per cent.

SEC. 2. *Be it further enacted*, That when any Bill of Exchange, or order for the payment of money drawn or endorsed within this State, for one hundred dollars, or upwards, and payable at any place within the same, distant seventy-five miles or more, from the place where the same is drawn or endorsed as aforesaid, which shall not be duly accepted and paid according to the order of said bill, or if accepted, which shall not be paid according to the terms of the acceptance, the person drawing or endorsing the same, within this State at the distance of seventy-five miles or more from the place of payment, and who is liable by law, for the contents of said bill or order, to the holder thereof or any party thereto, shall, in ad-

dition to the contents of said bill or order, and lawful interest and costs thereon, be also liable for, and shall pay damages at the rate of one per centum on the amount thereof.

[Approved February 28, 1821.]

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CHAPTER LXXXIX.

An Act regulating the admission of Attornies and authorizing particular persons, in certain cases, to prosecute and defend suits at law.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That no person shall be admitted and allowed to be an Attorney of any Court in this State, unless he is a person of good moral character, and is well affected towards the Government and Constitution of this State, nor until he shall have faithfully devoted seven years at least to the acquisition of scientific and legal attainments, whereof three years shall have been spent in professional studies, with some Counsellor at law, and two of the three with such Counsellor in this State; and no person shall be admitted to practise as an Attorney in any Court of Justice within this State, until he shall in open Court have taken and subscribed the oath or affirmation prescribed in the Constitution of this State, and an oath in tenor following :

Qualification for admission to practice as Attorney in Courts of this State.

Attornies to be sworn in open Court.

You solemnly swear, that you will do no falsehood, nor consent to the doing of any in Court; and if you know of an intention to commit any, you will give knowledge thereof to the Justices of the Court, or some of them that it may be prevented; you will not wittingly or willingly promote or sue any false, groundless, or unlawful suit, nor give aid or consent to the same; you will delay no man for lucre or malice; but you will conduct yourself in the office of an Attorney within the Courts, according to the best of your knowledge and discretion, and with all good fidelity, as well to the Courts as your clients. So help you GOD.

Form of oath.

Provided always, That if any person shall hereafter commence practice as an Attorney or Counsellor at law, in any place or in any Court in this State, without such previous term and course of studies, or taking such oath as aforesaid, or without paying into the county treasury the excise duty required by law, he shall not be entitled to demand or receive any remuneration for professional services.

Without having complied with such requisitions not entitled to pay for services.

SEC. 2. *Be it further enacted,* That the plaintiff or plaintiffs in any suit, shall not be allowed to manage their cause, by more than two Attornies, nor shall any defendant be allowed to employ a greater number.

Two attornies only, allowed on each side.

SEC. 3. *Be it further enacted,* That every citizen be, and hereby is, authorized to appear in any Court, and before any tribunal, Judge, Justice of the Peace or Magistrate, to prosecute and defend his suit or action by himself and by any per-

Any person of good moral character may appear by special power.

son of a decent and good moral character, whom he shall call to his aid or appoint for that purpose; and that any person of such decent and good moral character, who shall produce in Court a power or letter of Attorney, specially for that purpose, from any person whomsoever, shall have full authority, though his principal be absent, to prosecute and defend any suit or matter, wherein his principal shall be concerned, to final judgment and execution; and to plead, implead, or manage the same case as fully as if such person, so authorized, was an Attorney of such Court, and admitted and sworn in usual form as prescribed by law, and agreeably to the rules of such Court.

No person shall be counsel in a cause in which he has acted as Judge, &c.

SEC. 4. *Be it further enacted,* That no person shall engage or be employed as Counsel or Attorney, before any Court within this State, in any action which he shall have determined as Judge or Justice of the Peace; and if any person as aforesaid, shall appear as Counsel or Attorney in any action or suit, he shall not be permitted to prosecute, defend, answer to, or manage, such action or suit. And no Justice of the Peace within this State, shall hear or determine any civil action which shall have been commenced by himself or by his order or direction, and every civil action commenced as aforesaid shall abate.

No Justice shall sit in a cause commenced by him, &c.

No Sheriff or deputy shall act as attorney in a cause or draw writs, pleas, &c.

SEC. 5. *And be it further enacted,* That no Sheriff or deputy Sheriff shall be suffered to appear in any Court, or before any Justice of the Peace, as Attorney to, or in behalf of, or assisting, or advising to any party in a suit; nor shall any Sheriff or his deputy be allowed to draw, make or fill up any plaint, declaration, writ or process, or to draw or make any plea for any other person; but all such acts done by either of them shall be void.

[Approved February 10, 1821.]

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CHAPTER XC.

An Act providing for the appointment of Clerks of the Courts in the several Counties, and requiring them to render an account of all monies received.

Clerk to be appointed by Governor and Council.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That there shall be nominated and appointed by the Governor with the advice of the Council during pleasure, one person in each county in this State, who shall be Clerk of all the Judicial Courts, holden in the same county, and shall have the care and custody of all the records, files and proceedings which have heretofore been had and now remain in the respective offices of either of the Clerks of the Supreme Judicial Court or Circuit Court of Common Pleas; and who shall be Clerk of all the Judicial Courts holden in the same county, under the authority of this State, and who shall do and perform all the duties, services, acts, matters

To be Clerk of all the Courts.

and things, which he as Clerk of either of said Courts ought by law to do and perform.

SEC. 2. *Be it further enacted,* That the several Clerks to be appointed by virtue of this Act, shall keep a true and exact account of all the monies they shall receive, by virtue of their office, and shall on the first Wednesday of January annually render to the Treasurers of their respective counties under oath, a true account of the whole sum thus by them received, and after deducting one thousand dollars, (if they shall have received so much,) which shall be held and retained for their own use, they shall pay over the one half of all the residue to their respective county Treasurers for the use of the county.

To keep an account of fees.

Emoluments.

SEC. 3. *Be it further enacted,* That every such Clerk before he shall enter upon the duties of his office, shall be sworn or affirmed to do and perform all the duties appertaining to his office; and such Clerk shall also give bond to the State to the acceptance of the Governor and Council in a penal sum not less than eight thousand dollars, with two or more sureties, conditioned that he will well and faithfully do and perform all the duties, and pay over all the monies he is required by this Act to do and perform, and for the safe keeping and immediate delivery of all the records, files, papers, and muniments in said office to his successor on his leaving said office, which bond shall be lodged in the office of the Treasurer of this State.

Clerks to give bonds.

Condition.

SEC. 4. *Be it further enacted,* That each of the Clerks aforesaid shall be required to pay over to the Treasurer of the county, for which he may be appointed, all monies received by him, which has heretofore been ordered to be paid into the county treasury for the use of the county for State, within thirty days from the adjournment of the Courts, at which he may have received the same.

To account to the county treasurer in 30 days.

SEC. 5. *Be it further enacted,* That the Clerks now in office, shall continue to do and perform all the duties of their respective offices until the first day of August next, and until others are appointed and qualified according to the provisions of this Act. And in case of a vacancy in said office, or the absence of any Clerk, the Judges of the several Courts, are hereby authorized and empowered to appoint a Clerk who is hereby authorized to do and perform all the duties of Clerk, during such vacancy or absence; and it shall be the duty of the several Clerks now in office to deliver over to their successors all the records, files and papers in their respective offices immediately upon the appointment of such successor.

Clerks now in office to continue.

Court to appoint a Clerk in certain cases.

SEC. 6. *Be it further enacted,* That this Act shall take effect, and have force from and after the first day of August next, and all Acts and parts of Acts inconsistent with the provisions contained in this Act are hereby repealed.

[Approved June 27, 1820.]

CHAPTER XCI.

An Act providing that Bonds shall be given by Sheriffs and Coroners to the Treasurer of this State, and giving remedies thereon.

Sheriffs to give bond.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every person appointed to the office of Sheriff within this State, shall, within sixty days from the receipt by him of his commission; and every Sheriff now in office unless another shall sooner be appointed in his place, shall within sixty days next after the passing of this Act, make and execute a bond, with at least three sufficient sureties residing within this State, in a sum not less than twenty five thousand dollars for such person who now is or shall be appointed Sheriff in either of the counties of York, Cumberland, Lincoln and Kennebec; and in a sum not less than fifteen thousand dollars, for such person who now is or shall be appointed Sheriff of either of the other counties in this State, to the Treasurer thereof, and his successors in said office, conditioned for the faithful performance of the duties of their respective offices, and to answer for the neglects and misdoings of their respective deputies, which bond shall by the said Sheriffs, within the time aforesaid, be filed in the office of the Clerk of the Court of Sessions, for the county in which said Sheriffs are respectively commissioned; and said bond shall be presented at the term of said Court of Sessions, which shall then next be holden in such county; to be by said Court approved, and when the same shall have been adjudged sufficient, the Clerk shall make record thereof, and certify the same on said bond, and a copy thereof being taken by said Clerk, he shall deliver the original to the Sheriff, who shall file the same in the office of the Treasurer of the State, within twenty days, after the same shall have been so approved.

Condition.

To be approved by Sessions.

Duty of county attorney.

SEC. 2. *Be it further enacted,* That it shall be the duty of the county Attorney in each county respectively at the term of the Court of Sessions which shall be held therein on or next after the third Tuesday of June annually, to move the said Court to consider of the sufficiency of the security given by the Sheriffs in their respective counties, and they shall cause a record to be made of such determination by the Clerk, who shall certify the same to the Treasurer within thirty days thereafter, and if such security shall be adjudged insufficient, said Clerk shall also within ten days certify the same to the Sheriff of such county, who shall within twenty days after such notice, give a new bond with sufficient sureties, to be filed and approved as aforesaid, and if any county Attorney or Clerk shall neglect his duty in this particular, such Attorney or Clerk, shall forfeit and pay to the use of this State one hundred dollars, for each neglect, to be recovered by action of debt in the name of the Treasurer, whose duty it shall be to prosecute therefor.

Sufficiency of the bond to be certified annually.

SEC. 3. *Be it further enacted,* That if any Sheriff shall neglect to give the security required in the first section of this Act, and file the same in the office of the Treasurer of the State, or shall neglect to give the new security which may be required by the Justices of the Court of Sessions in his county, as herein before required and file the same in the Treasurer's office as aforesaid, he shall forfeit and pay to the use of this State, the sum of one hundred and fifty dollars for each month's neglect, to be recovered by action of debt in any Court proper to try the same; and it shall be the duty of the Attorney General to prosecute for the same, and the name of such Sheriff neglecting to give or renew his security as aforesaid, shall be certified by the Court of Sessions, holden in his county to the Governor and Council, and also to the Attorney General; and the Governor with the advice of Council, shall thereupon remove such Sheriff from his office, and appoint some other person in his stead, unless reasonable cause to the satisfaction of the Governor and Council, shall be assigned for said neglect. And unless said Sheriff, whose name and neglect shall be certified as aforesaid, shall give or renew his security as the case may be, to the satisfaction of the Governor and Council within twenty days after the said certificate shall be made as aforesaid.

Penalty for neglecting to give bond.

To be removed.

SEC. 4. *Be it further enacted,* That it shall be the duty of the treasurer of the State, on the first Wednesday of January annually to make out a statement of the amount of all warrants in favor of the State, any other sums of money or balances that may be in the hands of, and due from the several Sheriffs in said State, and lay the same before the Governor and Council for their inspection, and shall also certify the names of the sureties, on their respective bonds, that in case they or any of them shall have become insufficient, or have moved out of the State, others may be required, and whenever for either of the reasons, it shall be deemed necessary by the Governor and Council, a new bond shall be given by any Sheriff thereto required, within sixty days after notice given him for that purpose, to be filed as aforesaid; and on neglect thereof, the office of such Sheriff shall become vacant, and the Governor with advice of Council, shall appoint some other person thereto.

Treasurers to state the amount of warrants.

and certify the names of sureties.

SEC. 5. *Be it further enacted,* That all Coroners, who shall be appointed in any county in this State, before proceeding to discharge the duties of their office, shall give unto the Treasurer of the State a bond with sufficient sureties, to the satisfaction of the Court of Sessions, in their respective counties, for the faithful performance of the duties of their said office, and the acts and doings of all Coroners now in office who shall not within sixty days, from and after the passing of this Act, make out and execute to the Treasurer of said State a bond with sufficient sureties, and the same file in the

Coroners to give bonds.

Condition.

Clerk's office of the county in which such Coroner resides, to be approved as aforesaid, all their acts and doings after the said sixty days, shall be null and void, and they shall be deemed to have forfeited their respective offices, and all authority to act under their commissions shall cease from and after that time.

Or their acts to be void.

Persons aggrieved entitled to a copy of bond,

and to sue.

Proviso.

Execution how awarded.

SEC. 6. *Be it further enacted*, That any person aggrieved at the neglect or misdoings of any Sheriff or his deputy, or of any Coroner, and having first ascertained the amount of his damages by judgment against said Sheriff or Coroner, shall be entitled to a certified copy of such Sheriff's or Coroner's bond, and shall have a right to commence and prosecute to final judgment and execution for his own benefit, any action thereon in the name of the Treasurer, said writ being first endorsed by the party for whose benefit such action is brought, or his agent or attorney, which endorser shall be alone answerable for all costs; and judgment, when for the defendants, shall be rendered accordingly against the party, for whose benefit such action is brought: *Provided*, That all such actions on Sheriffs' or Coroners' bonds, shall be brought always in the county where such Sheriff or Coroner shall have been commissioned respectively to act.

SEC. 7. *Be it further enacted*, That when judgment is rendered on any bond as aforesaid, execution shall be awarded for the sum found due to the party, for whose benefit said action was brought; and being part of the penalty forfeited. And any execution which shall issue on said judgment, shall express therein the name of the party for the use and benefit of whom the same was awarded, who may cause said execution to be levied on any personal or real estate of the debtor, which levy shall enure to such party for his sole use and benefit, to every intent and purpose whatever.

[Approved June 24, 1820.]

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CHAPTER XCII.

An Act defining the general Powers and Duties, and regulating the office of Sheriffs and of Constables.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That the Sheriff of each county in this State, shall have power, and it shall be his duty, and the duty of each of his deputies, to serve and execute within his county, all writs and precepts to him or them directed and committed, issued from good and lawful authority; including all writs and processes in which towns of which they are inhabitants are parties or interested. And all Sheriffs, when removed from their office, as well as their deputies, shall have power to execute all such precepts as may be in their hands at the time of their removal from office; and in

Sheriff to serve all precepts, &c.

Including those in which their own towns are interested or parties. Sheriffs and deputies, out of

every case of a vacancy in the office of Sheriff in any County, by death, resignation, removal or otherwise, every Deputy Sheriff in office under such Sheriff, having any writ or precept in his hands, at the time of such vacancy, shall have the same authority, and shall be under the same obligation to serve, execute and return such writ or precept, as if such Sheriff had continued in office. And the Sheriff of each county shall have the custody, rule, and charge of the gaol or gaols therein, and of all prisoners within such gaol or gaols, and shall keep the same himself personally, or by his deputy, for whom he shall be answerable; and in case of the death of the Sheriff of any county, any gaoler, by him specially appointed, shall continue in the office of gaoler, and retain and have the custody, rule and charge of the gaol of which he had the custody, rule and charge under such Sheriff; and of all prisoners within such gaol, or who may be afterwards committed to his custody, until a successor to such deceased Sheriff shall be appointed and qualified as the law directs; or until the Governor, by and with the advice of the Council, shall remove such gaoler and appoint another person; which removal and appointment, the Governor, by and with the advice of the Council, is hereby authorized to make. And the gaoler so appointed, shall give such bonds, and in the same manner, as is required of a Sheriff, for the faithful performance of the duties of his office; and shall continue in office during the vacancy in the office of Sheriff.

office, to serve precepts in their hands, &c.

Sheriff to have care and custody of gaols.

In case of death of Sheriff, his gaoler to continue in office until, &c.

Governor may appoint gaoler, when the Sheriff's office is vacant.

Such gaoler to give bond, &c.

SEC. 2. *Be it further enacted,* That the defaults or misfeasances in office, of any gaoler, or deputy Sheriff, after the death or resignation of any Sheriff, by whom he was appointed shall be adjudged a breach of the condition of the bond given by such Sheriff: and actions for the malfeasance or misfeasance of any Sheriff, or of any of his deputies, may be sued against the executors or administrators of such Sheriff, in the same manner as if the cause of such action survived against the executor or administrator at the common law; and an attested copy of any Sheriff's bond, certified by the Treasurer of this State, shall be received as evidence in any case: *Provided nevertheless,* That if in any suit the execution of the bond shall be disputed, the Court may order the Treasurer to bring the original bond with him into Court.

Condition of Sheriff's bond to extend to breaches by gaoler or deputy Sheriff after Sheriff's death or resignation.

Actions may be sued against executors of sheriffs.

Copy of Sheriff's bond certified by Treasurer of State—legal proof. When signature is denied original may be produced.

SEC. 3. *Be it further enacted,* That if any Sheriff or his deputy, shall unreasonably neglect or refuse to pay to any person, any money received by him upon execution to the use of such person, upon demand thereof being made, he shall forfeit and pay to such person five times the lawful interest of such money, so long as he shall so unreasonably detain the same after such demand is made.

Sheriff neglecting to pay over monies collected on execution, liable to 30 per cent. interest.

SEC. 4. *Be it further enacted,* That no Sheriff shall have his body arrested upon mesne process, or upon an execution awarded upon a judgment consequent upon a civil action, and

Sheriff's body not liable to arrest, &c. in civil action.

that when judgment shall be rendered against any person holding the office of Sheriff, either in his official or private capacity, for any sum of money, the execution thereof shall be issued against his goods, chattels and lands, but not against his body; and if any execution issued against the goods, chattels or lands of a person who holds the office of Sheriff, shall be returned not satisfied, the creditor may file before the Governor and Council an attested copy of such execution and return, and also serve such Sheriff with a copy of such copy filed, attested by the Secretary together with notice under the hand of the Secretary, of the day of filing such copy. And if such Sheriff shall not, within forty days next after his being served with such copy and notice, pay the creditor the full of his debt, together with reasonable costs of the copies and notifications aforesaid, the Governor, with the advice of Council, shall remove such Sheriff from his office, and shall appoint some other person to the same. And such Sheriffs shall be held answerable for the delivery over to their respective successors, of all prisoners which may be in their custody at the time of their removal, and for that intent shall still retain the keeping of the gaol or gaols in their respective counties, and the prisoners therein, until their successors shall be appointed and qualified, as the law directs. And when a Sheriff shall be removed from his office, the Clerk of the Court, from whence executions have been issued and returned not satisfied, shall be empowered as soon as another Sheriff shall be appointed and legally qualified, to make out alias executions in common form, as well against the body as the goods, chattels, and lands of such persons so removed.

In case execution against Sheriff be returned unsatisfied, creditor may lay a copy before Governor and Council.

If debt be not paid within 40 days after notice, Sheriff to be removed.

Sheriff to be answerable to his successor for all prisoners, &c.

When Sheriff is removed, execution to be issued against him in common form.

Sheriff to bury the bodies of debtors dying in prison, if not delivered to their friends.

Expenses how to be paid.

Clerks of Courts to return to State Treasurer certificate of all fines, &c.

Penalty for neglect.

SEC. 5. *Be it further enacted,* That when any person imprisoned for debt, or any other cause, shall die in any county of this State, it shall be the duty of the Sheriff or deputy gaoler to deliver the body of such deceased person to his relations or friends, if they shall request it; and if no application be made for such body, it shall be the duty of the Sheriff, or deputy gaoler, to bury the same in the common burying ground; and the expenses thereof shall be paid by the town in which such person had a legal settlement, if such person had been an inhabitant of this State; otherwise the expenses aforesaid shall be paid out of the treasury of this State.

SEC. 6. *Be it further enacted,* That the Clerk of the Supreme Judicial Court, and Circuit Court of Common Pleas, shall, within fifty days after the end of their Courts respectively, return into the office of the Treasurer of the State, a certificate of all fines, amercements, issues and forfeitures arising or imposed to the use of the State, by their respective Courts, on penalty of seventy dollars for each and every neglect, to be disposed of as follows, viz.—The one moiety to him or them who shall sue for the same, and the other moiety to the benefit of this State; and the Attorney General as well

as the county Attornies within their respective counties, be, and hereby are especially directed and enjoined to give information of, and prosecute for recovery of all such fines and forfeitures as may be incurred by the Clerks aforesaid, in consequence of their breach of this Act: and the said Clerks shall respectively return a like certificate into the Secretary's office, that the Legislature may thereby be enabled to settle with the Treasurer; and each Clerk of the Courts shall certify to the Treasurer of his county, the fines arising to the county from time to time, from convictions in the Circuit Court of Common Pleas, and the Supreme Judicial Court; and the Circuit Court of Common Pleas shall audit and settle the Sheriff's accounts for such fines, as shall have been by them imposed, and for forfeitures arising in said Courts respectively, and thereupon grant the Sheriff a full discharge.

Similar certificates to be returned to the Secretary's office.

C. C. Common Pleas to audit and settle Sheriff's account for fines, &c. in that Court.

SEC. 7. *Be it further enacted*, That any Sheriff, deputy Sheriff or Constable, being in the execution of his office, for the preservation of the peace, or for the apprehending or securing any person or persons for breach of the same, or for any other criminal cause shall have lawful authority to require suitable aid and assistance therein. And if any person, being required by any Sheriff, deputy Sheriff or Constable in the name of the State, to aid and assist him in the execution of his office, as aforesaid, shall neglect or refuse so to do, and be thereof convicted, before any Court proper to try the same, such offender shall be fined, to the use of the county where the offence shall be committed; not less than three dollars, nor more than fifty dollars, according to the circumstances of the case; and if any such offender shall be unable, or shall not forthwith pay the said fine, such Court may punish him by imprisonment not exceeding thirty days.

Sheriffs, Constables, &c. may require aid in criminal cases.

Penalty for refusal.

SEC. 8. *Be it further enacted*, That if any person not being really and bona fide a Sheriff, deputy Sheriff or Constable, shall pretend himself to be either of said officers, and take upon himself to act as such, or to require any person or persons to aid or assist him in any matter appertaining to the duty of Sheriff, deputy Sheriff or Constable, he shall be fined not exceeding four hundred dollars, according to the circumstances of his offence; one moiety thereof to the use of the State, and the other moiety to him or them who shall prosecute therefor.

Penalty for a person assuming to act as Sheriff, &c.

SEC. 9. *Be it further enacted*, That any Constable in any town or plantation within this State, be, and he hereby is, authorized and empowered to serve upon any person or persons in the town or plantation to which he may belong, any writ, summons or execution, in any personal action, where the damage sued for or recovered shall not exceed one hundred dollars; including all writs and processes to them duly directed, in which towns or plantations of which they are inhabitants, are parties or interested, and return thereof to make to the Court to which the same may be returnable: *Provided however*,

Constables may serve writs and executions in personal actions to amount of 100 dollars.

that when judgment shall be rendered against any person holding the office of Sheriff, either in his official or private capacity, for any sum of money, the execution thereof shall be issued against his goods, chattels and lands, but not against his body; and if any execution issued against the goods, chattels or lands of a person who holds the office of Sheriff, shall be returned not satisfied, the creditor may file before the Governor and Council an attested copy of such execution and return, and also serve such Sheriff with a copy of such execution, attested by the Secretary together with notice under the hand of the Secretary, of the day of filing such copy.

In case execution against Sheriff be returned unsatisfied, creditor may lay a copy before Governor and Council.

If debt be not paid within 40 days after notice, Sheriff to be removed.

if such Sheriff shall not, within forty days next after his service with such copy and notice, pay the creditor the amount of his debt, together with reasonable costs of the copies and notifications aforesaid, the Governor, with the advice of the Council, shall remove such Sheriff from his office, and shall appoint some other person to the same. And such person shall be held answerable for the delivery over to their respective successors, of all prisoners which may be in the gaol at the time of their removal, and for that intent retain the keeping of the gaol or gaols in their respective counties, and the prisoners therein, until their successors be appointed and qualified, as the law directs. And when a Sheriff shall be removed from his office, the Clerk of the Court, from whence executions have been issued and not satisfied, shall be empowered as soon as another Sheriff shall be appointed and legally qualified, to make and execute in common form, as well against the goods, chattels, and lands of such persons so removed.

Sheriff to be answerable to his successor for all prisoners, &c.

When Sheriff is removed, execution to be issued against him in common form.

SEC. 5. *Be it further enacted,* That when any person imprisoned for debt, or any other cause, shall die in this State, it shall be the duty of the Sheriff or his deputy to deliver the body of such deceased person to his next of kin or friends, if they shall request it; and if no such person or friends be made for such body, it shall be the duty of the deputy gaoler, to bury the same in the common ground; and the expenses thereof shall be paid out of the estate in which such person had a legal settlement, if he had been an inhabitant of this State; otherwise the same shall be paid out of the treasury of the State.

Sheriff to bury the bodies of debtors dying in prison, if not delivered to their friends.

Expenses how to be paid.

SEC. 6. *Be it further enacted,* That the Clerk of the Supreme Judicial Court, shall, within five days after the death of any person, return to the Treasurer a certificate of the amount of the fines or impositions of the Courts, on account of neglect, to be paid by him or his estate to the State.

Clerks of Courts to return to State Treasurer certificate of all fines, &c.

Penalty for neglect.

SEC. 7. *Be it further enacted,* That any person who shall neglect to pay any fine or imposition of any Court, on account of neglect, to the State, shall be liable to the same penalty as is provided by law for the neglect of any person to pay any fine or imposition of any Court, on account of neglect, to the State.

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Provided they give bond to town Treasurer in 200 dollars.

Penalty for setting before giving bond.

Remedy on Constables' bond.

Constables, in serving warrants or writs, may carry prisoners and things taken by them, to the Justice or prison.

That every Constable, after being chosen, and before he serve any writ, or proceed to collect any execution, shall give to the Treasurer of his town, a bond in the sum of two hundred dollars, with two sureties, sufficient in the opinion of the Selectmen and Town Clerk, for the faithful performance of his duties and trust, as to all processes by him served or executed; and for every process he shall serve or execute before giving such bond, he shall forfeit and pay not less than twenty, nor more than fifty dollars, recoverable to the use of any person, who shall sue for the same; and all persons suffering through the defaults or misdoings of such Constable, shall have the same remedies in law, on his bond, as are provided in respect to Sheriffs' bonds, and the like proceedings in both cases shall be had, such changes being made, as will make the process effectual.

SEC. 10. *Be it further enacted,* That any Constable of any town or plantation within this State, shall have authority, in the execution of the warrant, or writ to him directed by lawful authority, to convey as well any prisoner or prisoners, as things that they may have taken into their custody, either to the Justice issuing such warrant or writ, or to the common gaol or house of correction of the county where such Constable is an inhabitant, according as in the writ or warrant may be directed.

[Approved March 19, 1821.]

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CHAPTER XCIII.

An Act describing the Duty and Power of Coroners.

Power and duty of Coroners in service of legal process;

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That every Coroner within the county for which he is appointed, shall serve all writs and precepts, when the Sheriff or either of his deputies shall be a party to the same; and shall, if present in Court, return Jurors *de talibus circumstantibus*, in all causes where the Sheriff of the county shall be interested or related to either party. And when the office of Sheriff in any county may be vacant by death, resignation, removal or otherwise, the several Coroners of such county be, and they hereby are respectively authorized and empowered to execute and return all writs and precepts, which are by law appointed to be executed and returned by the Sheriff, until another Sheriff for such county shall be appointed and legally qualified; and such Coroners shall have notice thereof, which it shall be the duty of every person who may hereafter be appointed Sheriff of any county, and legally qualified to execute said office, to give, as soon as may be, to the respective Coroners of the same county: and they shall take inquests of violent deaths committed, and casual deaths happening within their respec-

tive counties, and shall, before they enter upon the duties of their office, be sworn to the faithful discharge thereof, and give security before they proceed to act, in the manner prescribed in "An Act passed on the twenty fourth day of June in the year of our Lord, eighteen hundred and twenty, entitled 'An Act providing that bonds shall be given by Sheriffs and Coroners to the Treasurer of this State, and giving remedies thereon;'" and the same proceedings in all respects shall be had respecting Coroners' bonds and sureties; and Coroners shall be liable to the same forfeitures for like causes, to be recovered in like manner; and subject to removal from office in the same way, and to be proceeded against in the same manner in all respects, as are provided in the Act aforesaid with regard to Sheriffs.

and in taking inquests of violent or casual deaths, &c.

To give security in the same manner as sheriffs.

Same proceedings to be had on their bonds, as sheriffs.

Subject to removal as Sheriffs.

SEC. 2. *Be it further enacted,* That each Coroner shall, as soon as he shall be certified of the dead body of any person supposed to have come to his death by violence or casualty, found or lying within his county, make out his warrant directed to the Constable of the town where the dead body is found or lying, or to the Constables of one or more of the three or four next adjacent towns, requiring them forthwith to summon a Jury of good and lawful men of the same town or towns, sufficient to make up nine in all, to appear before him at the time and place in such warrant mentioned and expressed; which warrant shall be in form following:

Mode of proceeding to take an inquest.

(SEAL.) ss. To either of the Constables of B. in the said county of S—, Greeting.

These are in the name of the State of Maine, to require you immediately to summon and warn good and lawful men of the said town of B— to appear before me, one of the Coroners of the said county of S— at the dwelling house of , or at a place called , within the said town of B— at the hour of then and there to inquire upon the view of the body of there lying dead, how and in what manner he came to his death. Fail not herein at your peril. Given under my hand and seal, at B— the day of in the year of our Lord, , W. G.

Form of warrant.

And every Constable to whom such warrant shall be directed and delivered, shall forthwith execute the same, and shall repair to the place where the dead body is, at the time mentioned, and make return of the warrant with his doings thereon, unto the Coroner that granted the same. And every Constable failing unnecessarily of executing such warrant, or of returning the same as aforesaid, shall forfeit the sum of ten dollars, and every person summoned as a Juror as aforesaid, that shall fail of appearance without having reasonable excuse therefor, shall forfeit seven dollars; which forfeitures shall be recovered by action of debt before any Court that can take cognizance of the same, and shall be applied to the use of the county. And the Coroner shall swear six or

Constables' duty.

Penalty for neglect of Constable.

Penalty for non-attendance of Juror.

Coroner to swear Jurors:

more of the Jurors that shall appear, and shall give the foreman by him appointed, his oath upon view of the body, in form following :

and form of oath.

You solemnly swear that you will diligently inquire and true presentment make on behalf of this State, how and in what manner A. B. who lies here dead, came to his death, and you shall deliver up to me, one of the Coroners of this county, a true inquest thereof, according to such evidence as shall be laid before you, and according to your knowledge. So help you God.

And then shall swear the other Jurors in form following :

Such oath as your foreman hath taken, you and each of you shall well and truly observe and keep. So help you God.

Coroners' charge to Jury.

And the Jurors being sworn, the Coroner shall give them a charge upon their oaths, to declare of the death of the person, whether he died of felony, or of mischance, or accident ; and if of felony, who were principals, and who were accessories ; with what instrument he was struck or wounded, and so of all prevailing circumstances, which may come by presumption ; and if by mischance or accident, whether by the act of man, and whether by hurt, fall, stroke, drowning or otherwise ; to inquire of the persons who were present, the finders of the body, his relations and neighbours, whether he was killed in the same place where he was found, and if elsewhere, by whom, and how he was brought from thence ; and of all circumstances relating to the said death. And if he died of his own felony, then to inquire of the manner, means or instrument, and of all circumstances concerning it. And the Jury being charged shall stand together, and proclamation shall be made for any person that can give evidence, to draw near, and that they shall be heard. And every Coroner is further empowered to send out his warrant for witnesses, commanding them to come before him, to be examined, and to declare their knowledge concerning the matter in question ; and he shall administer an oath to them in form following :

Coroner to summon witnesses and swear them, and take evidence in writing.

You solemnly swear, that the evidence which you shall give to this inquest, concerning the death of A. B. here lying dead, shall be the truth, the whole truth, and nothing but the truth. So help you God.

Form of oath.

May recognize witnesses, in case, &c.

The evidence of such witnesses shall be in writing subscribed by them : and if they relate to the trial of any person concerned in the death, then shall the Coroner bind such witnesses by recognizance in a reasonable sum for their personal appearance at the next Supreme Judicial Court, to be holden within and for the same county, there to give evidence accordingly ; and commit to the common goal of the county such witness or witnesses as shall refuse to recognize as aforesaid ; and shall return to the same Court the inquisition, writ-

ten evidence and recognizance by him taken. And the Jury, Jury to deliver verdict to Coroner. having viewed the body, heard the evidence, and made all the inquiry within their power, they shall draw up and deliver unto the Coroner their verdict upon the death under consideration, in writing under their hands and seals, in form following :

ss. An inquisition taken at B—— within the said county of S—— the day of in the year of our Lord before W. G. gentleman, one of the Coroners of the said county of S—— upon the view of the body of A. B. there lying dead, by the oaths of yeomen, good and lawful men, who being charged and sworn to inquire for the State, when, how and by what means the said A. B. came to his death, upon their oaths do say [Then insert, how, when and by what means, with what instrument he was killed; and if it appears that he hath been murdered by a person known, then the inquisition shall be concluded in this form :] to wit,

And so the Jurors aforesaid upon their oaths aforesaid, do say, that the aforesaid A. B. in manner and form aforesaid, then and there of his malice aforethought, did kill and murder against the peace and dignity of the State, and the laws of the same, [If it appears to be self-murder,

then shall the inquisition be concluded thus :] And so the Jurors aforesaid, thus upon their oaths aforesaid do say, that the said A. B. in manner and form aforesaid then and there voluntarily and feloniously as a felon of himself, did kill and murder himself against the peace. [And if it appears that the death was by misfortune] And so the Jurors aforesaid, upon their oaths say, that the said A. B. in manner aforesaid, came to his death by misfortune. [If innocently by the hands of any person] The Jurors upon their oaths aforesaid do say, that the aforesaid D. R. the aforesaid A. B. by misfortune, and against and contrary to the will of him the said D. R. in manner and form aforesaid, did kill and slay. In witness, whereof the said Coroner and Jurors to this inquisition have set their hands and seals, the day and year abovesaid. And upon an inquisition found before any Coroner of the death of any person, by the felony or misfortune of another, he shall speedily inform one or more of the Justices of the same county thereof, to the intent that the person killing, or being any way instrumental to the death, may be apprehended, examined and secured in order for trial.

Coroner in certain cases to notify Justice of the Peace.

SEC. 3. *Be it further enacted,* That every Coroner within the county for which he is appointed, shall, after the return of an inquisition of the Jury, upon the view of a dead body of any stranger, bury said body in a decent manner; and the expenses thereof, together with all the expenses of said inquisition and the Coroner's fees, shall be paid to said Coroner out of the Treasury of this State, an account of said expenses being first examined and allowed by the Legisla-

Coroners to bury deceased, and expenses how paid.

ture, in the same manner that accounts for State Paupers are allowed: *Provided*, The Coroners who shall return the inquisition, shall certify under oath, that the person found dead was a stranger not belonging to this State, according to the best of his knowledge and belief; otherwise the expenses of taking up and burial, shall be paid to such Coroner, by the town where such dead body was found, and repaid to them by the town to which such stranger belonged, if an inhabitant of this State; and the expenses of said inquisition shall be paid to the Coroner, by the county in which the inquisition shall be taken.

Coroners may serve writs &c. in cases where their own towns are parties or interested.

SEC. 4. *Be it further enacted*, That Coroners be, and they hereby are authorized and empowered to make service and return of all writs and processes to them duly directed, in which towns or plantations of which they are inhabitants, are parties or interested, any law, usage or custom to the contrary notwithstanding.

[Approved March 19, 1821.]

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CHAPTER XCIV.

An Act rendering valid the Doings and Acts of Coroners in certain cases.

Proceedings of all Coroners confirmed.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That the acts and doings of all Coroners commissioned under the authority of the Commonwealth of Massachusetts, in office and qualified according to law on the twenty-fourth day of June, in the year of our Lord one thousand eight hundred and twenty, which were done and performed before the passing of this Act, shall not be deemed void in law by reason of any of the provisions of an Act, passed on said twenty-fourth day of June, entitled, "An Act providing that bonds shall be given by Sheriffs and Coroners to the Treasurer of this State, and giving remedies thereon." [Approved March 17, 1821.]

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CHAPTER XCV.

An Act to exempt certain Goods and Chattels from attachment and execution, and from distress for Taxes.

Enumeration of articles exempted from attachment, execution and distress.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That the wearing apparel, beds, bedsteads, bedding and household utensils of any debtor necessary for himself, his wife and children; the tools of any debtor necessary for his trade or occupation; the bibles and school books, which may be in actual use in his or her family; all cast iron stoves and stoves made of sheet iron, used exclusively for the purpose of warming buildings; one cow, one swine, ten sheep, with the wool which may be shorn from

them, and thirty hundred of hay for the use of said cow, and two tons for the use of said sheep, shall be exempted from attachment, execution and distress: *Provided*, That not more than one such stove to each building, owned or occupied by the same person or family shall be so exempted: *And provided also*, That the beds and bedding, exempted as aforesaid, shall not exceed one bed, bedstead and necessary bedding to two persons; nor the household furniture, the value of fifty dollars. [Approved January 23, 1821.]

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CHAPTER XCVI.

An Act for the further relief of poor Prisoners committed by Execution for debt.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever any poor prisoner is or shall be committed by execution for debt in any of the prisons of this State, and the judgment creditor is or shall be dead, and two months shall have elapsed since the death of such judgment creditor, without any administration being granted upon his estate, the notice required by law in such case shall be served upon the attorney of record of such judgment creditor in the suit whereon the judgment was rendered, upon which the execution whereby such debtor stands so committed was issued; and such notice being served upon such attorney in the same manner and within the same time as notice is to be served in other cases by law, shall be good and effectual to all intents and purposes, as the same would be if duly served upon the judgment creditor if living.

If Judgment creditor is dead.

notice served on the attorney of record.

[Approved June 27, 1820.]

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CHAPTER XCVII.

An Act to direct the Time and Manner of exhibiting the Accounts of County Treasurers, and the Estimates for County Taxes, and for other purposes.

SEC. 1 **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the respective Courts of Sessions in the several counties of this State, at the terms of the said Courts holden next before the first day of January annually, shall make up and prepare estimates of taxes for all county charges, equal at least to defray the expenses which have accrued or may probably accrue for one year ensuing the said first day of January, including the building and repairing of gaols and Court houses, and their appurtenances, with the debts due and owed by the said counties respectively; and the said estimates being so made and approved by the

Courts of Sessions to prepare estimates of county taxes.

said Courts, shall be recorded by the respective Clerks in a book for that purpose to be provided and kept; and a fair copy of the said estimates shall be signed by the Chief Justice or senior Justice presiding in the said Courts, and attested by the Clerks thereof; and the said Clerks respectively shall transmit the same to the office of the Secretary of the State, on or before the first day of January annually, so that the said estimates may be laid before the Legislature for their approbation, at the session thereof which may be thereafter next holden.

to be transmitted to the Secretary of State before the first day of January annually.

County Treasurers to exhibit their account annually, with estimates, &c. and deliver them to the Clerks.

Clerks to send them to Secretary of State, &c.

SEC. 2. *Be it further enacted,* That the Treasurers of the several counties, be, and they are hereby directed to prepare and exhibit their accounts as county Treasurers annually, to the close of every year, to be accompanied with the estimates for county taxes being first allowed and approved by the said Courts; and it shall be the duty of the said Treasurers to deliver the said accounts to the said Clerks of the Courts aforesaid; and it shall be the duty of the said Clerks to inclose and seal up the said Treasurers' accounts with the said estimate, and transmit them to the office of the Secretary of the State, that they may be examined and allowed by the Legislature, at the same time with the said estimates for county taxes.

Treasurers, Attornies and Sheriffs to exhibit annually to Court of Sessions account of money, &c.

Courts authorized to adjust them and cause payment of balances.

SEC. 3. *Be it further enacted,* That it shall be the duty of the several county Treasurers, county Attornies, Sheriffs, and all other persons holding money or effects belonging to their respective counties, annually, or oftener, if thereunto required, to exhibit an account of the same to the said Court of Sessions, at such time as they shall appoint: and the same Courts are authorized to examine and adjust such accounts, and to make a reasonable allowance for all such services as are not provided for by law; and on settlement to cause the balances which shall be found due to be paid into, or from, (as the case may be,) the several county Treasuries.

C. Courts of Com. Pleas to allow and order payment of accounts of incidental expenses in said Courts.

SEC. 4. *Be it further enacted,* That the several Circuit Courts of Common Pleas in this State, be, and they are hereby authorized and empowered to receive, examine, and allow the accounts, and order payment out of the Treasury of their respective counties, for services and expenses incident to said Courts, any law to the contrary notwithstanding.

[Approved March 10, 1821.]

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CHAPTER XCVIII.

An Act concerning Registers of Deeds.

Register of deeds to be chosen by ballot in September.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That there shall be chosen by ballot, in each county within this State, by such persons as

are qualified to vote for Representatives, at the town and plantation meetings, on the second Monday of September, in the year of our Lord, one thousand eight hundred and twenty-one, and every five years thence following, some discreet and suitable person to be Register of Deeds. And the Selectmen of towns, and Assessors of plantations shall receive, sort and count the votes of the qualified electors present, and declare the same; and the town or plantation Clerk shall form a list of the persons voted for, with the number of votes for each person against his name, and having recorded the same, shall transmit a certified copy of the record to the Clerk of the Court of Sessions within the county, on or before the first day of the term of said Court next after the said month of September; and it shall be the duty of said Court, on the second day of said term to examine the certified copies of the records aforesaid, returned by the Clerks of the towns and plantations within their county; and the person having a majority of all the votes legally returned, shall be declared Register of Deeds, and shall hold his office for the term of five years, and until some other person shall be chosen and qualified to act in his place. And the said Register shall be sworn to the faithful discharge of the duties of his office, and shall give bond with sufficient sureties to the Treasurer of the county, in the sum of two thousand dollars for the faithful discharge of his trust: *Provided*, That whenever the Register of Deeds shall be Treasurer of the county, such bond shall be given to the Clerk of the Court of Sessions.

1821, and once every 5 years afterwards.

Mode of election.

Register so chosen, to be sworn, and to give bond to county Treasurer, or Clerk of Sessions.

SEC. 2. *Be it further enacted*, That whenever it shall happen that no person shall have a majority of all the votes legally returned, for a Register of Deeds in any county within this State, it shall be the duty of the Court of Sessions to issue their warrants to the Selectmen of towns, and to the Assessors of plantations, to call meetings of the qualified electors, to vote for a Register of Deeds; and the votes shall be received, sorted, counted and declared, and lists thereof recorded and certified to the Court of Sessions, in the manner prescribed in the first section of this Act; which certified lists shall be returned to the Clerk of the Court of Sessions previous to the time to which said Court shall adjourn, for the purpose of examining the same.

When no choice is made by people, what proceedings are to be had at another trial.

SEC. 3. *Be it further enacted*, That every Register of Deeds in this State, for each deed or instrument made for the conveyance of land, or any title therein, brought to his office to be recorded, shall, before he record the same, demand and receive, of the person bringing the same, seventeen cents; and on or before the first day of April annually, shall account on oath for, and pay to the Treasurer of the same county, all the duties that shall be so received; and said Register shall be allowed for receiving and paying said duties, at the rate of two per cent. thereon.

Register of Deeds to receive 17 cents duty on all deeds, &c. for use of county.

When Register is found guilty of misconduct, &c. in office, his records to be delivered to Clerk of Supreme Judicial Court.

SEC. 4. *Be it further enacted,* That when any Register of Deeds, upon the presentment of the Grand Jury, or information of the Attorney General, in the Supreme Judicial Court, shall by confession, demurrer, verdict or default, after reasonable notice, be found guilty of misconduct or misbehaviour in his said office; or that by reason of infirmity of body or mind, he is incapable of discharging the duties thereof; the said Court shall enter up judgment thereon that the same Register be removed and displaced from the said office; and thereupon issue a writ to the Sheriff of the same county, to take the books and papers, to the said office belonging, and them deliver over to the Clerk of said Court, to be by him carefully kept, until a Register shall be duly chosen and qualified as the law directs.

In case of death, resignation or removal of Register, what proceedings are to be had.

SEC. 5. *Be it further enacted,* That upon the death, resignation, or removal of any Register of Deeds, two or more Justices of the Sessions, living in or near the shire town of the county, shall issue their warrants, directed to the Selectmen of the several towns, and assessors of plantations, within such county, directing them to convene the inhabitants of their respective towns and plantations, qualified as aforesaid, and to proceed to the choice of some person qualified as aforesaid, to fill up the vacancy; and the said Justices shall make their warrants returnable to themselves at a day certain, and shall give notice to the other Justices of the Sessions of their proceedings therein, and request them to meet upon the day appointed for the return of the said warrants, at some certain place in the shire town; and the major part of the Justices of such Court, who shall meet at the time and place assigned as aforesaid, shall examine the returns made as before directed, and the person having the majority of votes, after being sworn, and giving bonds as aforesaid, shall be the Register of Deeds for such county, until the time appointed by this Act for the election of Registers of Deeds throughout the State.

In case of vacancy, Clerk of Supreme Judicial Court to be sworn—and take charge and perform certain duties of Register, during such vacancy.

SEC. 6. *Be it further enacted,* That whenever a vacancy in the office of Register of Deeds in any county shall happen, the Clerk of the Supreme Judicial Court of such county, being first sworn to the faithful discharge of the trust, shall take into his custody the several books, wherein the deeds and conveyances of land are recorded, together with the deeds and other papers to the said office belonging. And the said Clerk shall receive all deeds and other papers brought to be recorded, during such vacancy, and he shall note thereon the time of their being received, and the record shall bear date accordingly; and such Clerk is also empowered during such vacancy, to make out attested copies of any such deeds and other papers and records to him committed as aforesaid; which copies shall be valid to all intents and purposes as though the same had been made out by any Register qualified as aforesaid; for which copies the said Clerk shall be

allowed the same fees as is or may be provided for Registers in similar cases. And upon the appointment of a Register as aforesaid, he shall deliver up the said books, deeds and papers, into his hands.

[Approved March 19, 1821.]

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CHAPTER XCIX.

An Act directing the time and manner of appointing County Treasurers, and for other purposes.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That there shall be annually chosen in each county within this State, on the second Monday of September, by the written votes of such persons as are by the Constitution qualified to vote for Representatives in the several towns and plantations, a discreet suitable person, being a freeholder and resident in the same county, for a county Treasurer; the votes to be counted and sorted in the town or plantation meeting by the Selectmen or Assessors thereof, and town or plantation Clerk; the names of the persons voted for, and the number each person had, shall be recorded by the Clerk in the town or plantation book, and an attested copy of such record shall be transmitted under seal to the next Court of Sessions to be held within and for the same county, on the first day of the Court's sitting; there to be opened and compared with the like returns from the several towns and plantations in such county: and the person having the majority of the said votes, and accepting of the said office, after being sworn to the faithful discharge of the trust before the said Court, or any two Justices, quorum unus, and giving bond for the faithful discharge of the trust, with sufficient sureties, in such penal sum as the Court shall direct, to the Clerk of said Court for the same county, for the time being, and his successor in that office shall continue in the said office for the term of one year, and until some other person shall be chosen and qualified as aforesaid in his room. And in case upon comparing the votes returned as aforesaid, no one person shall have a majority of the whole number of votes returned, or the person chosen shall decline accepting the office, or after accepting, shall die or resign, or remove out of the county within the year; then, and in such case, it shall be lawful for the Justices of the same Court to appoint, by ballot, a suitable person, being a freeholder in the same county, to that office; and the person thus appointed by the Court of Sessions, and accepting the office, and being sworn to the faithful discharge of the trust, and giving bond as before directed, shall be Treasurer of said county for the remainder of the year, and until some other person shall be chosen and qualified in manner aforesaid.

County Treasurer to be chosen annually on 2d Monday of September.

Mode of choosing.

Copy of record of votes to be sent under seal to next Court of Sessions.

Person chosen to be sworn and give bond.

and to continue in office till another is chosen and qualified.

In case of no choice what proceedings are to be had.

County Treasurer's duty as to paying county charge.

SEC. 2. *Be it further enacted,* That all monies received by the county Treasurer, for the use of the county, shall be improved and employed by him for the defraying county charges, as the Court of Sessions, Circuit Court of Common Pleas, and the Supreme Judicial Court, shall, pursuant to law, from time to time, by their order in writing, direct and appoint; and each county Treasurer shall account with the Court of Sessions for the same county of which he is Treasurer, for all his receipts and payments; which Court shall make him such allowance for his executing the duties of his office as to them shall seem reasonable.

To enforce payment of county taxes in same manner as State Treasurer.

SEC. 3. *Be it further enacted,* That each county Treasurer, respectively, be, and hereby is authorized and empowered to draw in and enforce the payment of all county rates and taxes, assessed agreeably to the directions of law, by the same rules and methods prescribed for the Treasurer of the State to gather in the rates and taxes assessed for the use of the State, and shall annually lay before the Legislature an account of all monies that shall have been raised in the county to which he belongs by assessments on the several towns and places therein, or by any other way or manner by him received as county Treasurer, and how the same have been disposed of; and no further assessments shall be made on the several towns and places in the county to which he belongs until the said account has been offered to the Legislature and allowed by them.

To lay an account annually before the Legislature, of monies raised, &c. and how disposed of.

Persons not eligible to the office of county Treasurer.

SEC. 4. *Be it further enacted,* That from and after the passing of this Act, no person shall be eligible as county Treasurer, who holds the office of Attorney General, or who is empowered to act as Attorney for the State within the county, nor any person holding the office of Justice of the Circuit Court of Common Pleas, Clerk of the said Court, or Sheriff.

Costs paid to clerks to be paid to county Treasurer, who shall settle with State Treasurer, as in case of fines, penalties, &c.

SEC. 5. *Be it further enacted,* That in all civil actions, in which the State shall be a party, whether by scire facias, or other suit or process, the costs which may be taxed in favor of the State, and which may be paid before any execution shall issue, shall be paid to the Clerk of the Court in which said suit shall be pending, and by him immediately paid over, without any deduction, to the Treasurer of the county, who shall account for and settle the same with the State Treasurer, in the same manner as is provided by law for the settlement and adjustment of accounts by county treasurers of fines, penalties, and forfeitures and costs in criminal prosecutions.

[Approved March 15, 1821.]

CHAPTER C.

An Act respecting the Offices and Duties of the Attorney General and County Attornies.

County Attornies to be appointed and

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That the Attornies for the

allowed the same fees as is or may be provided for Registers in similar cases. And upon the appointment of a Register as aforesaid, he shall deliver up the said books, deeds and papers, into his hands.

[Approved March 19, 1821.]

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CHAPTER XCIX.

An Act directing the time and manner of appointing County Treasurers, and for other purposes.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That there shall be annually chosen in each county within this State, on the second Monday of September, by the written votes of such persons as are by the Constitution qualified to vote for Representatives in the several towns and plantations, a discreet suitable person, being a freeholder and resident in the same county, for a county Treasurer; the votes to be counted and sorted in the town or plantation meeting by the Selectmen or Assessors thereof, and town or plantation Clerk; the names of the persons voted for, and the number each person had, shall be recorded by the Clerk in the town or plantation book, and an attested copy of such record shall be transmitted under seal to the next Court of Sessions to be held within and for the same county, on the first day of the Court's sitting; there to be opened and compared with the like returns from the several towns and plantations in such county: and the person having the majority of the said votes, and accepting of the said office, after being sworn to the faithful discharge of the trust before the said Court, or any two Justices, quorum unus, and giving bond for the faithful discharge of the trust, with sufficient sureties, in such penal sum as the Court shall direct, to the Clerk of said Court for the same county, for the time being, and his successor in that office shall continue in the said office for the term of one year, and until some other person shall be chosen and qualified as aforesaid in his room. And in case upon comparing the votes returned as aforesaid, no one person shall have a majority of the whole number of votes returned, or the person chosen shall decline accepting the office, or after accepting, shall die or resign, or remove out of the county within the year; then, and in such case, it shall be lawful for the Justices of the same Court to appoint, by ballot, a suitable person, being a freeholder in the same county, to that office; and the person thus appointed by the Court of Sessions, and accepting the office, and being sworn to the faithful discharge of the trust, and giving bond as before directed, shall be Treasurer of said county for the remainder of the year, and until some other person shall be chosen and qualified in manner aforesaid.

County Treasurer to be chosen annually on 2d Monday of September.

Mode of choosing.

Copy of record of votes to be sent under seal to next Court of Sessions.

Person chosen to be sworn and give bond,

and to continue in office till another is chosen and qualified.

In case of no choice what proceedings are to be had.

may be,) and if he neglect or refuse to except, or to pay the same, the said Notary Public shall note a protest thereof, and immediately enter of record a copy of said bill; and also the answer or reason given, why the drawee refuses to accept or pay the said bill, or his absence or silence, as the case may be, and on request, he shall, to any demandant, furnish a copy of his record, in due form of a protest, under his hand and notarial seal: and in like manner, all notices to endorsers of promissory notes, and of the assignments thereof and also of the assignments of all obligations, contracts or other writings obligatory signed, may be given, noted of record, protested and certified on request of the person interested.

Notices on promissory notes to endorsers and others.

Notaries may take depositions in perpetuam and to be used out of State.

—May grant warrants of survey on vessels, &c.

—To keep records of their acts, &c.

SEC. 4. *Be it further enacted,* That every Notary Public duly sworn, be and he hereby is fully authorized and empowered to take depositions in perpetual remembrance of the thing, and depositions to be used or sent out of this State, to grant warrants of survey on vessels damaged, and to certify country products; and in general, to do and perform all acts and things usually done by Notaries Public.

SEC. 5. *Be it further enacted,* That it shall be the duty of every Notary Public, to note and record at length, in a book of records kept for the purpose, all acts, protests, depositions, and other things by him noted, or done in his official capacity: and all copies or certificates by him granted, shall be under his hand and notarial seal.

Records of Notary, on his decease or removal, to be deposited in Clerk's office.

SEC. 6. *Be it further enacted,* That on the death, resignation, or removal from office of any Notary Public within this State, the records of the said Notary Public, together with all the papers relating to the business of the office shall be deposited in the office of the Clerk of the Judicial Courts for the same county, in which the said Notary Public resided, and any Notary Public who, on his resignation, or removal from office, shall neglect to deposit such records and papers in the Clerk's office as aforesaid, for the space of three months, shall forfeit and pay a sum not less than fifty dollars, nor more than five hundred dollars. And if any executor or administrator of any deceased Notary Public, shall neglect to lodge said records or papers as aforesaid, which shall come into his hands, in the Clerk's office, for the space of three months after his acceptance of that trust, he shall forfeit and pay a sum not less than fifty dollars, nor more than five hundred dollars. And if any person shall knowingly destroy, deface, or conceal any records or papers of any Notary Public, he shall forfeit and pay a sum not less than two hundred dollars, nor more than one thousand dollars and shall be moreover liable to an action for damages by the party injured.

Penalty for neglect to deposit such records.

Penalty for destroying or injuring them.

Clerks to keep and certify copies of such records.

SEC. 7. *Be it further enacted,* That it shall be the duty of the several Clerks of the Courts aforesaid, to receive and safe keep, all the records and papers directed by this Act, to

be deposited in their offices, and give attested copies of any of said records or papers, when required; for which service each Clerk shall be allowed the same fees, as are or may be allowed by law to Notaries Public. And copies so given by the said Clerks, are hereby declared to be as valid as if the same had been given by the said Notaries. And all forfeitures under this Act, shall be, one half to the State, the other half to him or them who shall sue for the same, to be recovered in an action of debt in the county where such Notary Public resided.

Forfeitures,
how distribut-
ed.

[Approved March 17, 1821.]

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CHAPTER CII.

An Act establishing the Duties to be paid by certain Officers therein named.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every Sheriff, every Clerk of any Court of Record, every county Attorney, every Judge of Probate, every Register of Probate, every Justice of the Peace, every Coroner, every Notary Public, and every Inspector General, duly commissioned under the Government of the Commonwealth of Massachusetts, whether sworn to act as such or not, shall on or before the first day of February next, take and subscribe the oaths required of like officers by the Constitution and Laws of this State, and each such Sheriff of the counties of York, Cumberland, Lincoln or Kennebec shall pay fifty dollars, and of any other county twenty five dollars, each such Clerk of the county of York, Cumberland, Lincoln or Kennebec, shall pay forty dollars, and of any other county twenty five dollars, each county Attorney shall pay five dollars, each such Judge of Probate shall pay seven dollars, each such Register of Probate shall pay ten dollars, each such Justice of the Peace shall pay five dollars, each such Coroner shall pay three dollars, and each such Inspector General shall pay twenty dollars to the Treasurer of his county; and if such Sheriff, Clerk, county Attorney, Judge of Probate, Register of Probate, Justice of the Peace, Coroner or Inspector General shall fail either to take such oath, or to pay the money hereby required, on or before the first day of February next, he shall be thereafterwards disqualified to act under the same commission, except to complete any business previously commenced under the authority of such commission.

Officers com-
missioned by
Massachusetts

to take and sub-
scribe oaths,

and to pay du-
ties to county
Treasurer.

Disqualified to
act on failure.

SEC. 2. **BE** it further enacted, That every Sheriff, every Clerk of such Court, every county Attorney, every Judge of Probate, every Register of Probate, every Justice of the Peace, every Coroner, and every Inspector General, commissioned by the Government of this State, shall within sixty days, from and after his being qualified to act under such commis-

Persons ap-
pointed under
this State to
pay duties.

penalty of neglect,

sion, pay into the Treasury of his county the sum respectively as is herein before required of like officers, and if any officer mentioned in this Act shall fail to pay the sums herein required, he shall for each and every official act by him performed, forfeit and pay the sum of five dollars to be recovered by indictment to the use of the county where he resides, or by action of debt in any Court proper to try the same, to the use of the person who shall sue therefor.

Duty of county Treasurer.

SEC. 3. *Be it further enacted*, That it shall be the duty of the county Treasurer, at all times when he shall make out his account current with the State for settlement to credit all sums he shall have received by virtue of this Act, and the names of the men from whom he shall have received such money, subsequent to his closing his next preceding account.

[Approved June 28, 1820.]

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CHAPTER CIII.

An Act relating to the payment of Duties by Officers.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That the duties required by "An Act establishing the duties to be paid by certain officers therein named," may at the option of the person paying the duty, be paid to the Treasurer of the State, or to the Treasurer of the county, as in said Act is directed.

[Approved March 17, 1821.]

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CHAPTER CIV.

An Act directing before whom all Judicial and Civil Officers shall be qualified, where not otherwise provided for in the Constitution.

Certain Officers to be sworn before Governor and Council, or two of the Council.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Justices of the Supreme Judicial Court, the Attorney General, Secretary, Treasurer, Adjutant General, and Quarter-Master General, shall take and subscribe the oath or affirmation required by the Constitution before the Governor and Council, when in session, and in their recess before any two members of the Council; and that every other person elected, appointed, or commissioned to any Judicial, Executive or Civil office, under this State, shall take and subscribe the same before any one of the Council, or before any one of the Magistrates commissioned by the Governor for that purpose, excepting in such cases where the Constitution has otherwise provided.

Others before any one of the dedimus.

SEC. 2. *Be it further enacted*, That a law passed the thirteenth day of June last, directing before whom all Judicial, Civil and Military Officers shall be qualified, be, and the same is hereby repealed.

Repealing clause.

[Approved February 10, 1821.]

CHAPTER CV.

An Act establishing and regulating the Fees of the several Officers and other persons therein mentioned.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That the fees of the several persons hereafter mentioned for the services respectively annexed to their names, shall be as follows, viz.

JUSTICES' FEES.

For every blank writ of attachment and summons thereon, or original summons—*seventeen cents.* Justices' fees.

For the declaration in each writ of attachment and summons thereon, or original summons triable before a Justice—*forty cents.*

Every subpoena, for one or more witnesses—*ten cents.*

For the entry of an action, or filing a complaint in civil causes, including filing of papers, swearing witnesses, examining, allowing, and taxing the bill of costs and entering up the judgment and recording the same—*sixty-one cents.* The trial of an issue—*fifty cents.*

Copy of every original paper or record, if under a page—*ten cents*; if upwards of a page, at the rate of twelve cents per page.

Writ of execution—*twenty five cents.*

A recognizance to prosecute an appeal, including principal and surety—*twenty cents.*

Taking affidavits out of Court to be used in the trial of any cause actually depending—*twenty cents*; for the Justices travel therefor both going out and returning home, at the rate of *fifty cents* for every ten miles; for writing the deposition, caption and notification, at the rate of *twelve cents* per page: and the Justice who shall take any deposition shall certify his own and the deponent's fees and officer's fees and nothing more.

Taking affidavits, in perpetual remembrance of the thing, to each Justice—*twenty cents*; and for his travel and the writing, the same as in the case last mentioned.

Administering an oath to persons appointed to appraise estates, or to appraise and divide real estates, together with certificates of the same—*twenty cents.*

Administering an oath to one or more witnesses at the same time, before referees or arbitrators—*twenty cents*; and for travel for that purpose, the same as in the case of taking affidavits.

Taking the acknowledgement of a deed with one or more seals, provided it be at one and at the same time, and certifying the same—*seventeen cents.*

Granting a warrant, swearing appraisers, relating to strays, and entering the same—*thirty two cents.*

Administering oaths in all other cases with certificates, except oaths to town or parish officers—*twenty cents.*

Receiving a complaint and issuing a warrant in criminal cases—*fifty cents*.

Entering a complaint, in criminal prosecutions, swearing witnesses, rendering judgment and recording the same, examining, allowing, and taxing the costs and filing the papers—*seventy five cents*.

Recognizing persons charged with crimes for their appearance at the Circuit Court of Common Pleas, or at the Supreme Judicial Court and for certifying and returning the same, with or without sureties—*twenty five cents*, to be paid by the person so recognizing.

For a mittimus for the commitment of any person on a criminal accusation—*twenty five cents*.

Recognizance of debt and recording—*forty two cents*; drawing rule and acknowledging the same—*thirty three cents*.

Writ to remove a nuisance—*thirty three cents*.

CORONERS' FEES.

Coroners' fees.

For serving a writ, summons or execution, and for collecting the monies due thereon, and for travel in returning precepts and inquisitions the same allowance, as is by this Act allowed to Sheriffs for similar services.

For a bail bond—*twenty five cents*; every trial where the Sheriff is concerned—*twenty five cents*; and the same for attending the Jury therein.

Granting a warrant and taking an inquisition on a dead body—*one dollar*; if more than one at the same time, and who came to their death by the same means—*twenty cents* for each one after the first.

Travel and expense for taking an inquisition—*one dollar* a day to each of the jurymen, for their travel, if above four miles out, *three cents* a mile each way; and for their services, *seventy five cents* per day, including time and expenses; the Constable for his attendance and expenses in summoning a Jury, *ninety cents* a day. And all the aforesaid charges of the inquisition shall be paid out of the county Treasury.

FEES OF JUDGES OF PROBATE.

Judge of Probate's fees.

For granting administration, where there is no litigation, *fifty cents*; and in other cases—*one dollar*.

Appointing or allowing guardians to minors—*forty cents*, in each case, except in cases where one guardian is appointed for more than one minor, when the Judge shall be entitled to *five cents* each, for all more than one minor.

A decree respecting the probate of a will or codicil, where the same is not contested—*fifty cents*; and in all other cases—*one dollar*.

Examining and allowing an inventory, swearing the executor or executors, administrator or administrators—*twenty cents*.

Swearing appraisers of an estate—*fifteen cents*.

Examining and allowing accounts not exceeding two pages—*forty cents*; and for all above two pages, at the rate of *fifteen cents* each page.

A decree for settling an intestate estate—*forty cents.*

A citation—*fifteen cents.*

A summons for one or more witnesses—*ten cents.*

A quietus—*twenty cents.*

A warrant to appraise or divide estates—*thirty cents.*

Issuing a commission to receive and examine the claims of creditors when an estate is represented insolvent—*twenty cents.*

An order of distribution—*twenty cents.*

Granting an appeal to the Supreme Court—*twenty cents.*

REGISTER OF PROBATE'S FEES.

For writing a bond and letter of administration—*forty cents.* Register of Probate's Fees.

Writing a bond and letter of guardianship and making record thereof for one minor—*sixty cents*; and if for more than one minor for whom the same guardian is appointed at the same time, *ten cents* for each minor more than one.

Drawing a decree respecting the probate of a will or codicil—*forty cents.*

Writing a bond for the executor—*twenty cents.*

Writing a warrant to appraise the estate of a person deceased—*twenty cents.*

A warrant to divide an intestate estate among the heirs, writing a warrant to set off a widow's dower, or a warrant to receive and examine the claims on an insolvent estate—*twenty cents.*

Entering the account of an executor, administrator or guardian and an allowance thereof, or for entering on an inventory the oath of an executor or administrator—*fifteen cents.*

Drawing up a decree on the settlement or partition of an estate—*twenty cents.*

A quietus—*twenty cents.*

For drawing an order of distribution—*twenty cents.*

A citation—*fifteen cents.*

A summons for a witness or witnesses—*ten cents.*

Proportioning an insolvent estate among the creditors there-to, at the rate of *fifty cents* for every twelve creditors, every creditor's proportion being distinguished.

Recording any matter, at the rate of *twelve cents* each page, and the same for a copy of any paper.

A bond of appeal *twenty cents*; and no fee shall be demanded by the Register of Probate for taking from the files in his office, or transporting to the place of the sitting of the Probate Court, such papers as are necessary in the settlement of any estate or account in the said Court.

In the Circuit Court of Common Pleas.

JUSTICES' FEES.

For the entry of an action, including the taxing of the bill of costs—*eighty cents.*

Fees of the Justices of the Circuit Court of Common Pleas.

And in every action where an issue in law or fact is joined, one dollar, in addition to the fee for entry: *Provided however,* That in every action pending in any Circuit Court of Common Pleas, within this State which shall be defaulted, without being submitted to a Jury or the writ read to them after an issue in fact be joined, the Justices of the said Court, the Clerk thereof, or the Attorney in such action shall receive or tax no other or greater fees, than they severally would have been entitled to receive and tax, had no such issue been joined.

Granting an appeal and taking a recognizance of the principal and surety or sureties—twenty cents.

Proving a deed—twenty cents.

Surrender of a principal into Court by his bail—twenty cents.

Granting a writ of protection—twenty-five cents.

Entering a petition and making an order thereon for the sale or partition of real estate, or for the location of public lots—seventy cents.

Accepting partition of real estate, or location on public lots—forty cents.

FEES OF THE CLERK OF THE CIRCUIT COURT OF COMMON PLEAS.

Fees of the
Clerk of C. C.
C. Pleas.

Accepting a report of referees, where the acceptance thereof is contested, sixty cents; otherwise—thirty cents.

For the entry of every action, entering up and recording the judgment whether on a verdict, demurrer, nonsuit or default—one dollar and twenty cents; of which sum the Clerk shall pay into the Treasury of his county forty cents, on or before the first day of January annually.

Acknowledging satisfaction of a judgment on the record—eight cents.

Entering an appeal, and recognizing principal and sureties—fifteen cents.

Copies, twelve cents a page. And in all actions appealed, the original depositions and other papers except the writ and officer's return thereon shall, after being certified by the Justice or Clerk, be carried up without leaving copies in the Court below. Continuing each cause to the next term—twelve cents.

Entering the surrender of a principal into Court, and making a record thereof—fifteen cents.

For entering a petition and order thereon for the partition or sale of real estate or location of public lots—twenty cents; and for recording such petition and order at the rate of twelve cents a page.

Entry of a rule of Court upon the parties' submitting a cause to referees—fifteen cents.

Proving a deed in Court, and certifying the same—twenty cents.

Every blank writ of attachment, with a summons thereon—fifteen cents.

Every blank writ of scire facias or original summons—fifteen cents.

An original or alias writ of execution in personal matters, and filing the same when returned—twenty-five cents.

A writ of possession in real actions—forty cents.

A writ of protection or habeas corpus—twenty-five cents.

A subpoena for one or more witnesses—ten cents.

A duces tecum—twenty-five cents.

Each venire facias, for Jurymen to be paid out of the county Treasury—five cents.

Opening and filing a deposition—eight cents.

Entering an indictment, presentment, complaint or information, including the recording of the judgment of the Court therein, examining and casting the bill of costs and filing the papers—sixty-five cents.

Discharging a recognizance—ten cents.

Each warrant for a criminal—twenty cents.

Examining and casting the Grand Jurors' account yearly, and order thereon—thirty cents.

FEES OF THE CLERK OF THE COURT OF SESSIONS.

Each recognizance for an inn-holder or retailer including principal and sureties, and for transmitting the name of the licenced person to the Selectmen, and recording the licence—fifteen cents.

Fees of the Clerk of Court of Sessions.

A warrant for county tax—twenty cents.

Warrant to lay out or alter a road—twenty cents.

Examining any account—eight cents.

Recording the reports of highways and other matters by order of the Court—twelve cents a page.

Copies of all papers or records—twelve cents a page.

Keeping an account of the attendance of the Justices of the Court of Sessions, each term, to be paid out of the county Treasury—seventy-five cents.

For the entry of a petition—fifty cents.

IN THE SUPREME JUDICIAL COURT, JUSTICES' FEES.

Entering an action or complaint, including the taxing of a bill of cost—two dollars and twenty cents.

Fees in S. J. Court. Justices' fees.

Allowing a writ of error, granting certiorari, habeas corpus, or other writ, on motion—forty cents.

Granting a writ of protection—thirty cents.

Proving a deed—twenty cents.

Entering a petition, and making order thereon for the sale or partition of real estate—one dollar.

Accepting a partition of real estate—forty cents.

The foregoing fees shall be received by the Clerk, and by him paid to the Treasurer of the State annually, on or before the first day of January.

FEES OF THE CLERK IN THE SUPREME JUDICIAL COURT.

Fees of Clerk of S. J. Court.

For the entry of an action or complaint, entering up and re-

ording the judgment, whether on a verdict, demurrer, nonsuit, default, or state of facts—one dollar and fifty-five cents.

A writ of review—seventy cents.

A writ of scire facias—forty cents.

An original writ of execution, including the taxing of the costs, and filing of the papers—sixty-five cents.

An original writ of habere facias possessionem, including the taxing of the costs, and filing of the papers—eighty cents.

An alias writ of execution—thirty-five cents.

An alias writ of facias habere possessionem—fifty cents.

A writ of habeas corpus—forty cents.

Copies of all papers containing less than one page—ten cents each; of all papers containing more than a page at the rate of twelve cents a page.

Entering a rule of Court—fifteen cents.

Acknowledging satisfaction of a judgment, on record—twelve cents.

Continuing each cause and entering the same next term—twenty cents.

Proving a deed in Court and certifying the same—twenty cents.

For each venire facias for Jurymen to be paid out of the county Treasuries respectively, on the Justices' certificate—six cents.

Every writ and seal, other than before mentioned—forty cents.

Every subpoena, for one or more witnesses—ten cents.

Each recognizance including principal and sureties—twenty cents.

Recording judgment in every criminal cause—forty cents.

A writ of protection—twenty cents.

Entering a discharge of a recognizance by proclamation—fifteen cents.

For opening and filing a deposition—ten cents.

Allowance to
Parties and
Witnesses.

ALLOWANCE TO PARTIES AND WITNESSES.

To parties recovering costs for an Attorney in all causes where an issue in law or fact is joined in the Supreme Judicial Court—two dollars and fifty cents.

And in all causes in the Circuit Court of Common Pleas where an issue in law or fact is joined—one dollar and fifty cents.

For the declaration in each writ—fifty cents.

For parties recovering costs, whether in the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions or before a Justice of the Peace—thirty-three cents for each day's attendance, and travel ten miles to be accounted as one day.

(Power of Attorney—fifty cents, and no plaintiff shall be allowed for more than three days' attendance when the defendant is defaulted, unless the defendant appears in Court and

makes answer to the plaintiff's suit; in which case if the defendant is defaulted after the expiration of three days, no attendance shall be taxed for the plaintiff, after the day when the default shall happen: *Provided nevertheless*, That when the party recovering costs in any Court shall live more than forty miles from the place of holding such Court, and such party shall not actually travel to attend the same Court, in such cause, there shall not be allowed for travel in taxing the bill of costs, more than forty miles distance, unless such party shall employ some agent or attorney, who shall in fact travel more than forty miles for the special purpose of attending such Court in such cause.

In a criminal cause, where one or more defendants are tried by the Jury at the same time in the Supreme Judicial Court, or where the cause is determined by an issue in law, for the Attorney General, or person attending for the State, two dollars and fifty cents; and if there be no trial by the Jury, and the cause be not determined by an issue in law—one dollar and twenty-five cents; and in all causes in the Circuit Court of Common Pleas—one dollar and twenty five cents. Drawing an indictment in the Supreme Judicial Court—one dollar and twenty five cents; and in the Circuit Court of Common Pleas—sixty-five cents. But no fees for travel shall be allowed and taxed in any bill of costs in any suit in which the State shall be party.

Witnesses in civil or criminal causes, whether in the Supreme Judicial Court, Circuit Court of Common Pleas, or Court of Sessions, one dollar for each day's attendance, and four cents for each mile's travel going out and returning home: and before a Justice of the Peace, referees or arbitrators, thirty three cents per day, and for their travel the same as at other Courts: *Provided*, Such witnesses do personally attend said Courts respectively and certify in writing their attendance and travel.

SHERIFFS', CONSTABLES', AND CRIERS' FEES.

For the service of an original summons or scire facias, either by reading the same, or by copy on one defendant, thirty cents; if on more than one defendant, then for each other defendant so served—thirty cents.

Sheriffs', Constables' and Criers' fees.

For the service of a *capias* or attachment on one defendant with summons, thirty cents; if served on more than one defendant then thirty cents for each defendant so served. And if the officer, by the written direction of the plaintiff or plaintiffs, his or their agent or attorney, shall make a special service of any such writ, either by attaching property, or taking the body therefor, for such special service on each defendant on whom such writ shall be so served, the Sheriff shall be allowed fifty cents. And where the officer is by law directed to leave a copy in order to complete the service, or shall give a copy of any precept upon demand thereof, he may charge at the rate of twelve cents a page.

For a bail bond, and writing the same, including principal and sureties, to be paid by the person admitted to bail, and taxed for him if he shall prevail—twenty cents.

Serving a writ of possession, exclusive of fees for collecting on the costs, one dollar and ten cents; if on more than one piece of land, seventy-five cents for each piece of land after the first.

The fees for collecting the costs on a writ of possession the same as on executions in personal actions.

Serving a warrant—thirty cents.

Sheriff's aid in criminal cases to each person for every twelve hours' attendance including expenses, one dollar, and so in proportion for a greater or less time; and four cents for each mile's travel going out and returning home.

Summoning witnesses in criminal cases, ten cents for each witness, and travel as in civil causes, unless in special cases, when the Court may increase the fees to what they may judge reasonable.

For the Sheriff's or Constable's attending the Court, and keeping the prisoner in criminal cases, seventy-five cents for every twelve hours; and so in proportion for a greater or less time.

Levying executions in personal actions for the first one hundred dollars, four cents; for every dollar above that, and not exceeding two hundred dollars, two cents for every dollar; and for all above two hundred dollars, one cent for every dollar; travel for the services of such execution, and also of mesne process or warrant to him directed, four cents a mile, the travel to be computed from the place of service to the Court or place of return by the usual way; only one travel shall be allowed for one writ, execution or warrant, and if the same be served on more than one person, then the travel shall be computed from that place of service which may be most remote from the place of return, with all further necessary travel in serving such execution, writ or warrant: but if the travel from the place of service to the place of return be more than fifty miles, then only one cent a mile shall be allowed for all travel exceeding that distance. The travelling fees and fees of service shall be endorsed by the officer serving the same, otherwise they shall not be allowed.

Serving an execution upon a judgment of Court for partition of real estate, or assigning of dower, one dollar a day, and four cents a mile, out from the place of his abode. And no Sheriff shall demand or receive from any of his deputies more than at the rate of twenty-five per cent. on the amount of fees for travel and service.

For returning the certificates of votes of the several towns for a Governor and Senators to the Secretary's office, eight cents a mile, computing from the place of his abode to the Secretary's office, to be paid out of the Treasury of the State; and but one travel shall be allowed for the whole.

To the officer attending the Grand Jury, for each day's attendance—seventy-five cents.

The officer attending the Traverse Jury, for every cause to be paid with the Jury fees—twenty-five cents.

For dispersing venires for Jurymen, Treasurer's warrants and proclamations of all kinds—eight cents each.

To each appraiser of real estate for extending execution or assigning dower, one dollar a day, and travel at the rate of four cents a mile going out and returning home.

For every deputy Sheriff or Constable who shall attend the Supreme Judicial Court or Court of Sessions, or Circuit Court of Common Pleas, by their order, one dollar and fifty cents a day, to be paid out of the county Treasury.

To the Sheriff for each day's attendance in the Supreme Judicial Court or Circuit Court of Common Pleas, five dollars; and two dollars per day for attending the Court of Sessions, and at the rate of two dollars for every ten miles' travel from his place of residence to the Court.

TO THE CRIER.

Three dollars per day, to be paid out of the county Treasury: *Provided*, The Crier shall not have any allowance for attending the Court of Sessions. Crier.

TO CONSTABLES.

For the service of venires, twenty-five cents, and four cents a mile for travel to the Clerk's office, to be paid out of the county Treasury. Constable.

GAOLER'S FEES.

Turning the key for each prisoner, committed or discharged—twenty cents. Gaoler's fees.

Dieting each prisoner, such sum weekly, as the Court of Sessions shall, from time to time, judge reasonable.

FOR MARRIAGES.

To the Town Clerk for publishing the banns of Matrimony, recording the same, giving a certificate of the publishment, and recording the marriage upon receiving the Justice's or Minister's certificate thereof—fifty cents; to be paid by the man published, on receiving a certificate of the publishment. Town Clerk.

To every Minister or Justice of the Peace who shall lawfully solemnize a marriage and certify the same—one dollar and twenty-five cents.

To the Town Clerk for recording births and deaths—eight cents each. For a certificate of a birth or death—ten cents.

FEES IN THE SECRETARY'S OFFICE.

For a certificate under the seal of the State, for the benefit of particular persons—one dollar. Secretary of State.

For all copies for the benefit of particular persons, at the rate of twelve cents a page.

And it is to be understood that a page, as mentioned in this Act should contain two hundred and twenty-four words.

COUNTY REGISTER'S FEES.

Register of Deeds' fees.

For entering and recording a deed or other paper of the length of one page or under, twelve cents.

And for certifying on the original the time when, and the book and page where the same may be recorded—five cents.

If the instrument recorded exceed the length of a page, at the rate of fourteen cents a page.

The fees to be paid at the offering of the instrument.

For all copies at the rate of fourteen cents a page.

For entering in the margin a discharge of a mortgage, to be signed by the person discharging the same—twelve cents.

ALLOWANCE TO JURORS.

Allowance to Jurors.

SEC. 2. *Be it further enacted*, That the Grand Jurors attending at the Supreme Judicial Court and Circuit Court of Common Pleas, and the Jurors for trials attending either of said Courts, shall each be allowed, one dollar and twenty-five cents a day for their attendance, and six cents a mile for their travel out and home, to be paid out of the county Treasury; and there shall be paid to the clerk of the Supreme Judicial Court, and to the Clerk of the Circuit Court of Common Pleas, respectively, by the Plaintiff, or appellant, the sum of seven dollars for the trial of each civil action, for the use of the county; and the said Clerks respectively shall forthwith pay over the same to the county Treasurer.

Clerks of Court to have list of fees hung up in their offices.

SEC. 3. *Be it further enacted*, That the Clerks of the several Courts and other persons keeping public offices shall constantly have a list of the fees by this Act prescribed so far as it relates to them respectively, printed or wrote out in legible characters and hung in some convenient and conspicuous place in their respective offices. And the Register of Probate shall put and keep up in some conspicuous part of the room, a list of fees for Judge and Register, in every other place besides his office as aforesaid where a Probate Court may be holden, during the holding of the said Court in such place.

Register of Probate to keep list of his fees in his office.

SEC. 4. *Be it further enacted*, That every officer or other person upon receiving any such fees as are stated in this Act shall, if required by the person paying the same, make out a particular account of such fees, in writing, specifying for what they accrued upon pain of forfeiting to the party paying such fees, treble the sum by him or them so paid, to be recovered with costs by an action of debt, in any Court proper to try the same.

Officers, if required, must give an account in writing of fees by them received.

SEC. 5. *Be it further enacted*, That if any person shall wilfully and corruptly demand and receive any greater fee or fees for any of the services aforesaid, than are by this Act allowed and provided, or if any witness shall falsely, wilfully and corruptly certify that he has travelled a greater number of miles, or attended a greater number of days than he has actually travelled or attended, he shall forfeit and pay, not less than five dollars, nor more than thirty dollars for every

Penalty for wilfully and corruptly demanding and receiving unlawful fees, or for witnesses falsely certifying, &c.

offence, to be recovered with costs, either by presentment in the Supreme Judicial Court or Circuit Court of Common Pleas, in which case the forfeiture shall accrue to the State; or by action of debt in any Court of competent jurisdiction; in which case the forfeiture shall be for the use of any person who may sue for the same: But no such presentment or action shall be sustained, unless made or commenced within one year next after the time when the offence may be committed, and all persons who are or shall be entitled by any law or resolve, to an annual salary, and who also receive fees of office, for which they are required to be accountable, shall render to the Treasurer a quarterly account under oath of all fees of office by them received, which oath the Treasurer is hereby authorized to administer. And no person shall be permitted to receive his quarterly salary from the Treasury, until such account of the fees of office has been rendered: *Provided however,* That this Act shall not be considered as extending to the Justices of the Supreme Judicial Court.

Mode of recovery.

Limitation.

Certain officers to render quarterly account of fees to Treasurer.

Salary of such officer not to be paid till such account is rendered.

SEC. 6. *Be it further enacted,* That all officers and persons, entitled to fees under any Act in force in this State, who are not particularly provided for in this Act, shall be entitled to, and receive for their services the same compensation, which they have heretofore received for like services, under the laws which were in force prior to the first day of March instant: *Provided,* That the Inspector General of butter and of lard shall not demand or receive from any of his or their deputies more than at the rate of twenty five per cent. on the amount of fees prescribed for the several services and duties, by them respectively performed; *And further provided,* That this Act shall not take effect, till after the last day of May next.

Former compensation, in certain cases continued.

Inspector General of butter and lard's fees.

[Approved March 20, 1821.]

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CHAPTER CVI.

An Act establishing the salary of certain Officers.

SEC. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled,* That the sum of fifteen hundred dollars shall be allowed and paid to the Governor annually out of the Treasury of this State; that the sum of eighteen hundred dollars shall be allowed and paid to the Chief Justice of the Supreme Judicial Court, and the sum of fifteen hundred dollars to each of the other Justices of said Court; that the sum of eight hundred dollars shall be allowed and paid to the Attorney General; and to the Treasurer, the sum of nine hundred dollars; to the Secretary of State and the Adjutant General, each, the sum of seven hundred dollars; which said sums shall be paid to said officers respectively, in quarterly payments.

SEC. 2. *Be it further enacted,* That the Attorney Gene-

ral and the Secretary of State shall annually account with the Treasurer of this State for all fees which they shall receive in their respective offices.

[Approved June 19, 1820.]

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CHAPTER CVII.

An Act establishing the Salaries of the Judges of Probate.

Salaries of Judges of Probate of the several Counties, viz.

- York.
- Cumberland.
- Lincoln.
- Kennebec.
- Hancock.
- Oxford.
- Somerset.
- Washington.
- Penobscot.

Registers of Probate to keep account of fees, &c. and pay to the county Treasurer every three months.

Repeal.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That from and after the passing of this Act, there shall be allowed and paid out of the Treasuries of the several counties in this State, to the respective Judges of Probate, the following sums which shall be in full for their services; to the Judge of Probate for the county of York, two hundred and seventy five dollars; for the county of Cumberland, three hundred dollars; for the county of Lincoln, three hundred dollars; for the county of Kennebec, two hundred and seventy five dollars; for the county of Hancock, two hundred and twenty five dollars; for the county of Oxford, one hundred and seventy five dollars; for the county of Somerset, one hundred and twenty five dollars; for the county of Washington, one hundred and fifty dollars; for the county of Penobscot, one hundred and fifty dollars; which salaries shall be paid in equal quarterly payments.

SEC. 2. *Be it further enacted,* That the Registers of Probate in the respective counties, shall keep an account of all fees which by law accrue to the several Judges of Probate, and shall at the end of every three months, pay to each of the county Treasurers the amount they may have received during said term.

SEC. 3. *Be it further enacted,* That all laws now in force inconsistent with the provisions of this Act, be, and they are hereby repealed.

[Approved March 19, 1821.]

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CHAPTER CVIII.

An Act for the safe keeping of the Records of the several Courts of Justice.

Registers of Probate to give bond to the county Treasurer.

Condition of such bond.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Registers of the several Probate Courts that may hereafter be appointed to that office, shall, before they enter upon the duties of their said respective offices, severally give bond to the Treasurer of the county to which they severally belong, in a sum not less than one hundred or more than one thousand dollars, at the discretion of the Court to which they officiate, with one or more sufficient sureties for the faithful discharge of their trust; and for keeping up seasonably and in good order the records of the

same Court; and also to make and keep convenient and correct alphabets of the records of which they shall respectively be appointed officers and keepers.

SEC. 2. *Be it further enacted,* That any Clerk of the Judicial Courts or Register of Probate, who after giving bond as by law, and in the preceding section required, shall incur a forfeiture thereof, shall be and hereby is declared incapable of sustaining or holding the said office; and if either of the said Clerks or Registers shall have neglected to complete his records for more than six months, at any one time, (sickness or any extraordinary casualty excepted,) such neglect shall be adjudged a forfeiture of the bond of such Clerk or Register.

SEC. 3. *Be it further enacted,* That the Justices and Judges of the said several Courts are hereby required and directed to inspect the conduct of their several Clerks and Registers, with respect to the records aforesaid; and upon a deficiency therein, such Judge and Justices shall give information thereof, in writing to the Treasurer who has the delinquent's bond in keeping; which Treasurer shall forthwith put the same in suit; and the money recovered on such suit shall be applied for bringing up the deficient records, under the direction of the respective Judge or Judges of the Court where such deficiency shall happen; and if there be a surplusage from the bond of a Register of Probate after making up the records, the same shall enure to the use of the county whereof the plaintiff is Treasurer; and if there be a surplusage on such bond of the Clerk of the Judicial Courts, such surplusage shall enure to the use of the State; and if the penalty of the bond incurred shall be insufficient to make up the deficient records, the estate of the deficient Clerk or Register shall be liable for the residue.

SEC. 4. *Be it further enacted,* That in all cases where real estate shall have been set off, in satisfaction of any execution which shall have been issued by any Justice of the Peace, under either of the Acts of the Commonwealth of Massachusetts, entitled "An Act for rendering processes in law less expensive," if such Justice shall have deceased or removed out of the State without having completed his record, and the title to such real estate, founded on the extent of such execution, shall be drawn in question in any action, the execution creditor or creditors, or the person or persons claiming such title under him or them, shall be admitted to show in evidence of his title a copy of the original writ, with the officer's return thereon and a copy of the execution, with the officer's return thereon registered according to law; which said copies, duly authenticated by the proper certifying officers thereof, shall be sufficient evidence of the judgment on which such execution issued as aforesaid. And the Clerks of the Judicial Courts in the several counties wherein such judgments were respectively rendered; and with whom the respective records thereof, to-

Effect of the forfeiture of Register's or Clerk's bond.

What neglect shall be adjudged a forfeiture.

Justices and Judges to inspect their records, &c. and upon deficiency found—to direct Treasurer to put delinquent's bond in suit—

Proceedings therein.

If penalty of bond be insufficient, Clerk or Register's estate liable to make up records.

In establishing a title to lands levied on by execution from a Justice under the confession Act, so called, what shall be considered legal proof.

Clerks, to whom such records of Justices have been

returned. to
keep, and cer-
tify the same.

gether with the original processes, and all the papers relating thereto, may have been returned, shall be the proper persons to keep and certify the same.

[Approved March 19, 1821.]

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CHAPTER CIX.

An Act to provide for the safe keeping of Public Records, and for regulating the quality of paper for Books of Public Records.

Each county
to have fire-
proof building
for public rec-
ords.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That it shall be the duty of the Court of Sessions in each county in this State, to provide a suitable fire-proof building or buildings of brick or stone, where the same has not already been done, for the safe keeping of the records, files, papers and documents, which now remain, or shall hereafter accumulate in the offices of the Register of Deeds, Register of Probate and Clerk of the Judicial Courts of this State; which building or buildings shall contain separate fire-proof rooms for said offices with suitable alcoves, cases and boxes for preserving the said records, files, papers and documents.

Records to be
made on linen
paper, &c.

SEC. 2. *Be it further enacted,* That the Records in the offices aforesaid, shall hereafter be made and entered on paper of a firm texture, well glazed and finished, the principal ingredient of which shall be linen.

[Approved January 27, 1821.]

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CHAPTER CX.

An Act for providing and regulating Prisons.

Court of Ses-
sions in each
county to raise
money for
building and
repairing pris-
ons.

and cause them
to be built and
repaired.

Apartments to
be furnished
for debtors sep-
arate from fel-
ons and other
criminals.

Court at every
session to in-
quire as to the
state of prison,
&c. and pris-
oners.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Justices of the Court of Sessions shall, from time to time, assess the polls and estates within their several counties, in such sums as may be necessary to erect and keep in repair a good and sufficient gaol in each town where a Court by law is to be holden; and to direct and order the building and repairing such gaols, according to their discretion. And in the prisons of the several counties within this State, there shall be provided by the Justices of the Court of Sessions, and at the expense of each county, respectively, sufficient and convenient apartments for receiving and lodging prisoners for debt, separate and distinct from felons and other criminals; and it shall be the duty of the said Justices, at the beginning of every session, to inquire into the state of the prisons in their respective counties, with respect to the security of such prisons from escape, the condition and accommodation of the prisoners; and shall, from time to time, take such measures as may best tend to secure them from es-

cape, sickness and infection; *Provided nevertheless*, That the Courts of Sessions shall not assess any greater sum of money to defray county charges, than they shall be authorized by the Legislature to assess.

SEC. 2. *Be it further enacted*, That the Sheriffs of the respective counties shall keep a true and exact calendar, or register of all prisoners committed to any prison under his care, and that the same shall be kept in a large bound book, provided and kept for that only purpose; and in the same book shall be distinctly and fairly registered the names of all prisoners who shall, from time to time, be committed to prison, (beginning with the names of those who may be prisoners when this law shall take place,) with their names, places of abode, additions, the time of their commitment, for what cause, and by what authority committed; and of such as are committed for criminal offences, a description of their persons; and also from time to time, as any prisoner shall be liberated, the Sheriff shall also register in the same book, the name and description of the person as aforesaid, the time when, and the authority by which, such liberation took place; and if any prisoner escapes, the time and manner of the escape shall be noted in the said book.

Assessments to be authorized by legislature.

Sheriff to keep a calendar of prisoners.

Form of it, and particulars to be entered,

SEC. 3. *Be it further enacted*, That all warrants, mittimus, writs and instruments of any kind, or the attested copies of them, by which any prisoner shall be committed, enlarged or liberated, shall be safely kept, regularly filed, in their order of time, and, together with the said calendar, or register, shall be safely kept in a suitable box for that purpose; and upon the death or removal of any Sheriff, shall be delivered to his successor in the office, on the penalty of two hundred dollars, to be paid by the Sheriff removed or his executors or administrators, in case of the death of the Sheriff; to be recovered by any person, who shall prosecute therefor, in any Court proper to try the same.

Warrants, mittimus, &c. to be preserved, and

delivered over to succeeding sheriff, on penalty, &c.

SEC. 4. *Be it further enacted*, That every gaoler or prison keeper, at the opening of the Supreme Judicial Court, or the Circuit Court of Common Pleas, within the county where he keeps the gaol shall return a list of prisoners in his custody, therein certifying the cause for which, and the persons by whom they were committed, and the names of all persons who shall be committed during the sitting of either of the said Courts, with the cause of their commitment, that the Justices of the same Courts respectively may take cognizance thereof, and as well for the State, as the parties, may proceed to make deliverance of such prisoners according to law, for the crimes proper to the jurisdiction of the same Courts respectively; and also shall have the said calendar or register of prisoners ready to be inspected by the said Courts; and if any gaoler shall make default herein, he shall be fined at the discretion of the Court.

Gaol keeper at the opening of each Court to return list of prisoners, &c.

Form of list, &c.

Penalty for neglect.

Prisoners committed on mesne process to be detained but 30 days after judgment, unless taken in execution,

and not to be discharged within 30 days unless by order in writing.

Sheriff to cause prisons to be cleanly and white-washed annually in April or May, or oftener if, &c.

Sheriff to keep debtors separate from convicts, &c.

and minors, &c. separate from notorious offenders, &c.

Prisoners committed for crimes, &c. not to be allowed spiritous liquors,

unless in case of sickness,

nor prisoners committed for debt, if they apply to overseers for relief.

Penalty for violation and mode of recovery.

SEC. 5. *Be it further enacted,* That no person, imprisoned upon mesne process, shall be held in prison, upon such process, above the space of thirty days next after the entering up final judgment upon the writ whereby he is committed, unless he shall be continued there, by having his body taken in execution, nor shall the prison keeper discharge any such prisoner, unless judgment is given in his favor, until thirty days next after the said judgment is entered up, unless the party at whose suit he was committed, shall give order in writing for his discharge, and shall pay the legal fees of the gaoler.

SEC. 6. *Be it further enacted,* That it shall be the duty of the Sheriffs of the several counties within this State, to see that the gaols in their respective counties are kept in as cleanly and healthy condition as may be, and cause the walls thereof to be whitewashed with lime in April or May in every year, and as often as the Court of Sessions shall order the same, at the expense of the county; they shall also see that strict attention is paid to the personal cleanliness of the prisoners as far as may be.

SEC. 7. *Be it further enacted,* That it shall be the duty of every gaoler or prison keeper to keep prisoners, committed for debt, separate and apart from felons, convicts, and prisoners committed upon charge of felony or other infamous crimes. And he shall also keep all minors who are committed to prison upon conviction or charge of any crime, and all prisoners in his custody upon a first conviction or charge of any crime, as separate and distinct from those who are notorious offenders, or who have been convicted more than once for any felony, or other infamous crime, as the construction and state of their respective prisons will admit.

SEC. 8. *Be it further enacted,* That no prisoner who is confined in any gaol within this State, either upon conviction and sentence for any crime, or upon charge of any crime before conviction, shall be allowed to have or drink any ardent or spiritous liquor, or any mixed liquor, part of which is spiritous, unless the physician, who is authorized to attend upon the sick in such prison, shall certify in writing that the health of such prisoner requires it; in which case he shall be allowed the quantity prescribed by such physician and no more.

SEC. 9. *Be it further enacted,* That no person committed to gaol on execution or mesne process, who shall apply to the Overseers of the poor for relief, shall be permitted to have and use any spiritous liquors, without the consent of the said Overseers. And if the keeper of any gaol, or other person shall give, sell or deliver to any such prisoner, or to any other person for his use, any spiritous liquors without the consent in writing of the said Overseers or one of them, first had and obtained, shall forfeit and pay for each offence a sum not less than five, nor more than ten dollars, to be recov-

ered by complaint to any Justice of the Peace for the same county; one moiety thereof to him who shall prosecute for the same, the other moiety to the use of the poor of the town where the gaol is situated. And it is hereby made the duty of the Sheriff, Gaoler and Overseers of the poor to prosecute for all offences which may come to their knowledge against the provisions of this section.

SEC. 10. *Be it further enacted,* That any gaoler or prison keeper, who shall wilfully, negligently or unnecessarily cause or suffer prisoners of different descriptions to be confined and kept together in the prison under his care, contrary to the provisions of the seventh section of this Act, or shall voluntarily or negligently suffer any prisoner in his custody, upon conviction or charge of any crime, to have or drink any spiritous liquor, or mixed liquor, part whereof is spiritous, contrary to the provisions of the eighth section of this Act, shall, in each case, forfeit the sum of twenty five dollars for the first offence, to be recovered in an action of debt by any person who will sue for the same, to his own use, in any Circuit Court of Common Pleas, or by indictment in the same Court; in which case the forfeiture shall be to the use of the county. And for a second offence, such gaoler or prison keeper, shall forfeit the sum of fifty dollars, to be recovered in manner and to the uses aforesaid; and shall also be removed from his office, and be rendered and become incapable of holding the office of Sheriff, deputy Sheriff or gaoler, for the term of five years. And it shall be the duty of the Grand Jurors of the said Court, diligently to inquire of, and truly to present, all offences against the provisions of this Act.

Penalty for violating seventh and eighth sections of this Act.

Mode of recovery.

Grand Jurors to present violations.

SEC. 11. *Be it further enacted,* That every gaoler or prison keeper that shall voluntarily suffer any prisoner committed unto him to escape, shall suffer and undergo the like pains, punishment and penalties, as the prisoner, so escaping, should by law, for the crime or crimes wherewith he stood charged, if he had been convicted thereof.

Punishment for suffering a voluntary escape.

SEC. 12. *Be it further enacted,* That if any gaoler or prison keeper shall, through negligence, suffer any prisoner accused of any crime to escape, he shall pay such fine as the Justices of the Court, before whom he is convicted, shall in their discretion inflict, according to the nature of the offence for which the escaped prisoner stood committed: *Provided nevertheless,* That if any person who stands committed for debt, shall escape from prison, and the Sheriff, the gaoler or prison keeper shall, within three months next after such escape, recover the prisoner so escaped, and return him back to prison again, then the Sheriff shall be liable to nothing further than the cost of any action that may have been commenced against him for such escape; and all fines arising upon the breach of this Act, excepting the ninth and tenth sections thereof, shall be applied to the use of building and repairing the gaol or

Penalty for suffering a negligent escape.

Proviso, if retaken on fresh pursuit.

Appropriation of fines.

gaols in the county where the offence is committed, and shall be paid to the Treasurer of the county, for that purpose.

Punishment for conveying tools, &c. to a prisoner to aid his escape, &c.

SEC. 13. *Be it further enacted,* That if any person shall directly or indirectly, without the knowledge or privity of the keeper, convey any instrument, tool or other thing whatsoever, to any prisoner, or into any prison, whereby any prisoner might break the prison, or work himself unlawfully out of the same, every person so offending shall forfeit and pay such fine as by the discretion of the Court shall be imposed, not exceeding three hundred dollars, according to the nature of the cause of the prisoner's commitment; or suffer such corporal punishment, not exceeding forty stripes, as the Court shall inflict; and if it shall so happen that any prisoner shall make his escape by means of any instrument, tool or other thing so conveyed, without the knowledge and privity of the keeper, the person so conveying the same shall be liable to pay all such sums of money as the prisoner stood committed for; and shall have inflicted upon him all such punishment as the escaped prisoner would be liable unto, if he had been convicted of the charge for which he stood committed, unless such prisoner would have been liable to capital punishment; in which case, the person assisting in such escape shall be punished by fine, imprisonment or sitting on the gallows with a rope about his neck, or by solitary imprisonment for a term not exceeding three months, and confinement to hard labor for a term not exceeding five years; or any one or more of the said punishments, as the Court shall think proper to inflict.

Punishment in case of actual escape.

Where escape happens thro' insufficiency of the gaol, Sheriff to be chargeable.

SEC. 14. *Be it further enacted,* That where the escape of any prisoner shall happen through the insufficiency of the gaol, or the negligence of the Sheriff or gaoler, the Sheriff of the county, in which the escape happens, shall stand chargeable to the plaintiff, creditor or other person at whose suit or for whose debt he was committed, or to whose use any forfeitures was adjudged against such prisoner; and in case the escape shall happen through the insufficiency of the gaol, the Court of Sessions in the county shall have power and authority to assess the sum or sums upon the polls and estates of the county, and to order the county Treasurer to pay the same over to the Sheriff of the county; and if the Court of Sessions shall not make such assessment, and if the Treasurer shall not pay such sum or sums within six months next after the demand shall be laid before the Court of Sessions, then the Sheriff of the county may bring his action against the inhabitants of such county, to be heard and tried, either in that or one of the next adjoining counties, at his election; and an attested copy of the writ being left thirty days before the sitting of the Court, with the county Treasurer, shall be held and adjudged to be sufficient notice of the suit; and the Justices of the Court of Sessions shall have full power to appoint an agent or agents to appear and defend

Court of Sessions to assess on the county the sum recovered of the Sheriff.

And in case they do not in 6 months, Sheriff may sue the county, for indemnity.

Mode of serving writ.

Court of Sessions may appoint an agent.

against such action; and when it shall so happen that the suit shall be commenced in another county, and no Court of Sessions shall be holden within the county sued, between the time of the service of the writ, and the sitting of the Court before which the action is brought, the cause shall be continued one term; and all advantages shall be saved to the defendants, as though they had appeared at the first term; and if judgment shall be given against the county, the debt may be levied by execution upon the goods, chattels or lands of any inhabitant or inhabitants of the county, who shall thereupon have his or their action jointly or severally in like manner against the county, to recover the monies so levied of him or them.

Action to be continued, in case, &c.

Debt may be collected of any inhabitants of the county.

SEC. 15. *Be it further enacted*, That the keepers of the several gaols within this State, shall under the penalties as by law are provided for the custody and safe keeping the prisoners thereof, take custody of, and safely keep all prisoners committed, under the authority of the United States, until they shall be discharged by due course of the laws thereof: *Provided*, That nothing contained in this Act shall be so construed, as to authorize the keepers of the said gaols to take custody of, and keep within said gaols any prisoners committed by any other authority than the Judicial authority of the United States.

Keepers of gaols to receive and detain U. States Prisoners committed by judicial authority.

SEC. 16. *Be it further enacted*, That the several Treasurers of the respective counties within this State, and their successors, be and they are hereby authorized and directed, to receive for the use of their respective counties, to defray the county charges arising therein, all such monies as the United States have agreed to pay for the use and keeping of such gaols, and to account for the same according to law.

County Treasurers to receive the monies paid for keeping such prisoners.

[Approved March 19, 1821.]

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CHAPTER CXI.

An Act respecting Houses of Correction, and for suppressing and punishing of Rogues, Vagabonds, common Beggars and other idle or disorderly persons.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That there shall be erected, built or otherwise provided by the Court of Sessions, in every county within this State, at the charge of such county, a fit and convenient house or houses of correction, (where such house is not already provided) with convenient accommodations thereunto adjoining and belonging; to be used and employed for the keeping, correcting and setting to work of rogues, vagabonds, common beggars and other idle or disorderly persons. And until such house or houses of correction be erected, built or otherwise provided, the common prison in each county may be made use of for that purpose.

Each county to be provided with a house of correction.

Common prisons to be used as such, until houses of correction are provided.

Court of Sessions may appoint master of such house and establish regulations, &c.

SEC. 2. *Be it further enacted*, That the Court of Sessions in each county may nominate and appoint, at their will and pleasure, a suitable person to be master of such house of correction; and also to make, ordain and establish such rules and orders as may be necessary, (not repugnant to the laws of this State,) for the ruling, governing and punishing of such persons as may be there committed.

Court of Sessions in each county may appoint overseers of such house.

SEC. 3. *Be it further enacted*, That the Courts of Sessions in their respective counties, where the circumstances may require it, be, and hereby are authorized and empowered, annually, to appoint three or five suitable and discreet freeholders of their county, living near the house of correction, to be overseers of such house; who shall have power to see that the rules appointed by the said Court, for the government of the house, and the persons therein confined, be duly observed; and also to examine the accounts of the keeper with respect to the earnings of the prisoners, and the expense of the institution; and they shall keep a register of all their proceedings fairly written. They shall have power to make contracts for work to be done in the house, with any person disposed to supply the materials, and to make contracts for letting out any of the persons confined, to employers living, in the estimation of the overseers, conveniently near to the house of correction for the overseers or the master of the house to have the general inspection of the persons so let out, and of the treatment they receive. And the overseers shall receive, out of the wages of the prisoners, such reasonable compensation as the Court of Sessions shall allow.

Power and duty of such overseers.

Their compensation

Court of Sessions may remove them;

SEC. 4. *Be it further enacted*, That the said Court of Sessions, shall at any time have authority to remove any of the Overseers, and to replace others for the remainder of the year, and to fill up any vacancies of the overseers made by death, resignation or otherwise. They shall also, at every term, inquire into the state of the house of correction; and examine the register and accounts of the Overseers and masters; and make such further regulations and alterations, in the treatment and government of the prisoners, as they shall judge necessary or proper, and not repugnant to the laws of the State.

and examine the register and accounts of overseers.

Rogues, vagabonds, &c. may be sent to the house of correction.

SEC. 5. *Be it further enacted*, That any Justice of the Peace, as well as the Circuit Court of Common Pleas, may send and commit unto the said house, to be kept and governed, according to the rules and orders thereof, all rogues, vagabonds and idle persons going about in any town or place in the county, begging; or persons using any subtle craft, juggling or unlawful games or plays, or feigning themselves to have knowledge in phisognomy, palmistry, or pretending that they can tell destinies or fortunes, or discover where lost or stolen goods may be found; common pipers, fiddlers, runaways, common drunkards, common night walkers, pilferers, wanton and las-

ivious persons, in speech, conduct or behaviour ; common railers or brawlers, such as neglect their callings or employments, mispend what they earn, and do not provide for themselves for the support of their families ; upon conviction of any of the offences or disorders aforesaid, complaint thereof having been made in writing.

SEC. 6. *Be it further enacted*, That when it shall be made to appear to any two Justices, *quorum unus*, that any person being within their county, is lunatic, and so furiously mad, as to render it dangerous to the peace or the safety of the good people, for such lunatic person to go at large ; the said Justices shall have full power, by warrant under their hands and seals, to commit such person to the house of correction, there to be detained till he or she be restored to his right mind, or otherwise delivered by due course of law. And every person so committed, shall be kept at his or her own expense, if he or she have estate ; otherwise, at the charge of the person or town upon whom his maintenance was regularly to be charged, if he or she had not been committed ; and he or she shall, if able, be put to work during his or her confinement.

Two Justices may send lunatics and dangerous persons to house of correction.

SEC. 7. *Be it further enacted*, That any person, standing convicted before the Supreme Judicial Court or Circuit Court of Common Pleas, for any crime punishable in part or in whole by imprisonment, may be sentenced by either of said Courts to suffer his imprisonment, either in the common gaol, or in the house of correction, at their discretion ; to be employed and kept to work therein, in the same manner, as persons committed to said house pursuant to the provisions of the fifth section of this Act.

Courts may confine convicted persons in common gaol, or house of correction.

SEC. 8. *Be it further enacted*, That either of said Courts may sentence any person standing convicted before them respectively, of an offence punishable in whole or in part by fine, to pay such fine with the costs of prosecution ; and in case he does not pay the same within ten days, that he be immediately thereafter conveyed to the house of correction, therein to be safely held, employed and kept to work, in the same manner as persons committed to said house pursuant to this Act, for any term of time not exceeding six months. And the expense of keeping, supporting and employing such offender, after deducting the net amount of his earnings, shall be allowed by the Justices of the Court of Sessions, and paid to the keeper out of the county Treasury, in the same manner, and with the same right of reimbursement from the treasury of the State, as the accounts of gaolers for the prison charges of persons confined in gaol, on charge of conviction of crimes and offences committed against the said State.

Courts may sentence convicts to house of correction conditionally, viz. on non-payment of fine and costs.

Expenses how to be paid.

SEC. 9. *Be it further enacted*, That the Courts of Sessions in their respective counties, shall provide and cause to be kept at the expense of their counties, suitable materials, sufficient at all times to employ and keep at work such as are or

Court of Sessions to provide materials for work, &c.

and establish
rules thereto
relating—

profits of labor,
how distrib-
ed.

Mode of man-
agement.

Power of the
master of house
of correction
over persons
confined.

Master's com-
pensation.

may be committed to the house of correction by force of any laws of this State; and shall from time to time make and establish all necessary rules and regulations, touching the employment of persons so committed; the procurement and preservation of said materials, the keeping of accounts of the expense and cost of such materials, and the labor performed by the persons committed to the said house, and the settling of the same. And the persons committed shall be allowed two third parts only of what they earn; and the residue shall be to the use of the master or keeper of the house, unless such persons are masters or heads of families, then the whole profit of their labor, or so much thereof as the Court of Sessions shall order, shall be for the relief and support of such persons and their families. And if any person committed as aforesaid, shall be unable to work, or be weak and sick, or the profits of whose work shall not be sufficient for supporting him or her, then to be comfortably provided for and taken care of by the master of the same house, who shall be reimbursed the same by the parent, master, town or State who are by law obliged to maintain and support such persons, when unable to support themselves, as the case may require.

SEC. 10. *Be it further enacted,* That the master of such house of correction, to be appointed as aforesaid, shall have power and authority and shall set all such convicts, rogues, vagabonds, beggars and other idle and disorderly persons as aforesaid, that shall be duly sent or committed unto his custody, to work and labor, (if they be able,) for such time as they shall continue and remain in the said house; and to punish them by putting shackles or fetters upon them; and also from time to time, in case they be stubborn, disorderly, idle or refractory, and do not perform their tasks, and in good condition according as they shall be reasonably stinted, or to abridge them of their food, as the case shall require, until they be reduced to better order.

SEC. 11. *Be it further enacted,* That the master of the said house of correction shall, for his care, labor and service in looking after the several persons that shall from time to time, be committed to his care and custody, over and above one third part of their net earnings, have such reasonable allowance made him, as the Court of Sessions shall order and direct, to be paid him by the parent or master of such as are under their immediate care and custody; otherwise by the town to which such persons belong, if within this State, or at the charge of the State, if they belong to no particular town within it. And the master or keeper of every such house shall keep an exact account of all profits and earnings that shall arise from the labor of all such as shall be committed unto his care and custody, as well as the particular time of their commitment and liberation, and present the same ac-

count, (upon oath if required,) unto the Court of Sessions for the same county annually, and also whenever he shall by them be thereunto directed.

His accounts to be allowed by Court of Sessions.

SEC. 12. *Be it further enacted,* That whenever there shall be due to any keeper of such house for the care, trouble and expense of keeping, supporting and employing any person committed as aforesaid, any sum or sums of money, and the same shall have been allowed, and duly certified by said Court, or their committee, he shall have a right to demand and recover the same of such person, his parent, master or kindred, who may be liable by law to maintain him, or of the town wherein he is lawfully settled; and if such person, parent, master, kindred or town shall refuse or neglect to pay such sum, for the space of fourteen days after the same shall have been demanded, in writing, of him or them respectively, or of one of the Selectmen of the town, the said keeper shall have, and be entitled to an action of the case to recover such sum against the person so committed, or his parent or master, if any he have, liable by law to maintain him, or against the town in which he is legally settled, in case he has not sufficient estate nor kindred who are able and obliged by law to maintain him, and may declare therein, in a general indebitatus assumpsit, and recover judgment for such sum as shall be found due to him with legal interest from the time the same was demanded and costs. And if the person so committed have kindred who are able and obliged by law to maintain him, the said keeper may have like remedy for recovering such sums of them, as is provided for towns which have been at expense for the relief and support of paupers, by an Act entitled "An Act ascertaining what shall constitute the legal settlement, and providing for the relief and support, employment and removal of the poor."

Mode of obtaining such compensation.

SEC. 13. *Be it further enacted,* That whenever any person, committed pursuant to the provisions of the fifth section of this Act, shall apply to the master of the said house for a discharge therefrom, the said master shall signify the same to the overseers of the poor of the town in which such house of correction shall be, or to the overseers of the poor of such town as the person so committed shall belong to, and the major part of either of the Overseers of the poor aforesaid, upon its being made to appear to them that the ends of such commitment have been answered, are hereby empowered to issue their order to the master of such house of correction to discharge the said person from his or her said confinement; the charges arising therefrom being first paid in manner as is herein before provided. And the said master is hereby required to discharge him or her accordingly.

Mode of procuring discharge from house of correction.

[Approved March 15, 1821.]

CHAPTER CXII.

An Act to authorize the Governor in certain cases to offer a Reward, and for other purposes.

Governor may offer a reward not exceeding 1000 dollars, for apprehending prisoners escaped, or persons charged with high handed offences.

BE it enacted by the Senate and House of Representatives in Legislature assembled, That the Governor be, and he is hereby authorized, whenever it shall appear to him necessary, to offer and pay a suitable reward, not exceeding one thousand dollars in any one case, to any person or persons, who shall, in consequence of such offer, apprehend, bring back, and secure any person or persons escaping from any of the prisons of this State, convicted of any capital crime, or other high handed offence, and misdemeanor, or charged therewith. And he is also further authorized to offer and pay a like reward for the apprehending any person or persons, having committed any such crime or offence as aforesaid, where it cannot be done in the ordinary and common course of proceeding; if in his opinion the public good requires it. And the Governor with advice of Council, is hereby authorized to issue his warrant on the Treasury, for the payment of such reward.

And may draw a warrant on treasury for the same.

[Approved February 28, 1821.]

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CHAPTER CXIII.

An Act providing for the appointment of Agents for demanding and receiving Fugitives from Justice.

Fugitives from Justice.

WHEREAS it is provided by the Constitution of the United States, that a person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime: And whereas by an Act of the Congress of the United States of America, passed on the twelfth day of February in the year of our Lord one thousand seven hundred and ninety three, it is, among other things, provided, that the executive authority of each State, to which any such person shall have fled, shall deliver him over on demand of the executive authority of the State, where the crime shall have been committed, to the agent of the State, which shall make the demand.

Governor may appoint an agent to demand of the Executive of any other State, a fugitive from Justice;

SEC. 1. **BE** it therefore enacted by the Senate and House of Representatives in Legislature assembled, That the Governor of this State be, and hereby is authorized, in any such case, to appoint an agent or agents to demand of the executive authority of any other of the United States, any person who shall be charged with treason, felony, or any other crime in this State, and may, by and with the advice of the Council, issue his warrant on the Treasury to defray the expenses of such agent in making such demand, and in transporting the person, so charged, from any other State to this.

And shall by his warrant send fugitives from other States, who are

SEC. 2. *Be it further enacted,* That when a demand shall be made on the executive authority of this State, by that of any other, for the delivery over of any person charged with

treason, felony, or other crime, in the State, from which the demand shall be made, the Governor shall issue his warrant, under the seal of the State, authorizing the agent or agents who shall make the demand, to transport such person so delivered over, to the line of this State, on the way to the State which shall make the demand, at the expense of such agent or agents, and shall also in such warrant command all civil officers, within the State, to afford such agents all needful assistance in transporting such person so charged, pursuant to such warrant.

found in this State and have been demanded, to the line thereof.

[Approved February 24, 1821.]

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CHAPTER CXIV.

An Act regulating Towns, Town-Meetings and the choice of Town Officers.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every male citizen of this State, of twenty one years of age and upwards, except paupers and persons under guardianship, who has resided within any town or plantation for one year next preceding his voting and during said term has been taxed for his poll, or any estate in any tax voted to be raised by said town or plantation, shall be entitled to vote in such town or plantation in the election of all town or plantation officers, and in all other town or plantation affairs: *Provided*, Whenever the inhabitants of any town are legally assembled to act on any subject relating exclusively to parishes, no person, who is not a member of said parish and liable to be assessed for parochial charges, shall be permitted to vote in such meetings. And the citizens aforesaid, in any town shall, in the month of March or April annually, assemble at such time and place in the same town, as they shall be notified to attend by the Constable or Constables of the town, or such others as the Selectmen shall appoint to notify the same; and the citizens aforesaid shall then and there, by a major vote, choose a Clerk, (who shall be under oath truly to record all votes passed, in such and other town-meetings during the year and until another Clerk shall be chosen and sworn in his stead, and also faithfully to discharge all the other duties of his said office;) three, five or seven able and discreet persons of good conversation, inhabiting in the town to be Selectmen, and Overseers of the poor, where other persons shall not be particularly chosen to that office, (which any town may do if they shall think it necessary and convenient,) three or more Assessors, two or more judicious persons for Fence Viewers, Treasurer, Surveyors of Highways, Surveyors of Lumber, Wardens, Tythingmen, Sealers of Leather, Measurers of Wood, Clerks of the Market, Constables, and other usual town officers; the election of Moderator of such meetings, Town Clerks, Selectmen and Assessors,

Qualification of voters.

Proviso as to voting on parochial questions.

Annual meetings to be held in March or April.

Town officers then to be chosen.

Certain officers by ballot.

shall be by written ballots, and all other of said officers by ballot or such other method as the voters agree upon ; and during the election of the Moderator for any town-meeting, the town Clerk shall preside, and shall have all powers and do all the duties which the Moderator of a town-meeting by law has and does perform. And the town Clerk, or two of the Selectmen, shall forthwith make out a list of the names of all those who shall be then chosen into office, of whom an oath is by law required, and deliver the same to some Constable or Constables of the same town, together with a warrant to him or them directed, who is hereby required, within three days after receiving such warrant, to notify and summon each of the said persons to appear before the town Clerk, within seven days from the time of such notice, to take the oath by law prescribed to the office, into which they are severally chosen ; and every person who shall neglect to appear before the town Clerk, within the said seven days, and take the oath of office unto which he is chosen and summoned as aforesaid, unless such person is by law exempted from serving in the office ; which oath the town Clerk is hereby authorized to administer, shall forfeit and pay to him or them that will inform or prosecute therefor, the sum of five dollars, except those officers, for whose neglect a different penalty is provided, two thirds for the use of the town, and the other third to the use of the prosecutor : *Provided always*, That any person who shall take the oath of office before a Justice of the Peace, and file a certificate thereof with the town Clerk within the said ten days, shall be exempted from the said fine ; and every Constable shall, at the expiration of the term of ten days from the time of receiving such warrant, make a return into the Clerk's office of the same town, of the warrant to him committed as aforesaid, with his doings thereon, for a neglect of which, he shall forfeit and pay the sum of six dollars, to be to the use of the town ; the Constable to be allowed such reasonable sum for his services upon this and other town business as the inhabitants shall agree upon. And the town Clerk shall make a record of such persons as shall from time to time be sworn into office before him, or of such as shall file certificates of their being sworn, as aforesaid ; and no person shall be obliged to serve in any town office two years successively.

Town Clerk to give list of officers chosen to Constable.

Constable's duty thereupon.

Penalty for officers' not appearing to be sworn.

Mode of being sworn and certificate of oath.

Clerk to make record, &c.

Vacancies in town offices how to be filled.

SEC. 2. *Be it further enacted*, That when by reason of non acceptance, death or removal of any person chosen to office in any town at the annual meeting for the choice of town officers, or at any other time, or by reason of a person's becoming non compos, there is a vacancy, or want of such officers, the town being orderly assembled in the manner this Act directs, may proceed to a new choice of officers to supply and fill such vacancy ; and the person or persons, thus chosen and sworn before the town Clerk or a Justice of the Peace, (in case an oath of office is by law required,) shall have the same

power and authority to discharge the duties of the office, as though chosen at the annual meeting for the choice of town officers.

SEC. 3. *Be it further enacted,* That at every town-meeting, a Moderator shall be first chosen by a majority of votes, who shall be thereby empowered to manage and regulate the business of the meeting; and when a vote declared by the Moderator, shall immediately after such declaration, be scrupled or questioned by seven or more of the voters present, the Moderator shall make the vote certain by polling the voters, or such other way as the meeting shall desire. And no person shall speak in the meeting before leave first had and obtained from the Moderator, nor when any other person is orderly speaking; and all persons shall be silent at the desire of the Moderator on pain of forfeiting one dollar for the breach of every such order, to the use of the town; and if any person shall, after notice from the Moderator persist in his disorderly behaviour, then it shall be lawful for the Moderator to direct such disorderly person to withdraw from the meeting; and such disorderly person upon his refusal or neglect to withdraw, shall forfeit and pay a fine of three dollars, to the use of the same town; and may also by direction of the Moderator be carried out of the meeting by some Constable of said town, and put into some place of confinement, and there be detained for the space of three hours, unless the town-meeting shall sooner adjourn or dissolve: *Provided always,* That town-meetings for the choice of Governor, Senators and Representatives, shall be had as the Constitution directs; any thing in this Act contained to the contrary notwithstanding. And the Moderator of any town meeting chosen as aforesaid, is hereby authorized, in case no Justice of the Peace be present, to administer to the Clerk in open town-meeting, the oath by law prescribed to the same office.

Power and duty of moderator.

Proviso as to town-meetings for choice of State officers.

Moderator may administer oaths in certain cases.

SEC. 4. *Be it further enacted,* That if the Moderator or Selectmen presiding at any town meeting, without the consent of the voter, shall read or examine, or permit any other person to read or examine the name or names written on his ballot or ticket, with a view to ascertain the name of the candidate voted for, before the poll is closed, the Moderator, Selectmen or Selectman so offending, shall each of them on conviction, forfeit and pay to the use of such town, the sum of twenty dollars, to be recovered by indictment in any Court proper to try the same.

Penalty if selectmen or moderator permit votes to be inspected before closing the poll.

SEC. 5. *Be it further enacted,* That when there shall be occasion of a town-meeting, the Constable or Constables, or such other person as shall be appointed for that purpose by warrant from the Selectmen, or the major part of them, shall summon and notify the inhabitants of such town, to assemble at such time and place, in the same town as the Selectmen shall order; the manner of summoning the inhabitants to be such as

Mode of calling town-meetings.

the town shall agree upon; and when ten or more of the freeholders of a town shall signify in writing their desire to have any matter or thing inserted in a warrant for calling a meeting, the Selectmen are hereby required to insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of considering thereof; and no matter or thing shall be acted upon in such a manner as to have any legal operation whatever, unless the subject matter thereof be inserted in the warrant for calling the meeting; and in case the Selectmen shall unreasonably deny to call a meeting upon any public occasion, any ten or more of the freeholders of such town may apply to a Justice of the Peace within and for the same county, who is hereby authorized and empowered to issue his warrant under his hand and seal directed to the Constable or Constables of the town, if any such there be, otherwise to any of the freeholders applying therefor, directing him or them to notify and warn the inhabitants qualified to vote in town affairs, to assemble at such time and place in the same town, as the said Justice shall in his said warrant direct, and for the purpose in the same warrant expressed: And when by reason of death, removal or resignation of Selectmen, a major part of the number originally chosen shall not remain in office within any town; in every such case, a major part of the survivors, or of such as remain in office, shall have the same power to call a town-meeting as a major part of the whole number first chosen.

Nothing to be acted upon which is not included in warrant for meeting. Justice of peace may call meetings in case, &c.

If majority of selectmen die or vacate their offices, a majority of survivors, &c. may call meetings.

Towns at legal meetings may raise monies, &c.

SEC. 6. *Be it further enacted*, That the citizens of any town, qualified as aforesaid, at the annual meeting for the choice of town officers, or at any other town-meeting, regularly warned, may grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of the ministry, schools, the poor, and other necessary charges, arising within the same town, to be assessed upon the polls and property within the same, as by law provided; and they are also hereby empowered to make and agree upon such necessary rules, orders and bye-laws, for the directing, managing and ordering the prudential affairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the observance of the same not exceeding five dollars for one offence, to enure to such uses as they shall therein direct: *Provided*, They be not repugnant to the general laws of this State: *And provided also*, Such orders and bye-laws shall have the approbation of the Court of Sessions of the same county.

and make bye-laws,

to be approved by Court of Sessions.

Towns made bodies politic and corporate may sue and be sued.

SEC. 7. *Be it further enacted*, That the inhabitants of every town within this State, are hereby declared to be a body politic and corporate; and as such may commence and prosecute any suit or action in any Court proper to try the same; and may also defend any suit or action commenced against them; and for this purpose the said inhabitants qualified and conven-

ed in manner aforesaid, may nominate and appoint one or more agents or attorneys. The choice of the agent or attorney, certified by the town Clerk, shall be deemed and taken sufficient evidence of such appointment. And when any suit shall be commenced against any town, a copy of the writ or original summons, or such other legal process as may issue against them, shall be left with the Clerk of such town, or with one of the Selectmen, thirty days at least before the day of the sitting of the Court, unto which the same shall be returnable.

Choice of an agent, how proved.

Writs against towns to be served 30 days before Court.

SEC. 8. *Be it further enacted,* That the bounds of all townships shall be and remain as heretofore granted, settled and established. And to prevent an interference of jurisdiction, the lines between towns shall be run and the marks renewed within three years from the last day of March next, and once every five years forever after, by two or more of the Selectmen of each town or such other persons as they shall in writing appoint to run and renew the same; and their proceedings, after every such renewal of boundaries, shall be recorded in the respective town books; the Selectmen of the most ancient town to give ten days notice in writing unto the Selectmen of the adjoining town, of the time and place of meeting for such perambulation: and the Selectmen who shall neglect their duty in notifying or attending, either personally or by their substitutes, to perambulate the line at the time and places assigned as aforesaid, shall severally forfeit and pay the sum of ten dollars, two thirds to the use of the town which shall comply with their duty as aforesaid, and the other third part unto any two or more of the Selectmen of the town so complying, who are hereby empowered to inform or sue therefor in the Circuit Court of Common Pleas for the same county, at any time within two years after the forfeiture shall be incurred and not afterwards.

Boundaries of towns established, and lines to be run every five years, &c. by selectmen, &c.

Mode of proceeding in such cases.

[Approved March 19, 1821.]

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CHAPTER CXV.

An Act regulating Elections.

SEC. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled,* That it shall be the duty of the Assessors of each town within this State, on or before the first day of August annually, to make out and deliver to the Selectmen thereof, a correct and alphabetical list of all such inhabitants of their respective towns as shall appear to them qualified by the Constitution of this State, or of the United States, respectively, to vote for Governor, Senators, Representatives in the State, or in Congress; which list it shall be the duty of the Selectmen of such town at some time within ten days then next following, to revise and correct, as to

Assessors to make a list of votes for State officers, &c. before 1st of August annually.

Selectmen to revise it within 10 days.

Assessors of plantations to make like lists.

Selectmen of towns and assessors of plantations to have such lists at meetings for State officers.

Same list to be corrected before opening of meeting.

Selectmen and assessors to be in session immediately before such meeting to receive proof, &c.

Previous notice of such meeting to be given.

In towns containing more than 2000 voters selectmen to be in session day before meeting, and sooner, if necessary.

In towns containing more than 500 voters, meeting may be opened before 11 o'clock—otherwise not.

Mode of calling town and plantation meetings for State officers, &c.

At such meetings selectmen to preside.

them shall appear necessary, so that the same shall, in their opinion, be a complete list of such of the inhabitants, within their respective towns as shall be constitutionally qualified to vote in the elections aforesaid: And the Assessors of every plantation are alike required to furnish themselves with like lists, on or before the tenth day of August annually; and it shall be the duty of the Selectmen of such towns, and the Assessors of such plantations, to be provided with, and have a complete list as aforesaid at every meeting for the choice of Governor, Senators and Representatives in the Legislature or in Congress; which list shall so be corrected, previous to the opening of any such meeting, as to contain all the qualified voters for the particular election then to be made; and it shall be the duty of such Selectmen or Assessors to be in session at some convenient place, immediately preceding such meeting, for so long time as they shall judge necessary to receive evidence of the qualifications of persons, whose names have not been entered on the list aforesaid; and to give public notice of the time and place of such meeting in the warrant for calling such town or plantation meeting.

SEC. 2. *Be it further enacted,* That in any town where the number of qualified voters shall exceed two thousand, it shall be the duty of the Selectmen of such town to be in session at some convenient place, on the day immediately preceding such meeting; and when this shall happen on Sunday, then on the Saturday immediately preceding such meeting and for a time as much longer, previous to said day, as they shall judge necessary, to receive the evidence of the qualifications of persons mentioned in the first section of this Act.

SEC. 3 *Be it further enacted,* That no such meeting shall be opened at an earlier hour than eleven of the clock of the forenoon of the day of election; provided that any such meeting in any town where the number of qualified voters shall exceed five hundred, may be opened at an earlier hour at the discretion of the Selectmen of such town.

SEC. 4. *Be it further enacted,* That it shall be the duty of the Selectmen of each town, and the Assessors of each plantation in this State, by their warrant, to cause the inhabitants of such towns and plantations, qualified according to the Constitution, to be notified and warned, seven days at least, before the election, to assemble in their respective towns and plantations, on the second Monday of September annually, to give in their votes for Governor, Senators and Representatives, as the Constitution requires: such meeting to be warned in the manner there legally established for calling other town and plantation meetings; and at the meetings called for the purposes aforesaid, such proceedings shall be had as the Constitution requires.

SEC. 5. *Be it further enacted,* That the Selectmen and Assessors, authorized and required to preside in any meeting

of a town or plantation, which shall be convened for the election of Governor, Senators and Representatives in the Legislature of this State, shall have all the powers which are legally vested in the Moderator of town-meetings for the regulation thereof. And in such meetings, the Selectmen or Assessors presiding, shall have power, and it shall be their duty to prevent and refuse the vote of any person not qualified to be an elector, whose qualifications shall be determined according to the Constitution of this State, or the Constitution of the United States, as the case may be.

SEC. 6. *Be it further enacted,* That whenever a meeting is holden in any town or plantation for the purpose of choosing Governor, Senators and Representatives, Selectmen or Assessors presiding at such meeting, be, and hereby are directed to call on the voters in such meeting qualified for choosing such officers, requiring each of them to give in their votes on one list for as many different persons as are then to be chosen to the office of Senators.

SEC. 7. *Be it further enacted,* That no person shall be permitted to give in his vote at any meeting of a town or plantation, holden for an election to any of the offices aforesaid, until the Selectmen of such town, or the Assessors of such plantation, presiding at such election, shall have had opportunity to inquire his name, and found the same in the list aforesaid; and any person wilfully voting contrary to the provision of this section, or who shall give any false answer to such Selectmen or Assessors, being duly thereof convicted, shall forfeit and pay a fine not exceeding thirty dollars, for each and every offence, according to the nature and aggravation thereof.

SEC. 8. *Be it further enacted,* That if any person, who is by law authorized to preside at any meeting, or to receive votes at any meeting, which may be holden for the choosing of Governor, Senators and Representatives to the Legislature, or any town officers, shall knowingly receive the vote of any person who is not qualified to vote agreeably to the Constitution and laws of this State, in choosing as aforesaid; such person so presiding or receiving any vote as aforesaid, shall forfeit and pay one hundred dollars; to be recovered by information, to be filed and prosecuted by the Attorney General, in the Supreme Judicial Court, or by indictment in said Court.

SEC. 9. *Be it further enacted,* That it shall not be lawful for the Selectmen or Assessors of any town or plantation, presiding at a meeting for either of the elections aforesaid, to receive any vote, unless delivered in writing by the voter in person; and the Selectmen or Assessors, who shall offend herein, shall severally forfeit and pay a sum not exceeding one hundred dollars.

SEC. 10. *Be it further enacted,* That any elector who shall

Their powers;

to refuse improper votes.

Selectmen, &c. require votes for Senators to be brought in on one list.

No person to vote until his name has been found in the list.

Penalty for so voting or giving false answer.

Penalty for presiding officer's receiving votes contrary to law.

Penalty for receiving any vote unless delivered in writing by voter himself.

Penalty for double voting or disorderly conduct.

give in more than one vote in any one election, and any person who shall be disorderly in any such meeting, shall forfeit a sum not exceeding fifty dollars, nor less than ten dollars, according to the aggravation of each offence.

Penalty for Selectmen or Assessors neglecting the duties required by 1st section of this Act.

SEC. 11. *Be it further enacted,* That if any Selectmen or Assessors of any town, or the Assessors of any plantation, shall knowingly and corruptly neglect or refuse to comply with, or to perform the several duties respectively required of him or them, as pointed out in and by the first section of this Act, he shall, for each and every such offence, forfeit and pay a fine not exceeding fifty dollars, according to the nature and aggravation thereof.

Penalty for selectmen or assessors neglecting to call meetings, &c. and do their duty at such meetings.

SEC. 12. *Be it further enacted,* That the Selectmen of any town, and the Assessors of any plantation in the several counties of this State, who shall neglect to call meetings of the inhabitants and others privileged there to vote for the election of Governor, Senators and Representatives, and to give due warning of the time and place of such meetings, as required by the Constitution of this State; or who shall refuse or neglect to preside in any such meetings, or to receive the votes of the qualified electors present; or who shall neglect to ascertain, declare and certify the number of votes; or who shall wilfully make any false declaration or certificate thereof, to the prejudice of the rights of the electors; shall forfeit a sum not exceeding eighty dollars, nor less than forty dollars; to be recovered from each Selectman or Assessor, who shall offend in the premises, according to the aggravation of each offence.

Duty of town and plantation clerks at such meetings.

And every town Clerk and the Clerk or Assessors of any plantation, present at any such meeting, who shall neglect or refuse to make a fair record of the votes; or a fair copy of such record; or to attest the same; or who shall refuse or neglect to make due and seasonable return thereof into the Secretary's office, as required by the Constitution of this State; shall forfeit a sum not exceeding eighty dollars, nor less than forty dollars, for each offence.

Penalty for neglect.

SEC. 13. *Be it further enacted,* That no officer or soldier of the militia shall be holden to do any military duty on the day pointed out in the Constitution for the election of Governor, Senators and Representatives of this State; or on any day which is or may be, appointed for the choice of Electors of President and Vice President of the United States, or Representatives to Congress: And it shall not be lawful for any such officer to exercise any military command on either of said days, except in time of war or public danger, and every officer offending herein, shall, for each offence, forfeit and pay a sum not less than ten, nor more than three hundred dollars.

No military duty on days of election of state officers, or electors, or members of Congress.

No militia officer to exercise command on such days except, &c.

Assessors in each town before 20th day of February annually to make

SEC. 14. *Be it further enacted,* That it shall be the duty of the Assessors of each town within this State, on or before the twentieth day of February annually, to make out a correct and alphabetical list of all such inhabitants of their respective

towns as may be qualified by law to vote in the choice of town officers; and it shall be the duty of said Assessors to be in session at some convenient place, to be by them notified, as provided in the first section of this Act, on the day next preceding the day of the annual election of town officers, in the month of March or April annually; unless the same happen on the Lord's day, in which case the Assessors shall be in session on the Saturday preceding, or on the morning of the day of election, as aforesaid, as the Assessors think proper; for so long time as they shall judge necessary, to receive evidence of the qualifications of persons whose names have not been entered on said list.

a list of voters for town Officers.

and to be in session on the day before the election in March or April annually, unless, &c.

SEC. 15. *Be it further enacted*, That no person shall be permitted to give in his vote or ballot, at any meeting for the choice of town officers, until the person presiding at such meeting shall have had opportunity to inquire his name, and shall have ascertained that the same is in the list aforesaid, and shall have had time to check the same; and any person wilfully voting contrary to the provisions of this section, or who shall give any false answer or false name to the Assessors, when receiving evidence of the qualifications as aforesaid, or to the person presiding in such town-meeting, shall forfeit and pay a fine not exceeding thirty dollars, for each and every such offence.

No person to vote for town Officers till his name has been found on the list, &c.

Penalty for violation, false answers, &c.

SEC. 16. *Be it further enacted*, That if any person, at any meeting for the choice of town officers, shall knowingly give in more than one vote or list, for any officer or list of officers then voted for at any such meeting, he shall forfeit and pay a fine not exceeding one hundred dollars.

Penalty for double voting.

SEC. 17. *Be it further enacted*, That the Selectmen or Assessors of any town aforesaid, who shall refuse or neglect to do and perform all or any of the duties prescribed to them by the fourteenth section of this Act, shall forfeit and pay for each and every such offence, a fine not exceeding two hundred dollars; and all the fines and forfeitures accruing in consequence of a violation of this Act, shall be recovered by indictment in any Court proper to try the same; one half to the use of the State, and the other half to the use of the complainant. This Act shall be in force from and after the first day of June next.

If town officers neglect their duty as prescribed in the 14th section.

Penalty.

[Approved March 19, 1821.]

CHAPTER CXVI.

An Act concerning the Assessment and Collection of Taxes.

SEC. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled*, That annually at the same meeting when other town officers are chosen by the respective towns in this State, there shall be chosen by the qualified

Assessors to be chosen in each town, annually.

voters then present and voting, or the major part of them, three or five meet persons, to be Assessors of all such rates and taxes as the Legislature shall order and appoint such town to pay, towards the charges of the Government within the space of one year from the choice of such Assessors, unless the warrant for the assessment shall not be by them received before the first day of March succeeding, and in case of its being received afterwards, it shall be delivered to their successors in office, who shall be under the same obligations to make the assessment as their predecessors would have been under, if they had seasonably received the same, who shall also be the Assessors of county and town taxes; and each Assessor so chosen or appointed as hereinafter prescribed, shall within the space of seven days next after being notified thereof, be sworn before a Justice of the Peace, or before the town Clerk, to the faithful discharge of his duty, in the form following: You A. B. one of the Assessors for the of C. for the year ensuing, do swear, that you will proceed equally and impartially, according to your best skill and judgment, in assessing and apportioning all such rates and taxes as you may, according to law, be directed to assess and apportion during that time. *So help you GOD.* And the Assessors so chosen and sworn shall assess the polls and estates within such town their due proportion of any tax, according to the rules in the Act for raising the same, and in this Act, and make perfect lists thereof under their hands, or the hands of the major part of them, and commit the same to the Constable or Constables, Collector or Collectors of their town, if any there be, otherwise to the Sheriff, or his deputy, with a warrant under their hands in the form hereinafter directed, and return a certificate thereof to the Treasurer of this State, for the time being, with the name of the officer to whom they shall have committed the same assessment, with a warrant as aforesaid to collect: and the said Assessors shall also have their assessment recorded in the town book, or leave an exact copy thereof by them signed, with the town Clerk, or file such copy in the Assessors' office where any such is kept, before the same shall be committed to an officer to collect, and at the same time shall lodge in the said Clerk's office the invoice or valuation, or a copy thereof, from whence the rates or assessments are made, that the inhabitants or others rated may inspect the same; and if any Assessor, after being chosen and notified to take the oath of an Assessor in the way and manner other town officers are notified and summoned, shall neglect to appear, or appearing shall refuse to be sworn, he shall forfeit and pay the sum of fifteen dollars for the use of the town, to be recovered by their Treasurer, before the Circuit Court of Common Pleas for the county in which such town lies, by complaint: *Provided always,* That it shall be in the power of the Circuit Court of Common Pleas

Oath.

To assess the polls and estates within their town, &c. of any tax laid, &c. and commit list to constable, with warrant, &c.

To leave copy of assessment, and valuation with town clerk.

Penalty for refusing to be sworn as assessor, and how recovered.

for the same county, upon reasonable excuse made to them by any Assessor that shall refuse to accept as aforesaid, to remit, if they see cause, the penalty aforesaid. And the Selectmen of every such town, when any one or more of the Assessors so chosen shall refuse as aforesaid, shall forthwith, after notice thereof, summon a meeting of the qualified voters of such town to choose an Assessor or Assessors in the room of such Assessor or Assessors so refusing, which voters, so assembled, shall accordingly choose so many Assessors as shall be wanting to complete the number which the town at the time of the first choice voted should be elected. And said complaint in substance shall be as follows :

Vacancy to be filled.

To the Justices of the Circuit Court of Common Pleas for the county of _____, to be held at _____ within and for the county aforesaid, on the _____ Tuesday of _____ next, complains A. B. Treasurer of the _____ of _____ that C. D. of [addition,] on the _____ day of _____ last, was duly and legally chosen by the qualified voters of the said _____, to serve as an Assessor thereof, and that the said C. D. was notified to take the oath of that office as the law directs ; yet the said C. D. has for the space of seven days after being notified as aforesaid, neglected, and still neglects to take the said oath, whereby he hath forfeited the sum of fifteen dollars for the use of the said _____ ; wherefore your complainant prays that a warrant of distress may be issued against the said C. D. for the forfeiture aforesaid, in form and manner as the law directs : Dated at _____ the _____ day of _____ Anno Domini, 182 . A. B. Treasurer.

Form of complaint against person refusing to be sworn as assessor.

And the same form, *mutatis mutandis*, may be used in the recovery of any penalty which may be incurred by any person chosen as a town or plantation officer, who shall neglect to take the oath of office as required by law.

SEC. 2. *Be it further enacted*, That if any town shall not choose Assessors as aforesaid, or if so many of them so chosen shall refuse to accept, as that there shall not be such a number of them as any town shall vote to be the Assessors thereof, then the Selectmen of such town shall be, and hereby are declared and appointed the Assessors thereof ; and every one of them shall be duly sworn to the discharge of the trust ; and each Assessor shall be paid out of the town Treasury one dollar for each whole day he shall be necessarily employed in that service.

Selectmen to be assessors in certain cases.

Pay of assessors.

SEC. 3. *Be it further enacted*, That if any town shall neglect to make choice of Selectmen or Assessors, the said default being made known unto the Circuit Court of Common Pleas within the same county, such town shall forfeit and pay a sum not exceeding three hundred dollars, nor less than one hundred dollars, as the said Court shall order, for the use of this State ; and in such case, as also where neither the Selectmen nor Assessors chosen by any town, shall accept the

Towns neglecting to choose assessors or selectmen, liable to fine ; and court of sessions to appoint assessors.

trust, or having accepted the trust shall not perform their duty, the Court of Sessions in the same county shall be, and hereby are empowered to nominate and appoint three or more sufficient freeholders within such county, to be Assessors of the rates or taxes in such town as aforesaid, which Assessors so appointed, after being duly sworn, shall assess the polls and estates within such town, their due proportion to any tax, according to law, together with the aforesaid penalty where the town makes default as aforesaid, and such additional sum as shall answer their own reasonable charges for time and expense in the said service, not exceeding one dollar and fifty cents per day for each man so employed; and having made such assessment, shall issue a warrant under their hands for collecting the same, and transmit a certificate thereof to the Treasurer, with the name of the officer to whom they shall commit the same to be collected; and such Assessors shall be paid their charges as abovesaid, the same being adjusted and certified by two or more Justices of the Court, by whom they were appointed Assessors, under their hands out of the public Treasury, by warrant from the Governor, with the advice and consent of Council.

their duty.

Their charges how paid.

State treasurer to send warrants, for assessing taxes, to sheriffs.

SEC. 4. *Be it further enacted,* That the Treasurer of this State shall send such warrants as he shall from time to time be ordered to issue, for the assessing any rate or tax, inclosed to the Sheriff of each respective county, who is required immediately to dispose of and transmit the same unto the Assessors of the several towns and plantations within such county, according to the directions thereof.

Assessors chosen or appointed, to obey treasurer's warrants.

SEC. 5. *Be it further enacted,* That all Assessors chosen or appointed as aforesaid shall duly observe all such warrants as during the time of their office they shall receive from the Treasurer of this State pursuant to any Act or Acts made and passed by the Legislature of this State, for the assessing and apportioning any rate or tax upon the inhabitants or estates within the town, whereof they are Assessors, on pain that the Assessors of any town failing of their duty required by such warrant of the Treasurer, shall forfeit and pay the full sum in such warrant mentioned, to be by them assessed, to the use of the State, which shall be levied by distress and sale of the estates real and personal, of such deficient Assessors, by warrant from the Treasurer, directed to the Sheriff of the county, or his deputy, in which such town lies; and the Treasurer is hereby authorized and required in such case, *ex officio*, to issue his warrant requiring the Sheriff or his deputy to levy the said sums accordingly; and for want of estate to take the bodies of such deficient Assessors, and imprison them until they pay the same; which warrant the Sheriff or his deputy is hereby empowered and required to execute accordingly. And the Court of Sessions in the county where such deficient Assessors dwell, shall be, and hereby are directed and empow-

Forfeiture for delinquency,

and how collected.

Court of Sessions to appointers in

ered forthwith to appoint other meet persons to be Assessors of such rates or taxes, according to the directions contained in the Treasurer's warrant issued unto the former Assessors; and the Assessors, who shall be so appointed, shall take the oath, and perform the same duties, and be liable to the same penalties as the former Assessors.

place of delin-
quent assessors.

SEC. 6. *Be it further enacted*, That all plantations which shall from time to time be ordered by the Legislature to pay any part or proportion of the public taxes, shall be, and they hereby are fully vested with all the powers that towns in this State by law are, so far as relates to the choice of Assessors of taxes; and any person who shall be chosen to the office of an Assessor of taxes in any of the aforesaid plantations, and shall refuse to accept of the office to which he shall have been elected, or neglect to take the oath by law required to be taken by Assessors of taxes in towns, shall be liable to the same penalties, to be recovered in the same way and manner as by this Act is provided in the case of Assessors refusing to accept such office, when chosen by towns.

Plantations
vested with
same powers as
towns in assess-
ing and collect-
ing taxes.

Assessors sub-
ject to same
duties and li-
abilities.

SEC. 7. *Be it further enacted*, That if any of the plantations aforesaid shall neglect to choose Assessors as aforesaid, or if the Assessors chosen by any such plantation, and accepting such trust, shall be remiss or neglect their duty; in every such case, such plantation shall be subject to the same penalties, and be proceeded with in the same manner as by this Act is provided, in the case of deficient towns; and such deficient Assessors shall be, and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided in the case of deficient Assessors, chosen by towns.

Plantations
neglecting, &c.
subject to same
penalties.

Deficient assess-
ors.

SEC. 8. *Be it further enacted*, That when any part or proportion of any State or County tax shall be laid on any plantation not organized, the Treasurer of the State, or of such county respectively, shall issue his precept to some Justice of the Peace dwelling near to such plantation, requiring him forthwith to grant his warrant directed to some principal inhabitant of such plantation, requiring him to notify and warn the inhabitants of such plantation qualified to vote for Governor, to meet at such time and place within the same, as in such warrant shall be specified, in order to choose needful officers for the purposes hereafter mentioned; and such principal inhabitant is hereby obliged to observe and obey the warrant that he shall receive from such Justice, on the penalty of forfeiting and paying the whole sum that shall be ordered to be levied on such plantation, to be recovered by action of debt by said respective Treasurers, in any Court of record within this State proper to try the same. And such principal inhabitant shall make return of the Justice's warrant to the Justice who issued it, with his doings therein, and the doings of the plantation in consequence of it, within the time limited in

Mode of assess-
ing and collect-
ing State or
county tax in
plantations not
organized.

such warrant; and the Justice shall thereupon certify such doings to the State or county Treasurer respectively: and such of said inhabitants as shall then assemble, shall have power, and they are hereby required to choose a Moderator and Clerk, as also Assessors and Collectors for assessing and collecting such plantation's proportion of such State and county tax, as shall be ordered to be assessed, to be duly paid, when collected by such collectors, to the State or county Treasurers respectively: and such Clerk, Assessors and Collectors shall be under oath, to be administered by the moderator of such meeting, or a Justice of the Peace, for the faithful discharge of their respective trusts, and shall have the same allowance from such plantations as such officers are entitled to by law in towns.

Assessors, &c.
to be chosen.

Duties of assess-
sors so chosen.

Such assessors
to call meeting
of inhabitants
in March or
April.

Moderator to
notify planta-
tion officers to
take oath.

Penalty for
neglect.

Assessors of
towns and plan-
tations to noti-
fy inhabitants
to bring in lists
of polls and es-
tates taxable.

SEC. 9. *Be it further enacted,* That the Assessors so chosen and sworn shall thereupon take a list of the rateable polls, and a valuation of the estates of the inhabitants of such plantation.

SEC. 10. *Be it further enacted,* That the Assessors, who shall from time to time be chosen or appointed for such plantation, shall have power and they are required to issue their warrants for calling meetings of the inhabitants thereof in the month of March or April annually, for choosing such officers as aforesaid, who shall be sworn by the Moderator or some Justice of the Peace as aforesaid.

SEC. 11. *Be it further enacted,* That every moderator of a plantation meeting, shall be held and obliged to notify the plantation officers to appear, either before himself or some Justice of the Peace, within seven days from the time of their being chosen, and take the necessary oaths; and in case of neglect shall forfeit and pay the sum of ten dollars to the use of the plantation, to be recovered by any inhabitant thereof before any Justice of the Peace within the same county.

SEC. 12. *Be it further enacted,* That the Assessors of each town or plantation, in convenient time before they proceed to make any assessment, shall give seasonable warning to the inhabitants by posting up notifications in some public place in said town or plantation, or, notify the respective inhabitants in some other way, to make and bring in to them, the said Assessors, true and perfect lists of their polls, and of all their estates both real and personal, (saving such estate as is or may by law, from time to time, be exempted from taxation,) which they were possessed of at such periods as the Legislature may from time to time order and direct. And if any person or persons shall not bring in a list of their estates as aforesaid, to the Assessors, he, she or they so neglecting or refusing, shall not be admitted to make application to the Court of Sessions for any abatement of the assessment so laid on him, her or them, unless such person or persons shall make it appear to the said Court that it was not within the power

of him, her or them, to deliver to the Assessors respectively, a list of his, her or their rateable estate, at the time appointed for that purpose. And if the Assessors suspect any falsehood in the lists of polls or estates to them presented as aforesaid, then the said Assessors, or either of them, shall require the person presenting such list, to make solemn oath that the same is true; which oath the Assessors or either of them are hereby empowered to administer; and such list being exhibited on oath, shall be a rule for that person's proportion of the tax.

and may require list to be sworn to.

SEC. 13. *Be it further enacted*, That if any person or persons shall at any time, be aggrieved at the sum or sums set and apportioned upon him or them by the Assessors of any town or plantation, and shall make it appear unto the Assessors for the time being of such town or plantation, that he or they are rated more than his or their proportion, according to the rules given in the Act or Acts of the Legislature for making the said assessment, the said Assessors for the time being shall make a reasonable abatement to the person or persons so aggrieved; and if they shall refuse so to do, such person or persons complaining in writing unto the next Court of Sessions within that county, and making it appear that he or they are over-rated as abovesaid, he or they shall be relieved by the said Court and shall be reimbursed out of the Treasury of the town or plantation where such assessment was made, so much as the said Court or Assessors respectively shall see cause to abate him or them with the charges; and the said Court of Sessions are empowered on such complaint being made, to require the Assessors or Clerk to produce the valuation by which the assessment is made, or a copy thereof.

Persons aggrieved at rates of assessors, may apply for abatement, and if they refuse may appeal to the Sessions.

SEC. 14. *Be it further enacted*, That the Assessors for any town or plantation may and are hereby authorized and empowered to apportion on the polls and estates according to law, such additional sum over and above the precise sum to them committed to assess, as any fractional division of such precise sum may render convenient in the apportionment thereof, not exceeding five per centum on the sum so committed; and it shall be the duty of such Assessors to certify such town or plantation Treasurer thereof.

Assessors in certain cases may overrate, not exceeding 5 per cent. of sum committed to them.

SEC. 15. *Be it further enacted*, That all county, town and plantation rates and taxes shall be assessed and apportioned by the Assessors of the several towns or plantations within this State, upon the polls of, and estates within the same, according to the rules that shall be prescribed in and by this Act, and the then last tax act of the Legislature; and such Assessors shall cause attested copies of such assessments and valuations to be lodged in the Clerk's office of the place where the same are made, or file the same in their own offices, if such they have.

Rules for apportionment of taxes.

SEC. 16. *Be it further enacted*, That it shall and may be

Assessors may add State and county, to their other taxes.

lawful for the Assessors of any town or plantation to add their proportion of the State and County tax to any of their other taxes, and make out warrants and certificates accordingly.

SEC. 17. *Be it further enacted,* That the warrant to be issued by the Selectmen or Assessors for the collecting and gathering in of the State rates or assessments shall be in substance as follows :

Form of warrant of selectmen or assessors for collecting State taxes.

ss. To A. B. Constable or Collector of the town of A. within the county of S. Greeting.

In the name of the State of Maine you are required to levy and collect of the several persons named in the list herewith committed unto you, each one his respective proportion therein set down of the sum total of such list, it being this town's proportion of a tax or assessment of dollars and cents, granted and agreed upon by the Legislature of said State, at their session begun and held at P—, on the day of , for defraying the necessary charges of securing, protecting and defending the same; and you are to transmit and pay in the same unto J. C. B. Treasurer of this State, or to his successor in that office, and to complete and make up an account of your collections of the whole sum, on or before the day of ; and if any person shall refuse or neglect to pay the sum he is assessed in the said list, to distrain the goods or chattels of such person to the value thereof; and the distress so taken, to keep for the space of four days, at the cost and charge of the owner; and if he shall not pay the sum so assessed within the said four days, then you are to sell at public vendue the distress so taken, for the payment thereof, with charges, notice of such sale being posted up in some public place in the same town or plantation forty eight hours next before the sale and expiration of the four days aforesaid: And the overplus arising by such sale, if any there be, besides the sum assessed, and the necessary charges for taking and keeping the distress, you are immediately to restore to the owner; and for want of goods or chattels, whereon to make distress for the space of twelve days, you are to take the body of such person, so refusing or neglecting, and him to commit into the common gaol of the county, there to remain until he pay the same, or such part thereof as shall not be abated by the Assessors for the time being, or the Court of Sessions for the said county. Given under our hands by virtue of a warrant from the Treasurer aforesaid, this day of 182 .

A. B. } Assessors.
C. D. }

And the certificate of the assessment of any State tax shall be in substance as follows :

Pursuant to a warrant from the Treasurer of the State of Maine, dated the , day of Anno Domini , We have assessed the polls and estates of the of the sum of and have committed lists thereof to the of said

viz. to with warrants in due form of law, for collecting and paying in the same to Treasurer of said State, or his successor in office, on or before the day of next ensuing. In witness whereof, we have hereunto set our hands at this day of Anno Domini.

A. B. }
C. D. } Assessors.

SEC. 18. *Be it further enacted,* That the warrant to be issued for collecting county, town or plantation rates or assessments, shall also be made out by the Assessors thereof in the same tenor, *mutatis mutandis.*

Similar form to be used in collecting county, town and plantation taxes.

SEC. 19. *Be it further enacted,* That the Assessors for the time being, of any town or plantation empowered to raise money by taxes, whenever it shall be made to appear to them by any Constable or Collector of taxes in the town, or other such place of which they are Assessors, that an original or other warrant, issued and delivered to him for the collection of any certain tax committed to him, hath been lost or destroyed by accident, shall be and hereby are empowered to issue a new warrant to such Constable or Collector for collecting the same, which shall have the same force and effect as the original warrant.

Assessors to issue new warrant to collect or when original is lost, &c.

SEC. 20. *Be it further enacted,* That if the inhabitants qualified to vote in town affairs, of any town or plantation in this State, from which any State tax or taxes now remain due and unassessed, or from which any State or county tax shall be hereafter required, shall neglect, for the space of five months after having received the warrant of the Treasurer for assessing any State tax, to choose Assessors to assess the same, and cause the assessment thereof to be certified as the law requires, to the Treasurer of the State for the time being, and agreeable to his warrant directing the same, he is hereby authorized and directed to issue his warrant under his hand and seal, directed to the Sheriff of the county or his deputy, requiring him to levy and collect, by distress and sale, the sum mentioned therein, the estates real and personal, of any inhabitant or inhabitants of such deficient town or plantation; which warrant the said Sheriff or his deputy is hereby empowered and required to execute; observing the same rules and regulations as are by law provided for satisfying warrants against deficient collectors of public taxes; and it shall be the duty of the said Sheriff or his deputy, on receiving the said warrant, forthwith to transmit an attested copy thereof to the Selectmen or Clerk of the town or plantation named therein; and if the Assessors shall within sixty days from the receipt of such attested copy, deliver to the said Sheriff or his deputy, a certificate according to law, of the assessment of the tax or taxes required by said warrant, and pay the officer his legal fees, he shall forthwith transmit the same certificate to the said Treasurer, and return the warrant unsatisfied.

When towns neglect to choose assessors for 5 months after warrant from treasurer to assess State tax, what proceedings to be had.

Inhabitants of towns and plantations neglecting to choose assessors, &c. to assess State or county tax required, State or county treasurer may issue warrant to collect, &c. directed to sheriff.

Mode of executing such warrant.

When estates of delinquent assessors are insufficient to pay State taxes required of them in certain cases,

Treasurer may issue warrant to levy such deficiency, on estates of inhabitants of such towns and plantations delinquent.

Rates to be observed.

Towns may choose collectors instead of constables, and agree upon their compensation for collecting taxes.

If collector refuse, constable to collect taxes.

Constable or collector to have warrant from selectmen or assessors.

Case of decease of constable, &c. before collection, assessment, appointment.

SEC. 21. *Be it further enacted,* That if the inhabitants qualified to vote in town affairs of any town or plantation in this State, from which any State or county tax shall hereafter be required, shall neglect to choose and keep in office, Assessors to assess the same as the law requires, the Treasurer of the State, or of the county, for the time being, is hereby authorized and directed to issue his warrant, under his hand and seal, directed to the Sheriff of the county or his deputy, requiring him to levy and collect the sum mentioned therein in manner aforesaid: And the said Sheriff or his deputy shall execute said warrant, observing all the rules and regulations and all the provisions mentioned in the twentieth section of this Act.

SEC. 22. *Be it further enacted,* That if the inhabitants qualified to vote in town affairs, of any town or plantation in this State, from which any State tax or taxes now remain due and unassessed, or from which any State or county tax shall be hereafter required, shall choose Assessors who shall neglect to assess the tax required by the warrant issued to them, or to re-assess any tax on the failure of any collector, and to certify the assessment as the law directs, and the estates of such Assessors shall be found insufficient to pay the same tax in the manner already provided; then, and in every such case, the Treasurer of the State or of the county, for the time being, is hereby authorized and directed to issue his warrant, under his hand and seal, directed to the Sheriff of the county, or his deputy, requiring him to levy and collect by distress and sale, so much of the sum mentioned therein, as the estates of the Assessors shall be insufficient to pay, of the estates, real or personal, of any inhabitants of the deficient town or plantation; which warrant the said Sheriff or his deputy shall execute; observing all the rules and regulations, and all the provisions mentioned in the twentieth section of this Act.

SEC. 23. *Be it further enacted,* That the qualified voters of any town, at the time they choose Constables, may if they see cause, likewise choose some meet person or persons to be collector or collectors of the rates or taxes that shall be assessed upon such town, and agree upon what sum shall be allowed and paid unto such collector or collectors, for his or their services; but if such collector or collectors so to be chosen, shall refuse to serve, or if no collector shall be chosen, then the Constable or Constables of such town shall collect and gather such rates and taxes; and every collector of taxes or Constable, shall have a warrant from the Selectmen or Assessors, empowering him to collect such rates or taxes as shall be committed to him to collect, and he shall pay in the same according to the directions in such warrant, and in case any Constable or Collector of taxes decease before his perfecting the collection of any assessment committed to him to collect and pay into the State Treasury, the Assessors for the time

being of such town or plantation shall nominate and appoint, at the charge of such town or plantation, some other fit person or persons to perfect the same collection, and enable and empower such person or persons to collect the same, by granting a warrant to him or them for that purpose. And such Assessors are hereby authorized to require of every such Collector or Constable a bond in such sum and with such sureties, to the Treasurer of such town, conditioned for the faithful discharge of his duty as collector, before they proceed to deliver to such Collector or Constable a warrant for collecting rates or assessments, and on his neglecting or refusing to procure such bond, he shall be considered as refusing to accept such office.

Constable or collector to give bond.

SEC. 24. *Be it further enacted;* That all plantations which shall from time to time be ordered by the Legislature to pay any part or proportion of the public taxes are fully vested with all the powers that towns in this State by law are vested with, so far as relates to the choice of Constables and Collectors of taxes and requiring bonds of the same.

Plantations vested with same powers as towns in regard to collectors, &c.

SEC. 25. *Be it further enacted,* That the oath to be administered to the Constable in any town shall be in the form following:

Whereas you A. B. are chosen Constable within the town of C. for one year now following, and until other be chosen and sworn in your place, do swear, that you will carefully intend the preservation of the peace, the discovery and preventing all attempts against the same; that you will duly execute all warrants which shall be sent unto you from lawful authority, and faithfully attend all such directions in the laws and orders of Court as are or shall be committed to your care, that you will faithfully, and with what speed you can, collect and levy all such fines, distresses, rates, assessments and sums of money for which you shall have sufficient warrants, according to law; rendering an account thereof, and paying the same according to the direction in your warrant; and with like faithfulness, speed and diligence, you will serve all writs, executions and distresses in private causes, betwixt party and party, and make return thereof duly in the same Court where they are returnable; and in all these things you shall deal faithfully whilst you shall be in office, without any sinister respects of favor or displeasure. So help you GOD.

Constable's oath.

And the oath to such as may be collectors only, shall be in form following:

You A. B. being appointed a collector of taxes within the of , for one year next following, do swear, that you will levy and collect, with what speed you can, all such rates and assessments, for which you shall have sufficient warrants according to law, rendering an account thereof, and paying the same, according to the direction in your warrant. So help you GOD.

Collector's oath.

Constable or collector may distrain goods. &c. of persons taxed, who refuse to pay,

and sell distress in four days at auction, giving 48 hours' notice.

Overplus to be restored to owner.

Collector may arrest body 12 days after demand, &c.

and in certain cases may arrest before expiration of 12 days.

Where taxes are payable by instalments, and any person is about to remove, before whole is payable, collector may still demand and levy the whole.

SEC. 26. *Be it further enacted,* That if any person shall refuse to pay the sum or sums which he shall be assessed as his proportion to any rate or tax in the list committed to any Constable or Collector, under the hands of the Assessors of such town or plantation, or the major part of them, upon demand thereof made by such Constable or Collector by virtue of the warrant to him given, it shall and may be lawful to and for such Constable or Collector, and he is hereby authorized and required in such case to distrain the person so refusing by his goods or chattels, and the distress so taken to keep the space of four days at the cost and charge of the owner thereof; and if the owner do not pay the sum or sums of money so assessed on him, within the space of four days, then the said distress shall be openly sold at public auction, by the said officer for the payment of the said money, notice of such sale being posted up in some public place in the same town or plantation, forty-eight hours next before the sale and expiration of the four days aforesaid; and the overplus arising by such sale, if any, over and above the charge of taking and keeping the said distress, to be immediately restored to the former owner with an account in writing, of the sale and charges. And if any person assessed as aforesaid, to the State or other tax, shall refuse or neglect to pay the sum or sums so assessed, by the space of twelve days after demand thereof, and shall neglect to show the Constable or Collector sufficient goods or chattels, whereby the same may be levied, in every such case he may take the body of the person so refusing, and him commit unto the common gaol of the county, there to remain until the same be paid, or he therefrom be discharged by due order of law: *Provided nevertheless,* That in all cases, where there are, in the opinion of the Assessors, or a major part of them, just grounds to fear that any person or persons, assessed as aforesaid, may abscond before the expiration of the said twelve days, in such cases it shall be in the power of the Constable or Collector to demand immediate payment, and on refusal, to commit as aforesaid.

SEC. 27. *Be it further enacted,* That when any State or other rate or tax shall be made payable at two or more several times or days of payment, and any person, being an inhabitant of any town or plantation within this State at the time of making such rate or tax, and being assessed thereunto, shall be about to remove from thence before the time that shall be prefixed for the payment of the same, it shall and may be lawful for the Constable or Collector of the same town or plantation, to demand and levy the whole sum which such person may be assessed in his list or lists, notwithstanding the time for collecting the second part of such rate or tax may not then have arrived, and in default of payment to distrain for the same or to take such other course for the obtaining thereof, as is here-

in before provided : And when the Constables or Collectors be anew chosen and sworn, in any town, plantation or parish, before the former Constables or Collectors have perfected their collection of any State or other tax or assessment to them committed to collect, such former Constables or Collectors are hereby fully empowered and required to perfect all such collections, and shall and may exercise the same powers and authority for the collecting and enforcing the payment thereof as by this Act they might have done before other Constables or Collectors were chosen and sworn.

Collectors, &c. superseded may perfect the collection of taxes committed to them.

SEC. 28. *Be it further enacted,* That when any person shall remove from any town or place, where he lived or had his residence at the time of making the list of any State, town, county, plantation or parish tax or assessment, not having before paid the respective sum or sums set upon him by such lists, it shall and may be lawful for the Constable or Collector, to whom any such tax or assessment shall be committed, with a warrant to collect, and he is hereby authorized and empowered to demand the sum or sums assessed upon such person, in what town or place soever, within this State, he may be found ; and upon refusal or neglect to pay the same, to distrain the said person, by his goods and chattels as aforesaid, and for want of such distress, to commit the party to the common gaol of the county where he shall be found, there to remain until payment be made.

When persons remove before paying their taxes, constable, &c. may collect of such persons wherever found.

SEC. 29. *Be it further enacted,* That where any person duly rated in any town, parish or plantation, hath died or shall die before the payment of the same rates, and where any person duly rated as aforesaid, hath removed or shall remove out of the town or plantation in which such person lived at the time such rates were or may be assessed, before the payment of such rates ; and where any unmarried woman, being duly rated as aforesaid, hath intermarried or shall intermarry before the payment of such rates ; in all such cases, it shall and may be lawful for the Constables or Collectors of such town, parish or plantation, to sue for such rates, and they shall have the like remedy for the recovery thereof, as other creditors have for recovering their proper debts. And the Assessors of any town, in assessing any State, county or town taxes, may and hereby are authorized at their election to assess improved lands, houses or tenements to the tenants in possession of the same, or to the owners thereof, if living within the State.

Where persons rated, die or remove, or females marry before payments, constables may sue for such rates, &c.

Assessors may assess improved lands, houses, &c. to tenants, or to owners, if within the State.

SEC. 30. *Be it further enacted,* That where no person appears to discharge the taxes on the unimproved lands of non-resident proprietors, or improved lands of proprietors living out of the limits of this State, to the Collector thereof, he shall advertise in the public newspapers of the printer to the State for the time being, three weeks successively the names of all such proprietors, where they are by him known, with the sum

Taxes on unimproved lands of non residents, or improved lands of proprietors out of State, if not paid, to be advertised.

Mode of publishing, &c.

If not then paid, collector to sell at auction so much as will pay the taxes and charges.

May adjourn sale.

Right of redemption saved, and conditions.

Purchasers not to commit waste.

Where owners of improved real estate, living within the State, but not in the town where estate lies, neglect for 6 months to pay taxes thereon, the

of the taxes assessed on their lands respectively, and also the time and place of sale; and where they are not known he shall, in the same manner, publish the sum of the taxes on the several rights, numbers of lots, or divisions; and where the name of the place in which such lands lie may have been altered by any Act three years next preceding such advertisement, he shall express not only the present name, but the name by which the same was last known, and in either case shall post the same in some convenient and conspicuous place in the same town or plantation, as the case may be, where the said lands lie, for the term of three weeks previous to the time appointed for such sale; and also advertise the same in one of the newspapers printed in the county where said lands lie, or in the next adjoining county, if any such there be, for three weeks successively, previous to the time of sale; and if no person shall appear thereupon to discharge the said taxes and all necessary intervening charges, then the Collector aforesaid shall proceed to sell at public auction to the highest bidder, (after waiting two hours from the time appointed for said sale,) so much only of the said lands as shall be sufficient to discharge said taxes, and the necessary intervening charges, having first given notice of the intended sale thereof, and the time and place when and where the same will be made as aforesaid; and shall have power to adjourn from day to day, (if necessary,) to complete the said sale, not to exceed three days, (waiting as aforesaid,) and shall give and execute a deed or deeds, to the purchaser or purchasers, his or their heirs, and assigns, expressing therein the cause of such sale; and saving to the aforesaid proprietor or proprietors, the right of redemption of any lands so sold within any time for the space of two years from the time of such sale; and the same shall be reconveyed to him or them, the said proprietor or proprietors, on paying within two years as aforesaid, the sum such land sold for with interest, at the rate of twenty per cent. per annum on said sum, together with all necessary intervening charges: *Provided nevertheless*, That the purchaser or purchasers as aforesaid, shall not make any strip or waste on the premises, until the time of redemption shall have expired; and if the said purchaser or purchasers shall make any strip or waste on the premises as aforesaid, he or they shall be liable to pay all damages to the original owner or owners, in as full and ample a manner as if he or they had not purchased the same.

SEC. 31. *Be it further enacted*, That where the owners of improved real estate living within this State, but not in the town in which such real estate lies, shall be taxed to any State, county or town taxes, and shall neglect for the space of six months after the same have been committed to an officer to collect, to pay and discharge the same, it shall and may be lawful for such officer to distrain such person by his goods or

chattels, and for want of such goods, to commit him to the common gaol of the county, where he shall be found; or such officer may, after giving two months notice in writing to such owner, sue him for such taxes in an action of debt; or such officer may after such notice as aforesaid, proceed to sell such real estate, or so much thereof as may be necessary to pay said taxes and charges of selling the same, conforming in all respects to the provisions contained in the thirtieth section of this Act. And if the improved real estate taxed as above mentioned, shall consist of a saw mill, grist mill, mill factory, mill privilege, or other real estate which cannot be divided without prejudice to the whole, and where the whole of the same is not necessary to be sold to satisfy the taxes on the same, the officer, having such taxes to collect, may sell such undivided part of the same as may be sufficient to satisfy such taxes and charges of selling.—And the owner of any such improved real estate, so sold, shall have the same right of redemption, and on the same terms, as the owners of unimproved land sold for taxes are by law entitled. And the purchaser, in case of redemption by the owner, shall be obliged to account with such owner for the rents and profits of such real estate so sold, over and above the improvements made on, and the taxes paid for the same; and shall also be liable to such owner for any strip or waste made on the same: *Provided however,* That no officer to whom any warrants for the collection of taxes may be committed, shall be authorized to sell any improved or unimproved land as mentioned in the thirtieth and thirty-first sections of this Act, after the expiration of two years from the date of such warrants.

SEC. 32. *Be it further enacted,* That where any non-resident proprietor of any lands in any town or plantation within this State, shall have authorized in writing, any person residing and dwelling in any such town or plantation as his attorney, to pay the taxes imposed upon such lands, and such written authority shall have been lodged with or recorded by the Clerk of such town or plantation, which such Clerk is hereby required to do, upon application of such attorney, and payment of twenty-five cents for filing or recording the same; no Constable or Collector of taxes in any such town or plantation, shall proceed to advertise the sale of any lands of any such non-resident proprietors, for non payment of any taxes committed to them to collect, without first notifying and demanding payment of such tax of such attorney, either personally or by written notice and demand left at his dwelling house, nor till after the expiration of two months from and after such notice. And in case such Collector shall have occasion, after said two months, to advertise such lands for sale upon neglect of payment of the taxes, his affidavit made before a Justice of the Peace, and recorded by the Clerk of such town or plantation, (who is hereby required, upon re-

officer may distress on commit delinquents, where found;

or after 2 months notice, officer may sue, or sell such real estate at auction.

If real estate cannot be divided, as mills, &c. he may sell undivided part, &c.

Owner may redeem.

Purchaser to account for profits, &c.

Limitation of authority to make such sales to 2 years after date of assessors' warrant.

Where non-residents have a duly authorized and notified attorney in town, &c. where lands taxed lie, such attorney must have notice before any such sale.

What shall be legal evidence of notice to such attorney.

quest of such Constable or Collector to record the same,) before any sale be made that such personal or written notice was given, and expressing the time of giving the same, shall be admitted as legal evidence thereof.

Collectors of State and other taxes may require aid, if resisted.

Fine for refusing to aid.

Proviso.

Imprisonment on default of payment of fine.

SEC. 33. *Be it further enacted,* That if any of the Collectors of the State, county, town or parish rates and taxes, when in the execution of their office, shall be hindered or impeded in collecting the rates and taxes committed to them, it shall be lawful for such Collectors to require some meet person or persons to aid and assist them therein; and that all persons so required, who shall refuse their aid and assistance, shall severally pay a fine to the town or plantation where the offence may arise, not exceeding six dollars at the discretion of the Justice before whom the conviction may be had, by complaint or information in writing, according to the circumstances of the offence: *Provided,* That it appears to the Justice, that the aid so demanded as aforesaid, was necessary; and on default of payment of the fine imposed, the Justice may order the offender to be committed to the common gaol of the county for the space of forty eight hours.

Constable, &c. having taxes to collect out of his own town, &c. may require aid in towns, &c. and adjacent lands where taxes are to be collected.

SEC. 34. *Be it further enacted,* That when and so often as any Constable or Collector of public taxes, shall have any list of assessment to him committed, in which list shall be named and legally assessed in any sum or sums, any person or persons not inhabitants of the town or plantation to which such Constable or Collector belongs; in every such case it shall and may be lawful for any such Constable or Collector to require and command any person or persons within the limits of their respective towns or plantations, to assist such Constable or Collector in the collection of the taxes assessed as aforesaid, on any of the inhabitants of any such adjacent lands; and such Constable or Collector may, and hereby is also fully authorized to require and command any of the inhabitants of the aforesaid lands adjacent, to assist him in collecting any such assessment as aforesaid.

Penalty for refusing to aid constable, &c. in such cases.

SEC. 35. *Be it further enacted,* That if any person or persons, when thereunto required, shall refuse or neglect to aid and assist any Constable or Collector requiring such aid, he or they so refusing or neglecting, shall be, and hereby are made liable to, and shall pay the same penalties, to be recovered and disposed of in the same manner, as is provided in case of refusing to assist Constables or Collectors when thereto required, within the limits of their respective towns.

Collectors to exhibit to Selectmen, &c. once in two months, accounts of their collections, &c.

SEC. 36. *Be it further enacted,* That the several Collectors of public taxes shall once every two months, at least, exhibit to the Selectmen, and where there are no Selectmen, to the Assessors of the respective towns or plantations to which they belong, a just and true account of all the monies they have

received on the several taxes committed to them, and produce the Treasurer's receipts for all the monies by them respectively paid into the Treasury.

SEC. 37. *Be it further enacted,* That if any Collector of public taxes shall neglect to exhibit his accounts in manner aforesaid, he shall forfeit and pay for every neglect, the sum of two and a half per cent. on the sum or sums committed to him to collect, to the use of the town or plantation of which he is or has been a collector, to be recovered by such town or plantation in any court of law proper to try the same.

SEC. 38. *Be it further enacted,* That where any Constable or Collector in any town, plantation or parish within this State, shall have had any rates or assessments committed to him to collect, and has removed, or in the judgment of the Selectmen, Assessors or Treasurer of the said town, or the committee or Treasurer of the parish, (as the case may be,) is about to remove out of this State, before the time set in his warrant or warrants to make payment to the several Treasurers therein mentioned, or the time of payment be elapsed, and the Treasurer or Treasurers has thereupon issued his or their warrant or warrants of distress; that in either case it shall and may be lawful for the Selectmen of such town, Assessors of such plantation, or committee of such parish, on their own motion, or at the request of their respective Assessors or Treasurers, to call a town, plantation or parish meeting, in due form of law, setting forth in their warrant the cause of such meeting, and requiring the voters qualified by law at the said meeting, if the said voters shall think it proper, either by themselves or such person or persons as they shall appoint, to settle with the said Constable or Collector, who is under either of the above mentioned circumstances, and who has or is about to remove as aforesaid, for the money he has received on the rate bill or bills that have been delivered to him, and demand and receive his said bill or bills, and give him a discharge therefor; and at the said meeting may proceed to the choice of another Constable or Collector. And the Assessors shall make out a new warrant under their hands, in due form of law, and shall deliver the warrant together with the same bill or bills, to the person chosen as aforesaid, to collect and levy what shall be remaining due thereon, and the person so chosen is hereby vested with the same authority to levy and collect what shall then remain due on the same bill or bills, as the Constable or the Collector was, to whom they were first committed.

SEC. 39. *Be it further enacted,* That if any Constable or Collector so removing or intending to remove himself out of this State, shall refuse to deliver the bill or bills of rates or assessments committed to him to collect, and all monies collected by him thereon and remaining in his hands, when demanded by the Assessors or Selectmen or the major part of them as

Forfeiture for neglect.

When collector of town, parish, &c. is about to remove, or has removed, before time of payment to treasurers or after, &c. town or parish, &c. meeting may be called to see if they will settle with and discharge such collector:

and choose another collector, to whom assessors shall deliver warrant to finish the collection.

Forfeiture for collector, &c. removing or intending to do, refusing to deliver bills committed to him and money collected.

aforesaid, to deliver the same, he shall pay a fine of two hundred dollars to the use of the town, plantation or parish of which he was Constable or Collector, to be recovered by such town, plantation or parish, in any action of debt to be brought in any Court of law proper to try the same, and shall remain liable to pay what shall remain due upon the bill or bills committed to him to collect, as is provided by this Act.

Constable, &c. becoming non compos, or incapable, &c. before completing his collection, assessors may appoint substitute to fulfil;

his power, &c.

Proviso.

When insane or infirm collector has overpaid assessors, such overplus shall be refunded.

Assessors may demand and receive from such insane collectors, or their guardians or executors, &c. the lists of assessments, &c. and deliver them to the new collector.

State treasurer may issue warrant of distress against delinquent constables, &c.

SEC. 40. *Be it further enacted*, That when any Constable or Collector of any town, plantation or parish, who is already, or may hereafter become *non compos mentis*, and who hath, or may have a guardian duly appointed, or who hath already been, or may hereafter, by bodily infirmities, be rendered incapable of discharging the duties of his office, in the judgment of the Assessors, before such insane or infirm Constable or Collector hath perfected his collection, the Assessors shall thereupon procure and appoint in writing under their hands some suitable person a collector, to perfect such collection, and grant him a warrant for that purpose; and the person so appointed shall have the same power and authority as were granted to such insane or infirm Constable or Collector: *Provided nevertheless*, That no person shall be appointed to complete the collection of such infirm Collector unless he shall request the same: *And provided further*, That when it shall appear to the Assessors, that such insane or infirm Constable or Collector shall have paid to the Treasurer or Treasurers, to whom he was accountable, a larger sum or sums of money than the amount of the monies that he has collected from the persons borne on his list of assessment, the Assessors, in their warrant to the Collector by them appointed, shall direct him to pay such sum as shall appear to them to be overpaid, as aforesaid, to the guardian of such insane Constable or Collector, or to such infirm Constable or Collector as the case may be. And in the cases aforesaid, and in case of the decease of any Constable or Collector of taxes before his perfecting his collection, the Assessors for the time being shall have power to demand and receive the list or lists of Assessments of and from such infirm Constable or Collector, or from the guardian of such Constable or Collector as shall be *non compos mentis*, or from the executors or administrators of any deceased Constable or Collector, or of and from any person in whose hands the same may be, and to deliver the same to the Collector newly appointed.

SEC. 41. *Be it further enacted*, That if any Constable or Collector to whom any tax or assessment shall be committed to collect, shall be remiss and negligent of his duty in not levying and paying unto the Treasurer of this State such sum and sums of money as he shall from time to time have received, and as ought by him to have been paid within the respective times set and limited by the Assessors' warrant pursuant to law, the Treasurer of this State is hereby empowered, af-

ter the expiration of the time so set, by warrant under his hand and seal directed to the Sheriff or his deputy, to cause such sum and sums of money to be levied by distress and sale of such deficient Constable or Collector's estate real and personal, returning the overplus if any there be; and for want of such estate, to take the body of such Constable or Collector and to imprison him until he shall pay the same, which warrant the Sheriff or his deputy is hereby empowered and required to execute accordingly.

SEC. 42. *Be it further enacted*, That whenever the time fixed by law for collecting any tax shall have expired, the Treasurer of this State shall and he is hereby authorized and empowered, at the request of the Selectmen or Assessors of any town or plantation, to issue his execution against any Collector or Collectors of their respective towns or plantation without further order.

SEC. 43. *Be it further enacted*, That if any Constable or Collector, so failing as aforesaid, have no estate to be found whereon to make distress, and his person cannot be taken within the space of three months from the time a warrant of distress shall issue from the Treasurer of this State as aforesaid, or being taken and committed to gaol, shall not within three months satisfy the same, in such case the town or plantation, whose Constable or Collector so fails of his duty, shall within three months from the expiration of the said three months first mentioned, make good to the Treasury the sum or sums due or owing to the same from such deficient Constable or Collector: and the Assessors of such town or plantation, having notice in writing from the Treasurer of the failure of any Constable or Collector as aforesaid, shall forthwith thereupon, without any other or further warrant, assess the sum the said deficient Constable or Collector is deficient, upon the inhabitants and estates of such town or plantation in manner as the sum so committed to such deficient Constable or Collector was assessed, and commit the same to some other Constable or Collector with warrant to collect; and in default thereof the Treasurer of this State is directed and empowered to issue a warrant of distress, against such deficient Assessors for the whole sum which may remain due from such deficient Constable or Collector, which shall be executed in the same manner as is prescribed in this Act for serving other warrants of distress, which may be issued by such Treasurer: *Provided always*, That such Constable or Collector failing of his duty as aforesaid, for whose default the town or plantation is answerable, as before expressed, shall, at all times afterwards, be liable to the action or suit of the inhabitants, in their corporate capacity, for all such sum and sums as were assessed upon the same through his defect, and for other damages occurring to them thereby. And in case of the decease of any Constable or Collector in any town, plantation or parish before his hav-

Treasurer of State may issue execution at request of selectmen, &c. against collectors, &c. when time fixed for collecting any tax has expired.

Towns, &c. to make up deficiency of negligent or delinquent collectors to the State treasurer.

Assessors, &c. to assess such deficient sums upon the inhabitants, &c.

and commit to some other constable, &c. to collect.

If not, treasurer to issue warrant of distress against such assessors for amount of deficiency.

Provided—Constable still liable to town, &c. for his default.

Executors and administrators of deceased constable or collector.

tor to make up and adjust his accounts with assessors, when unsettled:

ing adjusted the accounts of his assessments to him committed to collect, for such town, plantation or parish, the executors or administrators of such Constable or Collector shall, within two months after his decease, settle and make up accounts with the Assessors of the said town, plantation or parish, of such part of the assessment as was received and collected by the deceased Constable or Collector, in his life time, with which such executors or administrators shall be chargeable in like manner as the deceased Constable or Collector should be, if living; and such Assessors shall thereupon procure and appoint, in writing, some suitable person, a Collector to perfect such collection; and the person so appointed, is accordingly hereby empowered and required to execute all such powers as were granted to the deceased Constable or Collector: and if the executors or administrators of any Constable or Collector so deceased, not having fully collected the assessment committed, shall fail of making up and settling the account of what was received by the deceased as aforesaid, before the expiration of the time aforesaid, such executors or administrators shall be chargeable with the whole sum committed to their testator or intestate, in case there be sufficient assets, in the same manner the deceased Constable or Collector should be, if living.

and assessors to appoint some person to perfect such collection, with powers, &c.

Liability of executors, &c. failing to settle accounts, &c.

Treasurers of counties, towns, parishes, &c. may issue their warrants against deficient or negligent collectors.

SEC. 44 *Be it further enacted,* That if the Constable or Collector of any town, plantation or parish within this State, to whom any county, town, plantation or parish rates or assessments shall have been committed to collect, shall be remiss in his duty, by neglecting to collect and pay in the same to the Treasurer of such county, town, plantation or parish, by the time fixed in the warrant to him directed, such Treasurer is hereby empowered to issue his warrant returnable in ninety days under his hand and seal directed to the Sheriff of the county or his deputy, (who are hereby respectively directed and empowered to execute the same,) to cause such sum or sums of money as such Constable or Collector hath not paid in, to be levied by distress and sale of his estate real or personal, returning the overplus, if any there be; and for want of such estate to take the body of such Constable or Collector and him imprison until he pay the same; and the warrants shall be in substance as follows:

To be levied by distress, &c.

Form of such warrant.

(SEAL.) ss. A. B. Treasurer of the of B. in the said county: To the Sheriff of the county of or his deputy, Greeting.

Whereas C. D, of aforesaid [addition] on the day of being a of rates and taxes granted and agreed on by the aforesaid, had a list of assessments, duly made by the Assessors of the aforesaid, amounting to the sum of committed to him, with a warrant under their hands, directing and empowering him to collect the several sums in the said assessment mentioned, and pay the

same to the Treasurer of aforesaid by the day of ; but the said C. D. hath been remiss in his duty by law required, and hath neglected to collect the several sums aforesaid, and pay the same to the Treasurer of the aforesaid; and there still remains due thereof the sum of , and the said C. D. still neglects to pay the same; you are hereby in the name of the State of Maine required forthwith to levy the aforesaid sum of by distress and sale of the estate real or personal of the said C. D. and pay the same unto the Treasurer of the said , returning the overplus, if any there be, to the said C. D. and for want of such estate to take the body of the said C. D. and him commit to the gaol in the county aforesaid, there to remain until he has paid the sum of , with forty cents for this warrant, together with your fees, or that he be otherwise discharged therefrom by order of law; and make return of this warrant to myself or my successor, as Treasurer of the said , within ninety days from this time, with your doings therein. Given under my hand and seal, this day of in the year of our Lord one thousand eight hundred and .

SEC. 45. *Be it further enacted*, That all executions or warrants of distress, that have been, or may hereafter be issued by the Treasurer of this State or by the Treasurer of any county, town, plantation or parish against any Constable or Collector which hath been or may be hereafter delivered to the Sheriff of any county within this State, or his deputy, such Sheriff or deputy shall make return of his doings thereon unto the Treasurer who issued the same execution or warrant of distress, within a reasonable time after the return day in the same mentioned, with the money, if any, that he hath received and collected by virtue thereof; and where the same shall necessarily be returned unsatisfied, or satisfied in part only, such Treasurer may issue an alias for such sum as may remain due on the return of the first, and so *toties quoties*; which reasonable time after the return day shall be computed at the rate of forty eight hours for every ten miles distance from the dwelling house of the Sheriff or his deputy, to the place where the warrant may be returnable; and any Sheriff or deputy Sheriff, that shall make default in accounting for, and paying in the monies he may have collected and received of any deficient Constable or Collector, by execution or warrant of distress as aforesaid, or in making return of his doings within reasonable time as aforesaid, shall be liable to pay the whole sum in such execution or warrant of distress mentioned; and the Treasurer of this State, and the Treasurers of the counties, towns, plantations and parishes respectively, are hereby authorized and empowered to make out their warrants respectively, directed to the Coroner of such county, where any Sheriff or his deputy is deficient as aforesaid, requiring them

Warrants or executions to be returned to treasurers by whom issued,

and if unsatisfied may be renewed.

Liabilities of sheriff, &c. for neglecting to execute and return such precepts.

Treasurers may issue execution against such deficient sheriffs to be collected by coroners.

respectively as aforesaid to distrain for the same, upon the estate, real or personal of such deficient Sheriff or his deputy, as is before directed herein, with respect to the Sheriff or his deputy making distress upon the estate of deficient Constables or Collectors; which warrant the Coroner of any county respectively is hereby empowered and required to execute.

Mode of executing treasurers' warrants.

SEC. 46. *Be it further enacted*, That any officer who may have occasion to distrain any personal property of any deficient Constable or Collector, by force of any warrant of distress or execution issued by the Treasurer of the State, or by the Treasurer of any county, town, plantation or parish, shall proceed in the sale of said personal property, in the same manner such officer by law is obliged to proceed in serving executions upon judgments obtained by creditors against their debtors, where personal estate is taken for satisfying the same.

Mode of levying treasurers' executions or warrants on real estate of deficient constables, sheriffs, &c.

SEC. 47. *Be it further enacted*, That when any execution or warrant of distress issued by the Treasurer of the State, or Treasurer of any county, town, plantation or parish to the Sheriff or his deputy, or to the Coroner, shall be levied on the lands, tenements or hereditaments of any deficient Constable, Sheriff or deputy, in every such case the officer executing such warrant of distress, shall make sale thereof at public vendue to the highest bidder, and execute a good deed or deeds of bargain and sale thereof, to the purchaser, having first given notice of the time and place of sale, by posting advertisements, at least fourteen days previous thereto, in two or more public places in the town or place where such lands or tenements lie, as also in the two adjacent towns; and all deeds and conveyances of any such lands or tenements duly executed as aforesaid, shall be good and effectual in law unto the purchaser, his heirs and assigns forever to all intents and purposes, as though executed by the deficient Constable, Sheriff or deputy; and in case the produce of such lands and tenements shall not satisfy the sum or sums, mentioned in the said warrant or warrants of distress, together with reasonable charges arising thereon, then the Treasurer issuing such warrant, shall issue an alias execution or warrant of distress for such remaining sum or sums, and the officer executing the same for want of estate, shall take the body of such deficient Constable, Collector or deputy Sheriff, and him commit unto the common goal of the county whereto he belongs until he shall pay the same: *Provided always*, That when any Constable, Collector or deputy Sheriff shall be committed to goal for default in payment of any taxes committed to him to collect, such Constable, Collector, or deputy Sheriff shall be admitted to the liberty of the goal yard, they procuring sufficient bonds in the same manner as by law is prescribed for other debtors.

Constables, sheriffs, &c. committed may have liberty of yard.

Assessors to demand of constable, &c. taken in execution, by of all as-

SEC. 48. *Be it further enacted*, That whenever a Constable or Collector of any town, plantation or parish, shall be taken on execution by virtue of this Act, it shall be lawful for

the Assessors of such town, plantation or parish, for the time being if they see fit, to demand and receive of the Constable or Collector, taken as aforesaid, a true copy of any or all the assessments which as Constable or Collector aforesaid, he had in his hands unsettled, at the time of being taken as aforesaid, with the whole evidence of all payments on the assessments demanded as aforesaid; and in case the said Constable or Collector, taken as aforesaid, shall upon being demanded thereto, deliver up to the said Assessors, all the assessments, which he as Constable or Collector as aforesaid shall have in his hands unsettled, together with the whole evidence of all payments on the assessments demanded as aforesaid, then the said Constable or Collector shall receive such credit as the said Assessors, from an inspection of his assessments shall adjudge him entitled to; and the said Collector or Constable taken as aforesaid shall be holden for the payment for such sum or sums of money, as shall be found deficient, after being credited as aforesaid; and the same town, plantation or parish may proceed to the choice of another Collector at any other time besides the annual meeting, in March or April, to finish the collections on the same assessments, who shall be sworn to the faithful discharge of his office; and the Assessors for the time being respectively, on receiving the assessment as aforesaid shall make and deliver to the same Collector chosen and sworn as aforesaid, a warrant or warrants for finishing the collections last aforesaid in form prescribed, *mutatis mutandis*, and the same Collector shall proceed to finish such collections in the same manner as Constables or other Collectors are to proceed in collecting like species of rates or taxes; and if any Constable or Collector taken as aforesaid shall on demand as aforesaid, refuse to exhibit and deliver up his assessments, with the evidence as aforesaid, he shall forthwith, either by the officer taking him as aforesaid, or by warrant from some Justice of the Peace, be committed to the common gaol of the county there to remain until he shall exhibit the same for the purpose aforesaid; and the Assessors of such town, plantation or parish are hereby empowered to take the duplicate or copies of the records of such assessments, if the same are recorded, and the same copies to deliver to the Collector chosen as last aforesaid, who, having received the same and a warrant therefor, shall proceed to finish the collection of the rates and taxes in the same assessments mentioned, of the persons who did not pay the same to the Constable or Collector taken as aforesaid: *Provided always*, That the Collectors chosen to finish the collections aforesaid, on averment of payment by the person or persons assessed to the Constable or Collector taken as aforesaid, and denial of payment to the Collector for finishing the said collections shall not proceed to distrain or imprison any person, unless a vote of such town, plantation or parish, is first had therefor, and certified to the same Collector by the Clerk of such town, plantation or parish.

assessments in his hands unsettled with evidence, &c. &c.

Further proceedings on delivery of such copy, &c. and settlement with assessors.

Towns, &c. may proceed to choose collector to finish collection.

Such collector's powers, &c.

Proceedings in case such constable, &c. refuse to deliver up assessments, evidence, &c.

Where towns, &c. neglect to choose constables or collectors, sheriff &c. empowered to collect.

SEC. 49. *Be it further enacted,* That where any town shall neglect to choose a Constable or Collector, or if any plantation shall neglect to choose a Collector to gather the rates or taxes granted by the Legislature, that in such case, the Sheriff of the county, or his deputy, shall be and hereby is empowered and directed to collect such rates or taxes, having received an assessment made of the proportion of the several persons rateable in such town or plantation, together with a warrant under the hands of such Assessors as shall be appointed by the Court of Sessions in the county where such deficient town or plantation lies, or under the hands of the Assessors of such town or plantation duly chosen by them respectively.

Plantations neglecting to choose constables, &c. or choosing remis collectors, &c. subject to same penalties, &c. as towns.

SEC. 50. *Be it further enacted,* That if any of the plantations aforesaid shall neglect to choose Constables or Collectors as aforesaid, or if the Constables or Collectors chosen by any such plantation and accepting such trust, shall be remiss, or neglect their duty, in every such case, such plantation shall be proceeded with in the same manner as by this Act is provided in the case of deficient towns, and such deficient Constables or Collectors shall be, and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided in the case of deficient Constables or Collectors chosen by towns.

Made of proceeding to collect taxes by sheriff or deputy.

SEC. 51. *Be it further enacted,* That the Sheriff or his deputy, upon the receiving such assessment and warrant for collecting it, shall forthwith post in some public place of the town or plantation assessed, an attested copy of such assessment and warrant, and shall make no distress for any of the sums so assessed, till after thirty days from his posting it up; and any person or persons paying the sum or sums respectively assessed on him or them to the Sheriff, before the expiration of the aforesaid thirty days, shall pay at the rate of five per centum over and above the sum assessed to the Sheriff for his fees, and no more; but all such as shall neglect to pay the sum or sums assessed, beyond the thirty days, after posting up the copy of the assessment as aforesaid, shall be proceeded against by the Sheriff by way of distress or commitment to gaol in the manner Collectors are by this Act directed and empowered to distrain or commit to gaol; and the said Sheriff or his deputy, may require suitable aid for that purpose, and they shall each one pay the fees for the Sheriff's service and travel as in other cases, where distress is made or the person committed.

Officers, committing persons for non-payment of taxes, must leave copy of warrant and amount of assessment, &c.

SEC. 52. *Be it further enacted,* That when any officer appointed for collecting any rates or assessments by virtue of any warrant, shall, for want of goods or chattels whereof to make distress, take the body of any person and commit him to prison he shall give an attested copy of his warrant unto the keeper of the prison, and thereupon certify under his hand the sum such person is to pay as his proportion to the assess-

ment, with the cost of taking and committing: and that for want of goods or chattels, whereon to make distress, he has taken his body; and such attested copy with the certificate thereon under the hand of the officer, shall be a sufficient warrant to require the prison keeper to receive and keep such person in custody until he shall pay his rate or assessment as aforesaid, and charges of imprisonment with thirty-three cents for the copy of the warrant; *Provided nevertheless*, Any person committed to gaol for his taxes, shall have the liberty of the gaol yard, upon his procuring sufficient bonds as is by law directed for other debtors.

Liberty of yard allowed to persons so committed.

SEC. 53. *Be it further enacted*, That when any person standing committed as aforesaid, for any tax due to the State, or to the county shall be liberated from such commitment, by virtue of an Act entitled "An Act for the relief of poor prisoners confined in gaol for taxes;" in every such case the town or plantation from whose Assessors, the warrant, by virtue of which such prisoner was committed, was issued, shall be holden to pay the whole tax required of such town or plantation.

When persons committed for taxes, are discharged as poor debtors, towns, &c. holden to pay tax.

SEC. 54. *Provided: And be it further enacted*, That when any person who shall be imprisoned for the non payment of the proportion of any tax, shall be discharged from confinement by virtue of said Act, the Collector or Constable making such imprisonment, shall not be discharged of the proportion which was due from such person, but shall be holden to pay the same, unless such imprisonment shall be made within one year next after the commitment of such tax to such Collector or Constable, or unless the inhabitants of such town or place, in legal town meeting shall see fit to abate the same to such Collector or Constable.

When persons are discharged from tax on poor debtors' oath, constable liable to pay, unless committed within one year, &c.

SEC. 55. *Be it further enacted*, That in case of distress or commitment for the non payment of taxes, the officer concerned therein, shall be entitled to the same fees which Sheriffs by law are, or may be entitled to for levying executions; saving that the travel in case of distress, shall be computed only from the dwelling house of the officer making such distress, to the place where the distress may be made.

Officer's fees on commitment and distress.

SEC. 56. *Be it further enacted*, That it may be lawful for the inhabitants of any town within this State at their meeting in the month of March or April annually, to appoint their Treasurer a Collector of taxes in their said towns; and the Treasurer so appointed shall be and he hereby is empowered to substitute and appoint under him such number of deputies or assistants, as may be necessary; which deputies or assistants, so appointed, shall give bonds for the faithful discharge of their duty, in such sums, and with such sureties, as the Selectmen of such town shall think proper; and the said Collector and his deputies shall have the same powers as are vested in Collectors of taxes chosen for that purpose.

Towns may appoint their treasurer a collector of taxes,

and he may appoint deputies, under bonds.

Their powers.

Inhabitants of such towns voluntarily paying taxes with in certain periods to treasurer, entitled to such abatement as towns may agree upon.

SEC. 57. *Be it further enacted,* That all such inhabitants of the said towns, who shall voluntarily pay the said Collector or his deputy within thirty days next after the delivery of their tax bills, the amount of their respective taxes, shall be entitled to an abatement of such sum as said town at their annual meeting may agree upon, on the amount of their said taxes; and such inhabitants as shall voluntarily pay their taxes to the said Collector or his deputy within sixty days after the delivery of their tax bills, shall be entitled to an abatement of such sum as may be agreed upon as aforesaid, on the amount of their said taxes; and all such inhabitants as shall voluntarily pay to the said Collector or his deputy, within one hundred and twenty days after the delivery of their tax bills shall be entitled to an abatement on the amount of their said taxes, of such sum as may be agreed upon as aforesaid.

Taxes not so paid in, how collected.

SEC. 58. *Be it further enacted,* That all such taxes as shall not have been paid in agreeably to the provisions of the fifty-seventh section of this Act, shall and may be collected by the Collector or his deputy, or deputies, agreeably to the other provisions of this Act.

Assessors in towns regulating the collection of taxes by treasurer, &c. how to proceed.

SEC. 59. *Be it further enacted,* That the Assessors of any town, which shall at their annual meeting, regulate the collection of their taxes, agreeably to the provisions of this Act, shall assess their taxes in due form, and deposit the same in the hands of the Treasurer for collection, together with a warrant for that purpose, after he shall have been duly qualified, together with his deputy or deputies; and at the same time shall post up notifications thereof, together with a copy of the fifty-seventh section of this Act, in one or more public places within said town.

Town treasurer, who is also collector, may issue warrants of distress, &c. against delinquents after expiration of times fixed for payment of taxes.

SEC. 60. *Be it further enacted,* That it may be lawful for any town Treasurer who may also have been chosen a Collector as well as Treasurer, as is provided for in the fifty-sixth section of this Act, to issue his warrant to the sheriff of the county, or his deputy, or to any Constable of the same town, directing them to distrain the person or property of any person or persons, who may be delinquent in the payment of taxes after the expiration of the time fixed for the payment thereof by any vote of such town; which warrants shall be of the same tenor with the warrant prescribed to be issued by Selectmen or Assessors for the collecting or gathering in of the State rates or assessments, *mutatis mutandis*. And the said officers shall make a return of their warrants with their doings thereon to the said Treasurer and Collector within thirty days from the date thereof: *Provided however,* That nothing in this Act shall prevent the said Treasurer and Collector whenever there may be a probability of losing a tax, from distraining the person or property of any individual, before the expiration of the time fixed by the votes of said town.

Form of such warrants and time of return, &c.

Proviso.

SEC. 61. *Be it further enacted,* That it shall be the duty of said officers to execute all warrants they may receive from said Treasurer and Collector, pursue the same process in distraining the persons or property of delinquents, as Collectors of taxes are authorized to do and perform; and for collecting the sum of money due on said warrant, receive the fees that are allowed by law for levying executions in personal actions: *Provided however,* Before the said officers shall serve any warrant, they shall deliver to the delinquent, or leave at his or her usual place of abode a summons from said Treasurer and Collector, stating the amount due, and that unless the same is paid within ten days from the time of leaving said summons, into the town Treasury with twenty cents for said summons, his or her property will be distrained according to law.

Officers duty to execute warrants from treasurer, and how.

Provided notice from treasurer shall be left with delinquent, stating amount and when to be paid.

What shall be legal evidence of notice for sale of lands, &c.

When estates of individuals are taken for delinquency of towns, &c. in certain cases, mode and nature of indemnity for such inhabitants.

Plantations subject to same liabilities as towns in such cases.

SEC. 62. *Be it further enacted,* That the affidavit of any disinterested person taken before a Justice of the Peace, of the posting notifications required for the sale of any land which shall be sold by any Sheriff, Constable or Collector in the execution of his office may be used in evidence of the fact of notice upon any trial of the validity of such sale: *Provided,* That such affidavit, made on one of the original advertisements, or on a copy of one of them, shall be filed and recorded in the Registry of Deeds of the county or district where the land lies, within six months.

SEC. 63. *Be it further enacted,* That if the estate of any inhabitant or inhabitants, (not being an Assessor or Assessors of any town or plantation,) shall be levied upon and taken as directed in the twenty-second section of this Act, he or they shall have an action or actions against the town or plantation, to recover the full value of the estate so levied upon and taken, with interest thereon, computed at the rate of twelve per centum per annum, from the time the said estate was taken, with legal costs of suit; and at the trial, the plaintiff or plaintiffs shall be admitted to prove the real and true value of the estate so taken, at the time the same was levied upon. And in order that such action or actions may be supported against a plantation:

SEC. 64. *Be it further enacted,* That each plantation in this State, from which any State tax or taxes now remain due and unassessed, or from which any State or county tax shall hereafter be required as aforesaid, be and hereby is made a body politic and corporate for the purposes aforesaid, and liable to such action or actions, with full power to defend the same in the same manner as towns by law may defend suits against them.

[Approved March 21, 1821.]

CHAPTER CXVII.

An Act to provide for the Education of Youth.

Preamble.

Whereas the Constitution of this State has declared that a general diffusion of the advantages of education is essential to the preservation of the rights and liberties of the people, and has made it the duty of the Legislature to require the several towns to make suitable provision at their own expense for the support and maintenance of public schools :

Amount of money to be annually raised and expended for schools, in each town and plantation.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every town and plantation shall annually raise and expend for the maintenance and support of schools therein, to be taught by school masters duly qualified, a sum of money including the income of any incorporated school fund not less than forty cents for each inhabitant, the number to be computed according to the next preceding census of the State, by which the representation thereof has been apportioned : *Provided*, That a part, not exceeding one third of the money allotted to any district, may, if the district so determine, be applied to the support of a school taught by a mistress, or when the sum so allotted to a district in any year, shall not exceed thirty-five dollars, the whole may be expended in the same manner.

Duty of presidents and instructors of colleges, and preceptors of academies towards their pupils.

SEC. 2. *Be it further enacted*, That it shall be the duty of the Presidents, Professors, and Tutors of Colleges, and the preceptors and teachers of academies, and all other instructors of youth, to take diligent care and exert their best endeavors, to impress on the minds of children and youth committed to their care and instruction, the principles of piety and justice, and a sacred regard to truth, love to their country, humanity and universal benevolence; sobriety, industry, and frugality; chastity, moderation and temperance; and all other virtues which are the ornaments of human society: and it shall be the duty of such instructors to endeavor to lead those under their care, (as their ages and capacities will admit,) into a particular understanding of the tendency of the before mentioned virtues, to preserve and perfect a republican constitution, and secure the blessings of liberty as well as to promote their future happiness, and the tendency of the opposite vices to slavery and ruin.

School committee to be chosen at annual meetings.

SEC. 3. *Be it further enacted*, That there shall be chosen by ballot at the annual meeting, in each town and plantation, a superintending school committee, consisting of not less than three nor more than seven persons, whose duty it shall be, to examine school masters, and mistresses, proposing to teach school therein. And it shall be the duty of such committee to visit and inspect the schools in their respective towns and plantations, and inquire into the regulations and discipline thereof, and the proficiency of the scholars therein, and use their influence and best endeavors, that the youth in the several districts regularly attend the schools; and the said committee shall have the power to dismiss any school master or

Duty and powers of such committee.

mistress who shall be, found incapable, or unfit to teach any school, notwithstanding their having procured the requisite certificates; but the towns and plantations shall be bound to pay such instructors for the time they have been employed; and the superintending committee shall have power to direct what school books shall be used in the respective schools; and at the meeting for the choice of town officers, there shall be chosen an agent for each school district, whose duty it shall be, to hire the school masters or mistresses, for their respective districts, and to provide the necessary fuel and utensils for the schools. If any parent, master or guardian, shall, after notice given him by the master or mistress of any school, refuse or neglect to furnish their several scholars with suitable books, the Selectmen of the town or Assessors of the plantation thereof, on being notified by such master or mistress, shall furnish the same at the expense of the town or plantation, which expense shall be added to the next town or plantation tax of such parent, master or guardian.

Towns to choose agents for each school district.

School books to be furnished by parents, guardians, &c.

In case of neglect, how supplied.

SEC. 4. *Be it further enacted*, That no person shall be employed as a school master, unless he shall be a citizen of the United States, and shall produce a certificate from the superintending school committee of the town, or plantation where the school is to be kept, and also from some person of liberal education, literary pursuits and good moral character residing within the county, that he is well qualified to instruct youth in reading, in writing the English language grammatically, and in arithmetic, and other branches of learning usually taught in public schools; and also a certificate from the Selectmen of the town or Assessors of the plantation where he belongs, that to the best of their knowledge, he is a person of sober life and conversation, and sustains a good moral character. And no person shall be employed as a school mistress unless she shall produce a certificate from the superintending school committee of the town or plantation where the school is to be kept, that she is suitably qualified to teach the English language grammatically, and the rudiments of arithmetic, and produce satisfactory evidence of her good moral character.

No alien to be employed as a school master.

Certificate of qualifications of masters and mistresses to be produced.

SEC. 5. *Be it further enacted*, That it shall be the duty of the Assessors of each town and plantation to assign to each school district, a proportion of the money raised in each year for the support of schools according to the number of children therein, between the ages of four and twenty-one years; and the Assessors of towns shall certify such assignment to the Selectmen: *Provided*, That whenever any town or plantation shall raise a sum of money exceeding that required by this Act, such surplus may be distributed among the several school districts, in such manner as the town or plantation may determine. And if any town or plantation shall fail to raise and expend annually for the support of schools the amount of money required by this Act, they shall forfeit and pay a

Assessors to assign to each district its share of money.

Proviso.

Penalty for neglecting to raise and expend the money required by this Act.

Penalty for teaching school without certificate.

sum not less than twice, nor more than four times the amount of such failure or deficiency. And any person who shall teach any school required by this Act, without producing prior to his commencing the same the certificates required by this Act, shall forfeit and pay seventy-five cents for each day he shall so teach such school, and shall be barred from recovering of any town, plantation, or person, any pay for teaching such school.

Penalties how to be recovered.

SEC. 6. *Be it further enacted,* That all forfeitures and penalties for a breach of this Act, shall be recovered by indictment or information, before any Court of competent jurisdiction; and it shall be the duty of all Grand Jurors, to make due presentment thereof, in all cases that shall come to their knowledge, and such penalty when recovered, shall, in all instances be paid into the treasury of the town, or plantation where the same was incurred for the support of schools therein, in addition to the sum annually required to be raised by this Act, and the cost of prosecution into the county treasury. And if any town or plantation shall neglect for the space of one year so to appropriate and expend any fine or penalty, they shall forfeit the same, to be recovered in an action of debt to the use of the person who may sue therefor.

Duty of Grand Jurors as to this Act.

Each town and plantation may determine the number and limits of school districts.

SEC. 7. *Be it further enacted,* That the several towns and plantations, be, and they hereby are authorized and empowered to determine the number, and define the limits of school districts within the same; and each and every school district in this State is hereby made a body corporate, with power to sue or be sued, and to take and hold any estate, real or personal, for the purpose of supporting a school or schools therein, and to apply the same agreeably to the provisions of this Act, independently of the money raised by the town for that purpose.

Districts made corporations.

School districts may raise money for sundry purposes,

SEC. 8. *Be it further enacted,* That the inhabitants of any school district, qualified to vote in town affairs, be, and they hereby are empowered, at any district meeting called in manner hereinafter provided, to raise money for the purpose of erecting, repairing, purchasing or removing a school house and of purchasing land upon which the same may stand, and utensils therefor, and to determine where the said school house shall be erected or located in said district; and also to determine at what age the youth within such district may be admitted into a school kept by a master or mistress, and whether any scholars shall be admitted into such school from other school districts.

and direct as to admission of scholars.

Mode of assessing and collecting monies raised for support of schools.

SEC. 9. *Be it further enacted,* That for the purposes aforesaid, all lands, whether improved or unimproved, shall be taxed in the district in which they lie; and the Assessors of any town or plantation, shall assess in the same manner as town taxes are assessed on the polls and estates of the inhabitants composing any school district, in their town or plantation, and

on lands lying within the same, belonging to persons not living therein, all monies voted to be raised by the inhabitants of such district, for the purpose aforesaid, within thirty days after the Clerk of the district shall have certified to said Assessors the sum voted by the said district, to be raised as aforesaid. And it shall be the duty of said Assessors to make a warrant in due form of law, directed to one of the Collectors of their town or plantation, requiring and empowering said Collector to levy and collect the tax, so assessed, and pay the same, within a time limited by said warrant, to the Treasurer of the town or plantation, to whom a certificate of the assessment shall be made by the Assessors; and the money so collected and paid shall be at the disposal of the committee of the district, to be by them applied agreeably to the vote of their district as aforesaid. And such Collector in collecting such taxes shall have the same powers and be holden to proceed in the same manner, as is by law provided in collecting town taxes.

SEC. 10. *Be it further enacted*, That the Treasurer of any town or plantation, who shall receive a certificate of the assessment of a district tax, shall have the same authority to enforce the collection and payment thereof, as of town or plantation taxes. And the Assessors of any town or plantation, shall have the same power to abate such district tax, as they have to abate a town or plantation tax. And the Assessors, Collector and Treasurer, shall be allowed by the school district the same compensation for assessing, collecting and paying any district tax as they are allowed by the town or plantation for similar services.

Powers of town and plantation treasurers as to district taxes.

Compensation of assessors, collectors and treasurers.

SEC. 11. *Be it further enacted*, That it shall be the duty of the Selectmen of any town, or Assessors of any plantation, upon application made to them in writing, by three or more freeholders residing within any school district, in such town or plantation, to issue their warrant, directed to one of the persons making such application, requiring him to warn the inhabitants of such district, qualified to vote in town affairs, to meet at such time and place in the same district as shall in the same warrant be appointed.—And the warning aforesaid shall be by notifying personally every person in the district qualified to vote in town affairs, or by leaving at his usual place of abode, a notification in writing, expressing therein the time, place and purpose of the meeting, seven days at least before the time appointed for holding the same: *Provided*, That any town or plantation, at the request of such district, may, at any legal meeting thereof, determine the manner in which notice of future meetings in such district may be given. And such inhabitants so assembled, may choose a Moderator, and also a Clerk, who shall be sworn faithfully to discharge the duties of his office before a Justice of the Peace, or before the Moderator, and it shall be the duty of such Clerk to make a fair

Mode of calling district meetings.

Proceedings when met.

record of all votes passed at any meeting of the district, and to certify the same when required; and may also choose a committee to superintend the laying out and expending the money raised by such district agreeably to their vote, for the purposes aforesaid, to examine and allow such accounts as they may think proper, and to draw orders on the town or plantation treasury for the amount of the money raised.

When a district refuses to raise money, the town or plantation may raise and assess it on the district, and collect it.

SEC. 12. *Be it further enacted,* That whenever at any legal meeting of a school district, called for the purpose of raising money, for the erecting, repairing, purchasing or removing of a school house, or for purchasing land on which the same may stand, or for procuring utensils therefor, a majority of the voters present are opposed to the raising of money for any such purpose, it shall be lawful for the Selectmen of the town, or Assessors of the plantation in which such district is situated, on application in writing of any five or more freeholders, inhabitants of such school district, to insert in their warrant for calling the next town or plantation meeting, an article requiring the opinion of the town or plantation, relative to such subject as proposed in the said district meeting; and if a majority of the voters present in such town or plantation meeting, shall think it necessary and expedient, they may grant a sum sufficient for any of the purposes aforesaid, to be assessed on the polls and estates in said school district, to be collected and paid as is in this Act provided.

If district cannot agree where school house is to be placed, selectmen, &c. may decide.

SEC. 13. *Be it further enacted,* That when the inhabitants of any school district cannot agree where to erect or locate a school house in their district, the Selectmen of the town or Assessors of the plantation, to which such district belongs, upon application made to them in writing by the committee of the district, chosen to superintend the building or purchasing of such school house, are hereby authorized and empowered to determine on the place where such school house shall be erected or located.

[Approved March 15, 1821.]

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CHAPTER CXVIII.

An Act directing the method of laying out, and making provision for the Repair and Amendment of Highways.

Court of Sessions to lay out highways, adjudged necessary, after due notice given,

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That when a new highway from town to town, or place to place, shall be wanting, or where an highway already laid out, stated and established, may or can with greater convenience be turned or altered, upon application made to the Court of Sessions within the same county, and it being determined by them to be of common convenience or necessity, to have such new way laid out, or old way altered, due notice of such application having before such adjudication been given to the towns interest-

ed, the said Court are hereby authorized and empowered by warrant under the seal thereof, to appoint a committee of three or five disinterested freeholders in the same county, to lay out such highway; which committee shall give seasonable notice to all persons interested, of the time and place of their meeting; and they shall be under oath to perform the said service, according to their best skill and judgment, with most convenience to the public, and least prejudice or damage to private property. And they shall ascertain the place and course of said highway in the best way and manner they can; which having done, they or the major part of them, shall make return thereof, under their hands, to the next Court of Sessions to be held in the same county, after the said service is performed, that the same may be accepted, allowed and recorded, and afterwards known for a public highway: *Provided always*, That if any person be damaged in his property by the laying out or altering such highway, the town where the same is, shall make such person or persons reasonable satisfaction, according to the estimation of the committee, or the major part of them, who laid out the same: and said committee, are empowered and required, under oath, to estimate the same and make return thereof as aforesaid. And if any person shall be aggrieved by the doings of the said committee in estimating damages, he may apply to the Court of Sessions, provided such application be made to the said Court that shall be held in the same county next after the acceptance of such return, and said Court is hereby empowered to hear and finally determine the same by a new committee, if the person complaining and the agent for the town in which the highway is laid out can agree thereon, or by a Jury under oath, if the person complaining desire the same: which Jury shall be summoned and attended by the Sheriff of such county or his deputy, or if he or either of his deputies be a party or interested, by a coroner of said county: and shall be selected in manner following, to wit: The officer who shall be duly authorized by said Court, shall make application to the Selectmen of two or more disinterested towns in said county, who shall draw out of the jury box of their respective towns so many Jurors as such officer shall require, not exceeding nine from any one town; and if by accident or challenge, there should happen not to be a full Jury, said officer shall fill the panel *de talibus circumstantibus*, as in other cases. And such officer shall make return of his own travel and attendance and that of each Juror. And if the Jury or committee agreed upon as aforesaid, who are to be under oath, shall not increase the damages, the person complaining shall be at all the costs incurred on that occasion, to be taxed against him by said Court, otherwise such costs shall be paid by the county, and the increase of damages shall be paid by the town in which such highway is located.

by committee of 3 or 5 freeholders; who are to give notice, &c.

and to be under oath

to make return to the next Court.

Committee to estimate damages, &c. and report the same.

Persons aggrieved, &c. may apply to next Court for a new committee, or Jury.

Manner of selecting such Jury.

Proceedings of such Jury or Committee.

Costs how taxed, and increase of damages paid.

SEC. 2. *Be it further enacted,* That if the right or interest of any complainant in, or to the real estate alleged to be damaged by the laying out of such highway shall be denied by the town or corporation complained against, the jury summoned, or committee agreed on as aforesaid, shall have authority to consider and determine such question of right or interest so far only as respects the damages of said complainant.

Time allowed to owner to take off wood, &c.

Forfeited if not taken off.

Verdict or report to be final.

Persons injured may join, or sever, in complaints for damages.

Towns and corporations aggrieved may apply for new committee or jury in same manner, as individuals.

When owners of land and corporation both apply for jury, same jury to try both complaints, &c.

SEC. 3. *Be it further enacted,* That committees and Jurors that shall assess damages occasioned by laying out any highway, shall give the owner of said land a reasonable time to take off the wood, timber or trees: and if the owner of such land shall neglect to take off said wood, timber or trees, within the time set by said committee or jury, it shall be forfeited for the benefit of the road.

SEC. 4. *Be it further enacted,* That the verdict of such Jury or the report of the committee agreed upon as aforesaid, being made under their hands to said Court, and by them accepted and recorded, shall conclude the person or persons complaining with respect to the damages.

SEC. 5. *Be it further enacted,* That when two or more persons have occasion to apply to any Court of Sessions at the same time for joint or several damages occasioned by the laying of the same highway, they may join in the same complaint, and their respective claims of damages shall in that case, be considered and determined by the same Jury or committee, and the costs shall be taxed jointly or severally as the Court in their discretion may determine to be equitable.

SEC. 6. *Be it further enacted,* That if any town or other corporation shall find themselves aggrieved by the doings of a committee of the Court of Sessions in any county, in estimating damages by virtue of this Act, such town or corporation may apply to said Court, and be allowed a Jury or committee to hear and finally determine their complaint, in the same manner, under the same limitations and conditions, as are provided in this Act in the case of an individual person.

SEC. 7. *Be it further enacted,* That when any person shall be aggrieved by the doings of a committee in estimating damages, and shall apply to the Court having jurisdiction in this behalf, and the town or corporation shall apply in like manner, and both applications are or shall be pending before the same Court, then the same Court may hear and finally determine both applications, by one and the same Jury or committee, and not by two several Juries or committees: and the party whose complaint shall appear to have been without just cause, shall be at all the costs incurred on that occasion, to be taxed against him by the Court: and the verdict of the Jury or the report of the committee agreed upon, being made under their hands to the said Court, shall be final.

SEC. 8. *Be it further enacted,* That the Court of Sessions

may order the payment of such sum or sums of money as shall be assessed in damages to be paid by any town, in consequence of this Act, out of the treasury thereof: and in default of payment after a reasonable time, may levy the same by warrant of distress upon the personal property of the inhabitants, to the use and benefit of the person or persons to whom the damages may be awarded.

Court of Sessions may order payment of damages;

and if not paid issue warrant of distress.

SEC. 9. *Be it further enacted*, That the Selectmen of the several towns in this State, are hereby authorized and empowered, either personally or by such person or persons as they shall appoint, to lay out town or private ways for the use of such town only, or for one or more individuals thereof, or proprietors therein; but no such town or private way shall be established until the same has been reported to the town at some public meeting of the inhabitants held for that purpose, and by them approved and allowed. And any town may alter or discontinue any town or private way when it shall appear that the same is unnecessary for the inhabitants of such town. And if any person or persons, who are owners of the land through which such way shall be laid out, be injured thereby, he or they shall receive such recompense as the party injured and the Selectmen shall agree upon, to be paid by the town or person or persons for whose use the said way is laid out; or in case of disagreement, as shall be ordered by the Court of Sessions upon an inquiry into the same by a special committee, if the parties agree thereto, or by a Jury to be summoned and selected in the manner prescribed by the first section of this Act. And such committee or Jury shall assess damages for the injured party to be paid by such town or person or persons as aforesaid.

Selectmen may lay out town and private ways;

to be approved by the town.

Towns may discontinue or alter such ways.

Damages to persons injured to be paid as agreed by selectmen and such persons, or settled by jury, &c.

SEC. 10. *Be it further enacted*, That if the Selectmen shall unreasonably delay, or refuse to lay out or cause to be laid out, any such private way, as before described, being thereunto requested in writing by one or more of the inhabitants or proprietors of land in such town, then the Court of Sessions for the same county, at any session thereof within one year, if the request appear to them reasonable, may cause the same private way to be laid out at the cost of the persons applying, by a committee of three disinterested freeholders, which committee shall estimate the damages occasioned thereby, (if any there be,) as well as ascertain the place and course of the said private way; the damages to be paid by the town, if it be of general benefit, otherwise by the person or persons for whose use and benefit the way is laid out; and the Justices of the respective Courts of Sessions upon application to them made by any party aggrieved at the continuance of any private way, may order and direct a discontinuance thereof, after notifying and hearing the parties interested therein, if they shall thereupon adjudge and determine such discontinuance reasonable.

If selectmen refuse or delay to lay out such way, what proceedings to be had.

If towns refuse or delay unreasonably to approve such proceedings in such cases.

SEC. 11. *Be it further enacted,* That when any town shall unreasonably delay or refuse to approve and allow of any private way laid out by the Selectmen thereof or their order, and put the same on record, any person or persons aggrieved by such delay or refusal may apply to the Court of Sessions for the same county, within twelve months after such refusal or delay; and the same Court after hearing the town thereon, may accept and approve of the said private way, as laid out by the Selectmen, and direct the same to be recorded in the town book; or they may order the private way petitioned for, to be laid out by a committee of three disinterested freeholders to be by them appointed for that purpose, which committee shall be under similar directions and obligations as to locating and estimating the damages occasioned thereby, as in this Act is prescribed for a committee in locating or altering a county highway.

Court to allow reasonable time for opening highway,

not exceeding 12 months, unless, &c.

If towns neglect their duty, proceedings to be had.

SEC. 12. *Be it further enacted,* That when any new highway shall be laid out and accepted by the Court of Sessions, a reasonable time shall be allowed to the town through which such highway shall lead to make it passable, safe and convenient for travellers and others passing with their teams, waggons, or other carriages: *Provided,* That such time shall not exceed twelve months from the time of such acceptance; unless such Court shall for reasons specially given, order a longer time. And if any town shall neglect their duty in that respect the said Court, on application therefor, shall appoint a committee of three disinterested freeholders in the same county, to enter into any contract or contracts for making such new highway passable as aforesaid, the expense of which shall be immediately afterwards defrayed by the delinquent town, and in default thereof, the said Court shall issue a warrant of distress against such town.

All highways to be kept in repair.

SEC. 13. *Be it further enacted,* That all highways, town ways, causeways and bridges, lying and being within the bounds of any town, shall be kept in repair and amended from time to time, that the same may be safe and convenient for travellers with their horses, teams, carts and carriages, at all seasons of the year, at the proper charge and expense of the inhabitants of such town, (where other sufficient provision is not made therefor,) and there shall be chosen two or more suitable persons, in each town, at the annual meeting in March or April, who shall be denominated surveyors of highways, to be notified and sworn in like manner as other officers of the same town, and in case of refusal to serve shall forfeit and pay the sum of ten dollars, to the use of such town: *Provided,* No person shall be held and obliged to serve more than one year in three years. And it shall be the duty of the Selectmen of the several towns within this State, before the first day of May annually, to assign in writing, to the several surveyors, their divisions and limits for making and repairing the

Surveyors to be annually chosen and sworn.

Selectmen to assign limits to surveyors.

highways, which assignments the said surveyors are directed to observe; and whenever any town shall elect the Selectmen surveyors of highways, they shall be authorized to delegate said power in writing to such person or persons as they may deem proper. And each town, at some public meeting of the inhabitants thereof, regularly notified and warned, shall vote and raise such sum of money, to be expended in labor and materials on the highways, as they shall determine necessary for the purpose. And the Assessors shall assess the same on the polls and ratable estate, personal and real, of the inhabitants, residents and non-residents of their town, as other town charges are by law assessed, and deliver to each surveyor a list of the persons and the sums at which they are severally assessed for his limits; and two thirds of the sum at least which shall be agreed upon and granted by any town for making or repairing the highways, shall be laid out and expended for that purpose before the first day of July next after granting the same; and the surveyor shall give reasonable notice, (in writing if desired,) to each person in his list of the sum he is assessed to the highways, and also to the inhabitants within his district assessed as aforesaid, forty-eight hours notice, (extraordinary casualty excepted,) of the times and places, he shall appoint for providing materials and laboring, to the end each person may have opportunity to work on the highways in person or by his substitute, or with his oxen, horses, cart and plough, at the rates and prices the town shall affix to such labor, to the full amount of the sum at which he is assessed, or he may pay the surveyor in money the sum he is assessed, in which case the surveyor shall carefully expend the sums thus paid, in labor and materials for repairing the highways in his limits, according to his best discretion. And when the highways are blocked up or incumbered with snow, the surveyor shall forthwith cause so much thereof to be removed or trodden down as will render the roads passable, and in such way and manner as the town shall direct at their annual meeting; and in case of any sudden injury to bridges or highways he shall, without delay cause the same to be repaired. And the surveyor, at the expiration of his term, shall render to the Assessors for time being, a list of such persons as shall have been deficient, (if any such there be,) in working out their highway rate, or otherwise paying him the sum assessed therefor; which deficient sums shall by the Assessors be put in a distinct column, in the next assessment for the town tax, and collected by the Constable or Collector thereof, as other town taxes are collected, and paid into the town treasury for the use of the town.

Sec. 14. *Be it further enacted,* That the surveyors, thus chosen and sworn, shall have full power and authority to cut down, lop off, dig up and remove all sorts of trees, bushes, stones, fences, rails, gates, bars, inclosures, or other matter or

Towns to raise money for repairing roads;

to be assessed as other town charges.

Two thirds to be expended before July 1st.

Surveyor to notify those in his district.

To clear roads blocked with snow,

and repair bridges &c. suddenly injured.

To render an account to the assessors at the end of his term.

Deficient sums to be inserted in next assessment of town taxes.

Power of surveyors in removing obstructions and obtaining materials.

Proviso—limiting surveyor's power.

thing that shall any way straiten, hurt, hinder, or incommode the highway, and also to dig for stone, gravel, clay, marle, sand or earth, in any land not planted or inclosed, and the materials thus dug up to remove to such place or places in the highways, for the repair and amendment thereof as they shall determine necessary: *Provided always*, That no surveyor of highways shall cause any water course occasioned by the wash of any highway to be so conveyed by the side of such highway as to incommode any person's house, store, shop or other building, or to obstruct any person or persons in the prosecution of his or her business or occupation, without the approbation and consent of the Selectmen of such town or other place signified in writing to such surveyor: and any person or persons who may consider him or herself to be aggrieved by such water course, may complain to the Selectmen of such town or other place: and the Selectmen on receiving such complaint, shall proceed to view such water course so complained of, and after attending to the circumstances of the same, shall if they think it reasonable, direct such surveyor to alter the said water course in such way and manner, as they shall think just and proper.

When sum assessed is not sufficient, duty and power of surveyor.

SEC. 15. *Be it further enacted*, That when the sum appropriated and assessed for the repair of the highways in the limits of any particular surveyor shall not fully answer, or be insufficient for that purpose, it shall be lawful for the surveyor, with the consent of the Selectmen, or the major part of them, where such deficiency happens, to employ such of the inhabitants of the town, upon the repair of the ways in his limits, as shall make up that deficiency: and the persons thus employed shall be equitably paid out of the town treasury therefor, or the town may authorize the surveyor to agree with the persons employed, that for such labor they shall be allowed on the next highway tax, or otherwise compensated, as the town may have prescribed.

Towns may authorize surveyors to make contracts for repair of highways,

and to collect taxes, &c.

Assessors may deliver to surveyors, warrants of distress, or to collectors of taxes.

SEC. 16. *Be it further enacted*, That every town may at their annual meeting, or any meeting warned for that purpose, authorize their surveyors, or any other person or persons to enter into any contract or contracts for making or repairing the highways within the same or any part thereof; and may also empower their surveyors of highways to collect taxes for making and repairing the ways which shall not be paid in labor or otherwise within the time limited by law, or such periods as may be agreed upon by such town, and for that purpose the Assessors shall deliver to them warrants of distress which shall be in the form prescribed by law for collecting other town taxes, *mutatis mutandis*; or they may deliver to the Collector or Collectors of taxes a warrant for collecting the deficiency in any highway tax which the Collector is hereby empowered and required to levy in the same way and manner as other taxes are by law to be collected, and pay the same over to the surveyor or surveyors, who shall be held

to account with the Selectmen for the expenditure thereof. And if any money shall remain unexpended in the hands of the surveyor or surveyors after the expiration of their office, they shall pay the same to the town Treasurer. And if any surveyor shall neglect to pay over such sums to the said Treasurer upon demand, the said Treasurer, or his successor in that office, shall have power to recover the same, in an action upon the case, with twenty per cent. in addition thereto, to the use of the town, with costs of suit: and if pending the action, another town Treasurer shall be appointed, he, on noting his appearance on the record, shall have power to pursue the same action to final judgment and execution. And if any surveyor who shall receive his rate-bill of the Selectmen or Assessors of any town shall neglect to exhibit the same to them on the first Monday of July annually, and also at the expiration of the term for which he shall be appointed, and at those times respectively to render an account of all monies that have been expended on the ways, he for each offence shall forfeit and pay twenty dollars, to be recovered in an action of debt with costs of suit by the said Treasurer to the use of the town.

Money unexpended to be paid into town treasury.

Penalty for surveyor neglecting to pay over surplus, &c.

or neglecting

to exhibit his rate bill to selectmen in July annually.

SEC. 17. *Be it further enacted,* That if any person shall lose a limb, break a bone, or receive any other injury in his person, or in his horse, team or other property, through any defect or want of necessary repair and amendment of any highway, causeway or bridge; the person or persons injured thereby shall and may recover of the county, town, the person or persons who are by law obliged to keep the same highway, causeway, or bridge in repair, in case they had reasonable notice of the defect, double the damages thereby sustained by a special action of the case, before any Court proper to hear and determine the same: And if the life of any person shall be lost through the deficiency of the way, causeway or bridge, or for want of rails on any bridge, the county, town, or persons who are by law obliged to repair and amend the same, shall be liable to be amerced in the sum of three hundred dollars, to be paid to the executor or administrator of the deceased for the use of his heirs, upon a conviction before the Circuit Court of Common Pleas, or Supreme Judicial Court, on a presentment or indictment of the Grand Jury.

Counties and towns liable to pay damages to persons injured by badness of roads.

Penalty in case of life lost.

Mode of recovery.

SEC. 18. *Be it further enacted,* That in case the inhabitants of any town shall be fined upon the presentment of the Grand Jury, or upon the information of the Attorney General, or the person acting for the State in his absence, for a deficiency in the highways, the surveyor, within whose limits the deficient ways are, shall be liable to refund the same, with all costs, to the said inhabitants, upon an action of the case to be brought therefor, or the surveyor of highways may be prosecuted on presentment or information as aforesaid, and fined for any deficiency that may arise in his limits: *Provided,* Such deficiency shall arise from the negligence of the surveyor in not duly

When towns are fined for bad roads, surveyor, in whose district it lies, answerable to the town:

provided the fault or neglect is on his part.

expending the money in his bills, or in not giving notice of such deficiency to the Selectmen in case the sum raised for the repair of the highways by the town, shall be found insufficient for that purpose.

Towns may raise money necessary for highways,

and direct how it may be assessed, and collected.

Fines imposed, to be expended in making and repairing roads, &c.

Courts may appoint agents to superintend collection and expenditure of fines,

and make return of their doings, to the Courts.

Plantations to have same powers and liabilities as towns, in regard to highways.

Like proceedings to be had in regard thereto.

SEC. 19. *Be it further enacted*, That the several towns in this State having a population of eight hundred inhabitants, at any public legal meeting of the inhabitants thereof regularly notified and warned for that purpose, may vote to raise any sum of money, to be laid out for the making and repairing of highways in said towns, as they may deem necessary; and may by a vote of said towns, if they see fit, direct the same to be assessed in money on the polls and ratable estate real and personal of the inhabitants, residents and non-residents of their town, as other town charges are by law assessed, and the same to be committed to the Collector of taxes for said town, to be collected and paid as other town charges are collected and paid.

SEC. 20. *Be it further enacted*, That all fines imposed by the Supreme Judicial Court, or by the Circuit Court of Common Pleas within this State, or any town for any neglect in making or repairing any highways or bridges within the same, shall be appropriated and disposed of, for the making and repairing the highways and bridges so defective as aforesaid.

SEC. 21. *Be it further enacted*, That the Supreme Judicial Court or the Circuit Court of Common Pleas shall, at the Session when any such fine shall be imposed as aforesaid, appoint one or more person or persons to superintend the collection and appropriation of the same for the purposes aforesaid; whose duty it shall be to attend to the collection of such fine, and the appropriation thereof in manner aforesaid; and shall make return of his or their doings therein to the Court, that may have imposed said fine, whenever thereto by them required.

SEC. 22. *Be it further enacted*, That the inhabitants of plantations who are or shall be empowered and required to assess taxes upon themselves towards the support of government, or for defraying the charges of any county, shall be vested with like powers, be under the like obligations, and liable to like penalties, so far as such powers, obligations and penalties have any relation to the making, repairing or amending the highways, and for compensating any individual who may suffer damage by laying out any highway as the towns within this State have, are under or subject to; and like proceedings shall be had by and against such plantations as may be had by or against said towns, in every case respecting the highways, *mutatis mutandis*. And the Assessors of such plantations shall be held to perform all the duties required of the Selectmen of towns relating to highways and invested with the same powers.

SEC. 23. *Be it further enacted*, That all highways laid out

or hereafter to be laid out through any tracts of land in this State, not comprehended within the bounds of any incorporated town or plantation aforesaid, shall be made passable and convenient for travelling and kept in good repair by the owners or proprietors of the said tract of land, township or plantation, unless in the judgment of the Court of Sessions for the county in which such lands lie, it may be deemed unreasonable; in which case the same shall be done at the expense of the county, or partly at the expense of the county and partly at the expense of the proprietors, as the said Court shall order. And all the proprietors or owners of such tracts of land, townships or plantations last mentioned, shall be held to pay their proportion, according to their interest to all cost and expenses of making and repairing the ways aforesaid through any part of the tracts, townships or plantations last mentioned: *Provided nevertheless*, That all lands reserved for the use of the first settled Minister, the ministry, schools, or for the future appropriation of the Legislature in the said tracts, plantations and townships last mentioned, shall be, and hereby are exempted from all taxes for making and repairing highways therein.

Highways through unincorporated places to be made and repaired at the expense of proprietors,

unless Court of Sessions deem it unreasonable: Proceedings in such case.

Provide as to ministerial lands, &c.

SEC. 24. *Be it further enacted*, That the Courts of Sessions in the several counties in this State, whenever application shall be made to them to lay out any new highway through any such tract, township or plantation last mentioned, or for an order thereof to amend and repair any highway already laid out in the same, the said Court shall cause notice thereof to be given, by publishing the substance of such application three weeks successively in one of the newspapers printed in the town of Portland, and such other paper as the said Court shall direct, in order that the proprietors of said lands may appear before said Court, at such time as the Court shall therein prefix, and show cause why such highway should not be laid out or amended, as the case may be. And if such proprietors do not appear and show cause, to the satisfaction of said Court, that such highway ought not to be laid out or made, or amended at the expense of said proprietors, then the said Court may proceed to lay out such highway in the manner prescribed by law, and to order the same to be made or amended at the expense of the said proprietors, as the case should require; and shall cause an assessment to be made on such tracts of land, township, or plantation, at so much per acre as they shall judge necessary for making or mending such highway and defraying the necessary expense attending the same; and the proprietors of the said tracts, townships, or plantations last mentioned, where the lands therein are held in severalty shall be severally assessed their respective proportions in every tax which may be ordered for making or repairing the highways therein: *Provided*, Such proprietors shall previously furnish said Court with proper documents for that

On application to Court of Sessions to lay out such road.

Notice to be given by newspapers.

On default, &c. of proprietors, Court to lay out road and assess the lands, &c.

Mode of assessing.

County treasurer to advertise the tax :

How lands are to be sold, and when, after being advertised, and taxes not paid.

Vendue may be adjourned.

Similar proceedings to be had for repairing such highways.

Proprietors of such lands, may call meetings, raise money, &c.

Any person may remove private via highways.

purpose; and the Treasurer of the county wherein the land so assessed may lie, shall forthwith cause such tax to be advertised in manner aforesaid, requiring each and every owner or proprietor of any part of the tract, township or plantation last mentioned, to pay said tax; or if the assessment is made in severalty, his part thereof to said Treasurer within six months from the first publishing said advertisement, and notifying such proprietors, that unless the same shall be paid within the time specified, so much of the said land will be sold at public vendue, at a certain day and place in the said advertisement to be expressed: And when any proprietor or owner of any part of such tract, township or plantation last mentioned, (the parts thereof not being severally assessed,) shall pay his proportion of such tax, he shall take a receipt therefor, describing the land for which he shall pay such tax, and so much of the remaining part of such land for which said tax shall not be paid before the expiration of the said six months, shall be sold by the Treasurer aforesaid, or his successor in office, or such committee as the Court of Sessions aforesaid shall appoint for that purpose, at the time and place set forth in the advertisement, as may be necessary to pay the remaining part of said tax, with incidental charges. And the said Treasurer or committee are hereby authorized to adjourn the time of sale of such land from day to day, if he or they shall judge it necessary, not exceeding three days, and make a good and sufficient deed or deeds of such lands, allowing the same time of redemption, and subject to the payment of the like interest as is by law allowed in the cases of land sold for taxes; and the money so raised shall be applied by said Court, or by a committee to be by them appointed for that purpose, to make and repair said highways: And a similar method shall be taken from time to time by said Court for keeping in repair all highways leading through such tracts, townships or plantations last mentioned, in case the owners thereof shall neglect to keep said highway in sufficient repair. And the owners and proprietors of any such tract, township or plantation last mentioned, are hereby authorized to call meetings for the purpose of raising such sums of money as they may judge necessary for making and repairing such highways, and for choosing officers for assessing and collecting the same.

SEC. 25. *Be it further enacted,* That it shall be lawful for any person to pull down and remove any gates, rails, bars or fence upon or across any highway or county road, unless such gate, bars or fence have been erected or continued by the leave and license of the Court of Sessions for the same county; and if any such incumbrance be in or across any private way, the same may be removed by the order of some Justice of the Peace of the same county, unless the gate or bars were erected or continued by the leave of the town or the person or persons for whose particular use and benefit the

private way was laid out: And any person aggrieved by the removal of such gate, bars or fence, shall be relieved at the Court of Sessions for the same county; if upon examination it shall appear, that the same were erected or continued by license or leave, as aforesaid. And when any logs, lumber or other obstructions shall, by any person be unnecessarily placed or left on any highway, it shall be the duty of the surveyor within whose limits the same may be so placed, or left, or in his absence, of any other surveyor within the town forthwith to remove the same: and the person so removing the same shall not be liable for any loss or damage happening thereto by such removal, unless such loss or damage was occasioned by gross negligence or design: and on conviction of any person of having obstructed any highway in manner aforesaid, before any Court of competent jurisdiction, he shall be punished by a fine not exceeding five dollars to the use of the State, and double the expense of the removal of such obstruction, to the use of the person who shall have removed the same, or such person may recover the double of such expense to his own use in an action on the case: *Provided nevertheless*, That nothing in this Act shall be so construed as to give power to any surveyor or other person to remove or pull down any fence which may be lawfully set up or erected upon or across any way for the purpose of preventing the spreading of infectious disorders.

Any person aggrieved by such removal may apply to C. Sessions.

Duty of surveyor or to remove obstructions in highways.

Penalty for obstructing highways by logs, lumber, &c.

Proviso, as to fences set up for preventing spread of infectious disorders.

SEC. 26. *Be it further enacted*, That when any building, fence or other incumbrance, erected or continued on any town or private way, or on any public highway, a common training field, burying place, landing place or other piece of land, appropriated for the general use, ease or convenience of the community at large, or the inhabitants of any county, or town, shall by any Court, having cognizance thereof, be adjudged and determined a nuisance, and ordered to be abated, in case the materials of such building, fences or other incumbrance, upon a public sale thereof, at auction, shall be insufficient to pay the costs and charges of prosecution and removal; the Court from whence the process for removal shall issue, shall and may order the deficient sum to be raised and levied from the goods and chattels of the person or persons who shall be convicted of erecting or continuing the same.

Buildings, fences, &c. being adjudged nuisances by Court, may be removed.

Expense of removal how to be defrayed.

SEC. 27. *Be it further enacted*, That where buildings or fences have been erected fronting upon, or against any training field, burying place, common landing place, highway, private way, street, lane, or alley in any town in this State, where from length of time or otherwise the breadth or quantity thereof is not known, or can be made certain by the records, or by any other boundaries; and such buildings or fences have been upheld, maintained and continued for more than forty years, such fences or buildings shall be deemed and taken to be the true ancient boundaries thereof; but no

Buildings, fences, &c. fronting on certain public grounds, where the true bound. cannot be known, after 40 years standing are to be considered the true bound.

In other cases 60 years prescription necessary to justify continuance of fence, &c.

length of time, (under three score years,) shall justify the continuance of a fence or building on any town or private way, or on any public highway, a common training field, burying place, landing place or other piece of land appropriated for the general use, ease or convenience of the community at large, or for the inhabitants of any particular county, town, or parish, but the same may be removed by order of the Circuit Court of Common Pleas, or the Supreme Judicial Court, as a nuisance, upon the presentment of a Grand Jury.

[Approved March 2, 1821.]

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CHAPTER CXIX.

An Act for enabling Proprietors of Private Ways and Bridges to repair them in equal proportion.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when and so often as any number of the proprietors and rightful occupants of any private way or bridge, where there are four, or more than four of them, shall judge a proprietors' meeting necessary, three of them applying to a Justice of the Peace within and for the county where the said way or bridge lies, such Justice is hereby authorized and empowered to grant a warrant for calling the same; or otherwise one fourth part of the said proprietors may, of themselves, call such meeting; in either case to be done by warrant under the hand of the said Justice, posted up in some public place or places, in the town or towns where the said proprietors and rightful occupants live respectively, seven days at least before the time appointed for such meeting, signifying the time, place and business thereof: and the major part of the proprietors and rightful occupants so assembled, shall have full power to determine by a major vote on any other way of calling meetings in future, and to choose a Clerk and surveyor, who shall be sworn to the faithful discharge of their respective trusts, as town officers are; and to determine what repairs on the said way or ways, bridge or bridges, are necessary; and also each proprietor's and occupant's proportion of labor and materials necessary for repairing the said way or ways, bridge or bridges; and such surveyor, so chosen and sworn, shall have the same power with respect to such ways or bridges, as the surveyors of highways are by law invested with; and shall be governed by the same rules as are prescribed by law for their direction; and in case of neglect or refusal of any proprietor or occupant, in attending the said work by himself or other sufficient person in his stead; or furnishing materials when required by the said surveyors, necessary for the repair of the said ways or bridges, agreeable to the determination of the said proprietors; he or she shall be subject to

How meetings of such proprietors are to be called.

May agree on the mode of calling future meetings and choose clerk and surveyor to be sworn.

Proceedings as to repairs.

the same fines and penalties as are provided in case of town highways, and to be recovered in the same manner.

SEC. 2. *Be it further enacted*, That if any surveyor, chosen as is provided by this Act, shall refuse or neglect to accept that trust, and take the oath aforesaid, he shall forfeit and pay the sum of four dollars, to be recovered in manner aforesaid; and all fines and forfeitures incurred by breach of this Act, shall be applied for the use of the propriety for repairing the said ways or bridges.

Penalty on surveyor's refusal to accept.

Fines how applied.

SEC. 3. *Be it further enacted*, That it shall and may be lawful for said proprietors, and the rightful occupants of private ways and bridges, at any meeting legally assembled for that purpose, to authorize their surveyor, or any other person or persons to contract by the year, or for a longer or a shorter time, for the making and keeping in repair any private way or ways, bridge or bridges; and at any such meeting may vote to raise any sum or sums of money they may deem necessary for carrying such contracts into effect; and may choose Assessors, who shall assess all sums of money so raised on each proprietor's or occupant's proportion therein; and shall also deliver true lists of said assessments to the said surveyor, with warrants of distress in form, as to substance, as is prescribed by law for collecting town taxes; and every such surveyor is hereby authorized and empowered to levy and collect all taxes or assessments for the purposes aforesaid, in the same way and manner as surveyors of highways are empowered to collect town highway taxes, in and by "An Act directing the method of laying out, and making provision for the repair and amendment of highways;" and if any such surveyor shall neglect or refuse to pay over the monies so collected to such person or persons as he, in his warrant of distress shall be required, when demanded, he shall be liable to the same penalties as in and by the said law is provided, in case of surveyors failing to pay over monies to the town Treasurer in the like case.

May authorize their surveyor to make contracts for repairing, &c.

and raise money to carry them into effect.

May assess and collect taxes, &c. as in case of highways.

Penalty on surveyor for neglect.

[Approved February 28, 1821.]

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CHAPTER CXX.

An Act making provision for erecting Guide Posts upon Public Roads.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That it shall be the duty of the inhabitants of the several towns in this State, and also such plantations as are assessed in any public tax, to provide, erect, and keep in repair such guide posts upon all public roads, at such places, and in such manner, as is hereafter in this Act provided.

Towns, &c. to erect and keep guide posts.

SEC. 2. *Be it further enacted*, That the Selectmen of the several towns, and the Assessors of all plantations, assessed

Selectmen, &c. to direct where they shall be

placed, and a record of such places to be made.

In any public tax, in this State, be and they hereby are authorized and required from time to time to fix and determine upon such places at the corners and angles of all roads in the several towns and plantations aforesaid, at which the said guide posts shall be erected and kept, as in their judgment shall be found necessary and convenient, and shall cause a fair record thereof to be entered and kept among the records of the said towns or plantations.

Manner of their construction.

SEC. 3. *Be it further enacted,* That the guide posts to be erected and kept in pursuance of this Act, shall be constructed in manner following, that is to say; there shall be erected at the several corners or angles of the roads aforesaid, at such places as shall be ordered by the Selectmen of towns, or Assessors of the plantations aforesaid, a substantial post of not less than eight feet in height, upon the upper end of which shall be placed a board or boards, upon each of which boards shall be plainly and legibly painted the name of the next town, with such other noted town or place, as may be judged most expedient for the direction of travellers, to which each of the roads may lead, together with the distance or number of miles to the same; and also the figure of a hand with the fore finger thereof pointing towards the town or place to which the said roads may lead: *Provided nevertheless,* That the inhabitants of the several towns and plantations aforesaid, duly qualified to vote in town or plantation affairs, may, if they judge fit, annually agree upon some suitable substitute in the room of said guide posts, and appoint any proper person or persons to superintend the erecting the same.

Towns may agree on a substitute for such guide posts.

Penalty on towns for their neglect.

SEC. 4. *Be it further enacted,* That if the inhabitants of any of the towns or plantations aforesaid shall neglect or refuse to erect and maintain said guide posts in such places and in such manner as is herein provided, the said inhabitants shall forfeit and pay, to the use of the State, five dollars for every month which they shall so neglect or refuse: And if the Selectmen of the several towns or Assessors of the several plantations aforesaid, shall neglect or refuse to fix and determine upon any places in the towns and plantations aforesaid, at which the said guide posts shall be erected and kept, by the time in this Act set and limited, the said Selectmen or Assessors shall forfeit and pay, to the use of the State, five dollars for every month which they shall so neglect or refuse; said penalties and forfeitures to be recovered by indictment of the Grand Jury in the county where the offence may be committed.

On selectmen, &c. for their neglect.

Penalty for injuring guide posts or substitutes.

SEC. 5. *Be it further enacted,* That if any person shall injure, mar or deface any guide post, or its substitute agreed upon as aforesaid, or board which shall be set up, as is in this Act provided, and be convicted thereof before any Justice of the Peace within this State, such person, so convicted, shall

forfeit a sum not more than six dollars nor less than two dollars; one half to the complainant, and the other half to the use of the town or plantation in which such guide post or its substitute, so injured, marred or defaced was set up, and shall pay all costs of the prosecution.

[Approved February 28, 1821.]

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CHAPTER CXXI.

An Act for regulating Drains and common Shores.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall dig or break up the ground in any highway, street or lane in any town, for the laying, altering, repairing or amending of any drain or common shore without the consent of the Selectmen of the town, signified in writing, under the hand of the Town Clerk, such person shall forfeit and pay four dollars for each offence, to the use of the poor of the town, to be recovered with costs of suit, in an action of debt, by the Treasurer thereof, before any disinterested Justice of the Peace in the county.

Penalty for breaking up highway, &c. to lay drains without consent of selectmen.

SEC. 2. **Be** it further enacted, That all drains and common shores for the draining of cellars which shall hereafter be made or repaired in any streets or highways, shall be substantially done with brick or stone, or with such other materials as the Selectmen of the town shall permit; and in such manner as the said Selectmen shall direct. And when any one or more of the inhabitants of any town, shall, by the consent and under the direction aforesaid, at his or their own charge, make and lay any common shore or main drain, for the benefit of themselves and others who may think fit to join therein; every person who afterwards shall enter his or her particular drain into the same; or by any more remote means shall receive any benefit thereby, for the draining of their cellars or lands, shall be held to pay to the owner or owners of such common shore or main drain, a proportionable part of the charge of making or repairing the same, to be ascertained and determined by the Selectmen of the town or a major part of them, and certified under their hands; saving always to the party aggrieved at any such determination, a right of appeal to the Court of Sessions.

How common shores must be made.

Owners of private drains connected with main drain, to assist in paying expense of it—

Amount to be settled by selectmen or Court of Sessions.

SEC. 3. **Be** it further enacted, That when any common shore or main drain shall be stopped or gone to decay so that it shall be necessary to open the same in order to repair it, or remove such stoppage, all the persons who shall be benefitted by such repairs or removal of obstructions, shall be held to pay their proportionable parts of the expenses thereof; as well those who do not, as those who do cause such repairs to be made or obstruction removed; to be ascertained and determined by the Selectmen as aforesaid, saving an appeal as

Expense of opening a common shore, how to be apportioned and defrayed.

Proceedings when any person wishes to open a common shore to clear it.

Proviso as to the validity of previous covenants, &c. among proprietors.

aforesaid. And each person so held to pay his or her part shall have notice thereof of the sum, and to whom to be paid; and if such person shall not pay the same, within ten days after such notice, to the person appointed by the Selectmen to receive it, he or she shall be held to pay the person, so appointed, double the sum mentioned in such certificate, with all costs arising upon such neglect; and such person is hereby empowered to bring an action or actions for the same accordingly: *Provided always*, That the person or persons who shall have occasion to open any common shore or main drain, in order to clear and repair the same, shall, seven days at least before they begin to open the same, notify all persons interested therein, by advertising in such manner as the Selectmen may direct, that they may, (if they think proper,) object thereto, and lay their objections in person, or writing, before the Selectmen: and if the Selectmen, or the major part of them, shall judge the objections reasonable, then the person or persons making the same, shall not be held to pay any part of such expenses; but if they do not make their objections as aforesaid to the Selectmen within three days after being so notified, or if they shall deem the objections not to be sufficient, then they shall, under their hands, give liberty to the persons applying to proceed to open such common shore or main drain and clean and repair the same, and all interested therein shall pay their proportions as is provided in this Act: *Provided also*, That nothing in this Act shall be understood or construed to affect or make void any covenants or agreements already made, or that may hereafter be made, among the proprietors of such drains or common shores. [Approved February 28, 1821.]

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CHAPTER CXXII.

An Act ascertaining what shall constitute the legal settlement; and providing for the Relief and Support, Employment and Removal of the Poor.

Repeal of former laws.

Settlement gained by force of them confirmed.

Modes of gaining settlement.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all laws heretofore made, enacting and ascertaining what shall constitute a legal settlement of any person, in any town within this State, so as to subject and oblige such town to support such person, in case of his becoming poor and standing in need of relief, so far as they relate to the manner of gaining a settlement in future, be and they hereby are repealed; but all settlements already gained by force of said laws, or otherwise, shall remain, until lost by gaining others in some of the ways hereafter mentioned.

SEC. 2. *Be it further enacted*, That legal settlements in any town in this State shall be hereafter gained, so as to subject and oblige such town to relieve and support the persons gain-

ing the same, in case they become poor and stand in need of relief, by the ways and means following and not otherwise, namely: *First*, A married woman shall always follow and have the settlement of her husband, if he have any within this State, otherwise her own at the time of marriage, if she then had any, shall not be lost or suspended by the marriage. *Second*, Legitimate children shall follow and have the settlement of their father, if he shall have any within this State, until they gain a settlement of their own; but if he shall have none, they shall in like manner follow and have the settlement of their mother, if she shall have any. *Third*, Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if any she shall then have within the State, but neither legitimate nor illegitimate children shall gain a settlement by birth in the places where they may be born, if neither of their parents shall then have any settlement there. *Fourth*, Any person that shall be admitted an inhabitant by any town at any legal meeting, in the warrant for which an article shall be inserted for that purpose, shall thereby gain a legal settlement therein. *Fifth*, All persons dwelling and having their homes in any unincorporated place, at the time when the same shall be incorporated into a town, shall thereby gain a legal settlement therein. *Sixth*, Upon division of towns, every person having a legal settlement therein, but being removed therefrom at the time of such division and not having gained a legal settlement elsewhere, shall have his legal settlement in that town wherein his former dwelling place or home shall happen to fall upon such division; and when any new town shall be incorporated, composed of a part of one or more old incorporated towns, all persons legally settled in the town or towns of which such new town is so composed, and who shall actually dwell and have their homes within the bounds of such new town at the time of its incorporation, shall thereby gain legal settlements in such new town. *Seventh*, Any minor who shall serve an apprenticeship to any lawful trade for the space of four years in any town, and actually set up the same therein within one year after the expiration of said term, being then twenty-one years old, shall thereby gain a settlement in such town.— Any person of the age of twenty one years, who shall hereafter reside in any town within this State for the space of five years together, and shall not during that term receive directly or indirectly, any supplies or support as a pauper from any town, shall thereby gain a settlement in such town. Any person resident in any town at the date of the passage of this Act, who has not within one year previous to that date received support or supplies from some town as a pauper, shall be deemed to have a settlement in the town where he then dwells and has his home. And every legal settlement, when gained, shall continue till lost or defeated by gaining a new one; and

Married woman.

Legitimate children.

Illegitimate children.

Admitted by town.

Incorporation of plantations, to include all then dwelling therein.

Division of towns.

Apprenticeship.

Residence of five years together without receiving support.

Residence at the time of passing this law, not having been supplied as a pauper for 1 year preceding. Settlement when gained to continue till

defeated by a new one.

upon gaining such new settlement, all former settlements shall be defeated and lost.

Towns to support all paupers having settlement therein.

SEC. 3. *Be it further enacted,* That every town within this State shall be holden to relieve and support all poor and indigent persons, lawfully settled therein, whenever they shall stand in need thereof; and may vote and raise monies therefor, and for their employment, in the same way that monies for other town charges are voted and raised; and may also at their annual meetings, choose any number, not exceeding twelve suitable persons, dwelling therein to be Overseers of their poor; and where such are not specially chosen, the Selectmen shall be Overseers of the Poor.

May raise monies therefor, and choose overseers of the poor.

Overseers to have the care of the poor, and their duty towards them.

SEC. 4. *Be it further enacted,* That said Overseers shall have the care and oversight of all such poor and indigent persons, so settled in their respective towns, and shall see that they are suitably relieved, supported and employed, either in the work house or other tenements belonging to such towns, or in such other way and manner as they at any legal meeting shall direct; or otherwise at the discretion of said Overseers, at the cost of such town.

Certain kindred of paupers liable to support them.

SEC. 5. *Provided always: Be it further enacted,* That the kindred of any such poor person, if any he shall have in the line or degree of father, or grandfather, mother or grand mother, children or grand children, by consanguinity, living within this State, of sufficient ability, shall be holden to support such pauper in proportion to such ability. And the Circuit Court of Common Pleas, in the county where any one of such kindred to be charged shall reside, upon complaint made by any town or kindred who shall have been at any expense for the relief and support of any such pauper; which complaint being filed in the Clerk's office of such Court and summons thereon issued, directed to and served by any proper officer to serve original summons, and in the manner they are by law to be served, fourteen days before the sitting of such Court, shall be sufficient to hold the persons summoned to answer thereto; may on due hearing, either upon the appearance or default of the kindred so summoned, assess and apportion such sum as they shall judge reasonable therefor, upon such of said kindred as they shall judge of sufficient ability, and according thereto, to the time of such assessment, with costs; and may enforce payment thereof by warrant of distress: *Provided,* Such assessment shall not extend to any expense for any relief afforded more than six months previous to the filing of such complaint. And may further assess and apportion upon them such weekly sum for the future as they shall judge sufficient for the support of such pauper, to be paid quarterly till further order of Court, and upon application from time to time of the town or kindred to whom the same shall have been ordered to be paid, the Clerk of the said Court shall issue, and may renew a warrant of distress for the

Made of proceeding to compel such support, by complaint in the Court of Common Pleas.

Court may further assess a weekly sum to be contributed by such kindred;

arrears of any preceding quarter. And the Court may further order with whom of such kindred that may desire it, such pauper may live and be relieved, and for such time with one, and such with another, as they shall judge proper, having regard to the comfort of the pauper as well as the convenience of the kindred. And upon suggestion, other kindred of ability not named in the complaint, may be notified, and the process may be continued, and upon due notice whether they appear or are defaulted, the Court may proceed against them in the same manner as if they had been named in the complaint. But if such complaint be not entered, or be discontinued or withdrawn, or be adjudged groundless, the respondents shall recover costs. And such Court may take further order from time to time in the premises, upon application of any party interested, and may alter such assessment and apportionment as the circumstances may vary.

SEC. 6. *Be it further enacted*, That said Overseers be and they are hereby empowered, from time to time to bind out by deed indented or poll, as apprentices, to be instructed and employed in any lawful art, trade, or mystery, or as servants to be employed in any lawful work or labor, any male or female children, whose parents become actually chargeable to their town, also whose parents shall be thought by said Overseers to be unable to maintain them, (whether they receive alms or are so chargeable or not,) to any citizen of this State, that is to say, male children till they come to the age of twenty-one years; and females till they come to the age of eighteen years, or are married; which binding shall be as valid and effectual in law as if such children had been of the full age of twenty-one years, and had, by a like deed, bound themselves, or their parents had been consenting thereto: Provision to be made in such deed for the instructing of male children, so bound out, to read, write and cypher; and of females to read and write, and for such other instruction, benefit and allowance, either within or at the end of the term, as to the Overseers may seem fit and reasonable.

SEC. 7. *Be it further enacted*, That it shall be the duty of said Overseers, to inquire into the usage of children already legally bound out, or that may be bound out by force of this Act, and to defend them from injuries. And upon complaint by such Overseers, made to the Circuit Court of Common Pleas in the county where their town is, or where the child may be bound, against the master of any such child, for abuse, ill treatment or neglect; said Court, (having duly notified the party complained of,) may proceed to hear the complaint, and if the same be supported, and the cause shall be judged sufficient, may liberate and discharge such child from his or her master, with costs, for which execution may be awarded; otherwise the complaint shall be dismissed but without costs, unless it appear groundless and without probable

and with which of them the pauper may reside.

Overseers may bind out children of paupers as apprentices or servants.

Provision to be made in the indentures for instruction of such children.

Overseers to inquire as to treatment of such apprentices.

C. C. Common Pleas may discharge such child from his master in certain cases:

cause ; in which case costs shall be allowed the respondent. And any apprentice or servant, so discharged, or whose master shall decease, may be bound out anew for the remainder of the term, in manner aforesaid. And such Overseers may also have remedy, by action on such deed, against any person liable thereby for recovery of damages for breaches of any of the covenants therein contained, which, when recovered, shall be placed in the town treasury, deducting reasonable charges, and disposed of by the Overseers, at their discretion, for the benefit and relief of such apprentice or servant within the term ; the remainder, if any, to be paid to him at the expiration thereof ; and the Court before which such cause shall be tried originally, and on the appeal, may also, upon the plaintiff's request, if they see cause, liberate and discharge such apprentice or servant from his master, if it hath not then been already done in the method before directed by this Act. And such apprentice or servant shall have like remedy when their term is expired, for damages for the causes aforesaid, other than such, (if any,) for which damages may have been recovered as aforesaid, by action upon such deed to be delivered them for that purpose, and on which no endorsement shall be necessary : *Provided*, Such action be commenced within two years after the expiration of the term ; and where such deed shall have before been put in suit, an attested copy from the proper officer may be used and have the same force as the original. And no action brought by Overseers shall abate by the death of some of them, or by their being succeeded in office, pending the action, but it shall proceed in the name of the original plaintiffs or the survivors of them. And in case of elopement, any such apprentice or servant may be apprehended by any Justice of the Peace of the county where he is bound, or where he may be found, upon the complaint of the master, or any other on his behalf, and returned to his master by any person to whom the warrant may be directed ; or may be first sent to the house of correction, at the Justice's discretion. And every person enticing any such apprentice or servant to elope from his master, or harboring him, knowing him to have eloped, shall be liable to the master's action for all damages sustained thereby.— And the Circuit Court of Common Pleas, either in the county where the Overseers binding, or the master of any apprentice or servant bound, live, may also upon complaint of such master, for gross misbehaviour, discharge such apprentice or servant from his apprenticeship or service, after due notice to such Overseers and hearing thereupon.

SEC. 8. *Be it further enacted*, That said Overseers shall have power to set to work, or bind out to service by deed, as aforesaid, for a term not exceeding one whole year at a time, all such persons residing and lawfully settled in their respective towns, or who have no such settlement within this State,

and he may be bound anew in certain cases.

Overseers may have remedy on indentures: Proceedings in such cases.

Action not to abate by death of some of the overseers, &c. &c.

Apprentice eloping may be arrested and returned.

Persons enticing away such servants liable to damages.

Court may also discharge such apprentice, on complaint of master.

Overseers may bind out persons in certain cases.

married or unmarried, upwards of twenty-one years of age, as are able of body, but have no visible means of support, who live idly and exercise no ordinary or daily lawful trade or business to get their living by; and also all persons who are liable by any law to be sent to the house of correction, upon such terms and conditions as they shall think proper. *Provided always*, That any person thinking him or herself aggrieved by the doings of said Overseers in the premises may apply, by complaint, to the Circuit Court of Common Pleas in the county where they are bound, or where the Overseers who bound them dwell, for relief; which Court, after due notice to the Overseers and to their masters, shall have power, after due hearing and examination, if they find sufficient cause, to liberate and discharge the party complaining, from his or her master, and to release him or her from the care of the Overseers; otherwise to dismiss the complaint, and to give costs to either party or not, as the Court may think reasonable.

Persons aggrieved by doings of overseers herein, may complain to C. C. Common Pleas.

Proceedings in such Court.

SEC. 9. *Be it further enacted*, That the poor persons standing in need of relief, living without the bounds of any incorporated town, shall be under the care of the Overseers of the poor, appointed in the adjoining town where the inhabitants of such unincorporated place are usually taxed: and the same Overseers shall have the like authority to bind out the children of such poor persons, as they are vested with, respecting the children of persons in like circumstances, inhabitants of the town in which they are appointed. And such Overseers may also set to work, or bind out as aforesaid, for a space not exceeding one whole year at a time, all such persons above the age of twenty-one years, married or unmarried, residing in their county, but without the bounds of any town, as are able of body, but have no visible means of support; or who live idly, using no ordinary daily lawful trade or business to get their living by; or who are liable by any law to be sent to the house of correction; and shall receive and apply their earnings, (deducting reasonable charges,) to the support of them or their families, if any they have, at their discretion; saving to such persons the like remedy for relief, if they think themselves aggrieved, as is by this Act provided for persons set to work, or bound out for like causes by Overseers of towns. And for the prevention of poverty as well as lewdness,

Paupers in unincorporated places to be under care of overseers of the adjoining town, where such unincorporated place is taxed. Power and duty of such overseers respecting such paupers.

SEC. 10. *Be it further enacted*, That any person who shall be suspected of keeping a house of ill fame, resorted to for the purposes of prostitution or lewdness, may be apprehended by warrant from any Justice of the Peace in the county, upon complaint of the Overseers of the town wherein such house shall be; and upon conviction of such offence, before such Justice, or before the Circuit Court of Common Pleas, or presentment of the Grand Jury, may be ordered to the house

Persons keeping houses of ill fame may be prosecuted on complaint of overseers.

Proceedings in such case.

of correction, for a term not exceeding one month; and after such conviction, shall not be allowed to keep lodgers or boarders, in any town, without the license of the Overseers of the poor thereof.

Overseers to provide for immediate relief of persons in distress, &c. found in their towns, but settled elsewhere.

SEC. 11. *Be it further enacted*, That it shall also be the duty of said Overseers in their respective towns, to provide for the immediate comfort and relief of all persons residing or found therein, not belonging thereto, but having lawful settlements in other towns, when they fall into distress and stand in need of immediate relief, and until they shall be removed to the places of their lawful settlements; the expenses whereof, incurred within three months next before notice given to the town to be charged, as also of their removal or of their burial, in case of their decease, may be sued for and recovered, either in a civil action by the town incurring the same, against the town wherein such persons had such settlements, or in the method by complaint, hereafter prescribed in and by this Act: *Provided*, Such action or complaint for damages be commenced or preferred within two years after the cause of action arose, but not otherwise. And in such civil action the settlement of the pauper shall not be contested by the defendants, if it hath been then adjudged to be in their town upon such process as is herein after prescribed; otherwise it may be; and a recovery in such action shall bar the own against which the same shall be had, from disputing the settlement of such pauper in such town, with the town so recovering, in any future action or process, brought and prosecuted for the support or removal of such pauper.

Such expenses incurred within 3 months before notice, may be recovered of the town where the pauper is legally settled.

Provided suit be commenced within 2 years after action accrues.

Settlement of pauper not to be contested, in case.

Recovery in such action to be a bargain; contesting the settlement in a subsequent action.

Overseers of towns containing a gaol, may by their order, set to work any prisoner for debt chargeable to any town in the State.

SEC. 12. *Be it further enacted*, That the Overseers of the poor of any town, in which there is a county gaol, are hereby authorized and directed, at their discretion, by their order in writing, to set to work, under their own direction, or the direction of any other suitable person, any debtor committed to prison upon mesne process or execution, and actually chargeable to any town or district in this State for his support: And the order of said Overseers shall remain in force, until they shall revoke the same, or such prisoner shall provide for himself: *Provided however*, That no prisoner shall be required to labor more than is necessary to pay the expense of his support. And no prisoner shall be chargeable to any town as a pauper, while such order of the Overseers respecting him shall remain in force, except for the deficiency of his earnings to pay the expense of his support.

Provided such prisoner shall not be required to labor more than is necessary for his own support.

No prisoner to be chargeable to a town, as pauper during continuance of such order, except, &c.

Towns supporting poor prisoners, may recover the expense, of the creditor who committed them.

SEC. 13. *Provided nevertheless: Be it further enacted*, That every town which shall be liable for, and shall have paid any of the charges of maintaining in prison, any person as a pauper, hereafter committed on mesne process or execution, in any civil action, may recover the same in an action at law against the creditor, at whose suit such debtor shall have been committed, and for the time he shall continue so imprisoned,

Form of Sum-
mons on such
complaint.

SEAL. ss. To the Sheriff of the county of _____, Greeting.
or his deputy,

In the name of the State of Maine, you are hereby requir-
ed to summon the town of _____ in said county of _____ to ap-
pear, if they see fit, before me the subscriber, a Justice of the
Peace in and for said county of _____, on the _____ day of
_____ at _____ of the clock in the _____ noon, to shew cause,
if any they have, why the prayer of the above written com-
plaint should not be granted; by leaving an attested copy
thereof, and of this summons, with the Overseers of the said
town of _____ or some one of them, thirty days before said
day of _____; and make return hereof, and of your
doings herein, unto me, the said Justice, on or before the
said _____ day of _____. Hereof fail not. Given under my
hand and seal the _____ day of _____ in the year of our
Lord _____ T. P.

Proceedings on
such com-
plaint.

And such officer shall serve and return the same, his being
an inhabitant of the town to be summoned notwithstanding,
for the same fees as for other writs of summons. And such
Justice shall summon the party to be removed, and other wit-
nesses, and may, if he see cause, compel the appearance of
the former by warrant, to be examined; and shall hear his
objections to such removal, and may, for good cause, continue
the process once, not exceeding three months; and after
due examination and hearing, whether the town summoned
appears or not, shall proceed to give judgment for or against
the complainants, and make a record thereof in substance as
follows:

Form of record
by Justice.

ss. At a Court held before me _____ Esq. a Justice
of the Peace in and for the county of _____, at _____ in said
county, on the _____ day of _____ in the year of our Lord one
thousand eight hundred and _____. The town of _____ in
the county of _____ complainants against the town of _____
in the county of _____; shewing that _____ now resident in
said town of _____, is poor _____ and become chargeable, to
that town, (or is likely to become chargeable, as the fact may
be,) and that said town of _____ is the place of his lawful set-
tlement, and praying it may be so adjudged, and that he may
be removed thither: (and for damages for expenses incurred
on account of such pauper, or that may be incurred, and for
costs:) The parties appear, (or the complainants appear,) but
the said town of _____, although solemnly called, doth not ap-
pear, but makes default; (as the case may be.) And after
due examination and hearing, and on due consideration of
the premises had, I do adjudge the same to be true; and I do
also adjudge that the lawful settlement of the said
is in the town of _____, and that he be removed thither, and
that the complainants recover costs, (or that the complainants
recover the sum of _____, damages for expenses incurred to
this time for the support of said _____ as the case may re-

quire,) [or if in the favor of the town complained of, say,] I adjudge that the said _____ is not likely to become chargeable to said town of _____, or that the lawful settlement of said _____ is not in said town of _____; and that said town of _____ recover costs. Recorded by me.

_____ Justice of the Peace.

No costs, however, to be awarded for such town if defaulted; but if the complaint be not entered, or be discontinued, or not prosecuted, the town complained of appearing, and praying therefor, shall recover costs. And upon judgment of removal, such Justice may issue his warrant of removal directed to, and to be executed by any Constable of the town from whence the person is to be removed, and to any particular person by name in the following form:

Justice may issue his warrant of removal;

(SEAL.) ss. To any Constable of the town of _____ form thereof.
in the county of _____, or to _____ Greeting.

Whereas, at a Court held on _____ before me _____ Esquire, a Justice of the Peace in and for the county of _____, on the _____ day of _____, it was adjudged by me the said Justice, that _____ now resident in said town of _____, is chargeable, (or likely to become chargeable, as the case may be,) thereto; that his lawful settlement is in the town of _____ in the county of _____, and that he be removed thither. I do therefore, in the name of the State of Maine, hereby authorize and require you forthwith to take, remove and convey, by land or water, as may be most convenient, the said _____ to the said town of _____, and him deliver to the Overseers of the Poor thereof, or some one of them; who are hereby required to receive and provide for him as an inhabitant of that town. And of this warrant and of your doings herein, you are to make return to me, as soon as may be after you shall have executed the same. Given under my hand and seal the _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

J. P.

And such Overseers shall be obliged to receive and provide for such person accordingly; and said Justice may also award execution for damages and costs; and may tax in costs a reasonable sum for the expense of removal; and the execution may be issued to, and may be executed by a proper officer in the county where the town is, against which it issues: *Provided always*, That either party, as also any person who shall be adjudged likely to become chargeable, and ordered to be removed, aggrieved at the judgment of such Justice, may appeal therefrom to the next Circuit Court of Common Pleas to be holden in and for the same county; and shall produce copies, and enter and prosecute the same as other appeals are. And said Court shall hear and determine the same without a Jury, and may award like warrant for removal, and like execution for damages and costs, *mutatis mutandis*; or may on complaint, affirm the judgment of the Justice with additional

Justice may award execution for damages and costs.

Appeal allowed to C. C. Com. Pleas.

Proceedings on such appeal.

damages and costs, where the appeal is not prosecuted, and carry such judgment into execution.

Complaint may be made originally to C. C. Com. Pleas.

SEC. 16. *Be it further enacted*, That such complaint may be originally made by said Overseers, if they see fit, to the Circuit Court of Common Pleas in their county, by filing the same with the Clerk of said Court and procuring a like summons from him, *mutatis mutandis* and causing the same to be served in time and manner as aforesaid; as also summons for the party, to be removed, and for witnesses; and such Court, upon such complaint shall proceed to hear, determine, adjudge and grant warrant and execution in the same manner as in cases coming before them by appeal; and in all their adjudications in the premises, they shall state the facts upon which their judgments are founded; to the end that error therein, if any, may be corrected by writ of error, in the Supreme Judicial Court; to which either party aggrieved shall be entitled, if purchased within a year, but not otherwise; and upon which, if judgment be reversed such judgment shall be given as ought to have been given below; and the plaintiffs in error shall be restored to all they lost by such erroneous judgment with costs; but if the judgment be affirmed, the defendants shall recover costs. And said Supreme Judicial Court may send to said Circuit Court of Common Pleas, and require them to state that some material ones were omitted in the statement aforesaid; or to explain such as do not appear to the Court to be clearly stated; unless a new statement be agreed to by the parties. And depositions may be used before the Justice, as well as the Circuit Court of Common Pleas, on the trial of such complaints, when taken legally and for legal cause. And when expenses for support of a pauper are prayed for in such complaint, the same complaint may be proceeded upon to judgment, so far as respects his settlement and such expenses; the decease of the pauper pending the complaint notwithstanding.

Proceedings in said Court on such complaint.

May be corrected on error in Supreme Judicial Court.

Proceedings thereon in Sup. Judicial Court.

Depositions may be used in such cases.

Overseers, before legal process may send written notice to the town supposed to be chargeable &c. to remove the pauper.

If no removal, nor objection be made within 2 months, overseers may remove the pauper to his place of settlement.

SEC. 17. *Provided always: Be it further enacted*, That said Overseers may in all cases, if they judge it expedient, previous to any such application to any Justice of the Peace, or of the Circuit Court of Common Pleas, to send a written notification, stating the facts relating to any person actually become chargeable to their town to one or more of the Overseers of the place where his settlement is supposed to be, and requesting them to remove him, which they shall have power to do by a written order directed to any particular person by name, who is hereby authorized and required to obey the same; and if such removal is not effected, nor objected to by them, in writing, after such notice, to be delivered in writing, within two months after such notice to the Overseers of the town requesting such removal, or to some one of them; then such Overseers may remove such person by land or water as is most convenient, by a written order directed to,

and to be served by any persons who shall be particularly mentioned in such order, to said place of his supposed settlement, the overseers whereof shall be obliged to receive and provide for him; and their town shall be liable for the expenses of his support and removal; to be recovered by action as aforesaid, by the town incurring the same; and shall be barred from contesting the question of settlement with the plaintiffs in such an action. And if any person lawfully removed agreeably to this Act, to the place of his lawful settlement within this State, shall voluntarily return to the town from which he was removed, without their consent, he shall be deemed a vagabond; and upon conviction thereof, before any Justice of the Peace in the same county, may be sent to the house of correction.

SEC. 18. *Be it further enacted,* That said Overseers shall also relieve and support, and in case of their decease, decently bury all poor persons residing or found in their towns, having no lawful settlements within this State, when they stand in need; and may employ them, as other paupers may be, the expense whereof may be recovered of their relations, if they have any, chargeable by law for their support, in manner herein before pointed out, otherwise it shall be paid out of the respective town treasuries; and all monies accruing for licenses granted to retailers, innholders and victuallers, shall be paid into the respective town treasuries, where such licenses are granted for the benefit of the poor of said town; any law to the contrary notwithstanding; and upon complaint of such Overseers, any Justice of the Peace in his county may by warrant directed to, and which may be executed by, any Constable of their town, or any particular person by name, cause such pauper to be sent and conveyed by land or water to any other State, or to any place beyond sea, where he belongs, if the Justice thinks proper, he may be conveniently removed at the expense of the town; but if he cannot be so removed, he may be sent to and relieved and employed in the house of correction or work house, at the expense of the town; and every town shall be holden to pay any expense which shall be necessarily incurred for the relief of any pauper by any inhabitant, not liable by law for his or her support, after notice and request made to the Overseers of the said town, and until provisions shall be made by them. And where any poor person being in any town in this State, and standing in need of assistance for support, and who is notoriously subject to habits of intemperance, it shall be the duty of the Overseers of the poor in such town, to apply by complaint signed by a majority of said Overseers, to any Justice of the Peace in such county, who shall issue a warrant thereon against such person; and after a hearing before such Justice, if he shall adjudge, that such person is notoriously subject to habits of intemperance, he shall order him

And such place shall be liable to pay such expense and be barred from contesting the settlement of the pauper: Pauper returning, after such removal to be punished as a vagabond.

Overseers to support, or bury poor persons found in their towns, having no settlement in this State, or may employ them. Expenses how paid.

Money for licenses on retailers, innholders, &c to be paid into town treasuries for benefit of the poor.

Such paupers may be sent out of State

or employed in work house, &c.

Town liable to pay expense incurred by inhabitant, &c. for relief of pauper.

Intemperate pauper may be sent to the house of correction, to be maintained at the expense of town where he is settled, or of the county, in case.

committed to the house of correction, to be supported at the expense of the town, in which he has a settlement; and when not an inhabitant within the State, at the expense of the county, till discharged by the joint order of the Overseers of the town in which such house of correction is situated, and two Justices of the Peace, *unus quorum*.

Towns having incurred expense in supporting pauper, &c. may recover the same against him or his representatives.

SEC. 19. *Be it further enacted*, That the inhabitants of any town within this State, who have incurred expense for the support of any pauper, whether he was legally chargeable to them by means of his settlement or not, may recover the same against such person, his executors or administrators, in an action of assumpsit, for money paid, laid out, and expended for his use.

On death of pauper overseers may take possession of his effects.

SEC. 20. *Be it further enacted*, That upon the death of any pauper, who at the time of his decease shall be actually chargeable to any town within this State, the Overseers of the poor of such town may take into their possession all the personal property belonging to such pauper. And if no administration shall be taken upon the estate of such pauper, within thirty days after his decease, said Overseers may sell so much of such property, as may be necessary to repay the expenses incurred for such pauper. And if any part of such property shall be withheld from said Overseers, they shall have the same remedy for the recovery of such property, or the value thereof, that an administrator of the estate of said pauper might have in like case.

If there be no administration within 30 days such effects may be sold to pay expenses, &c. by overseers.

Overseers may have same remedy to recover effects withheld as administrators.

SEC. 21. *Be it further enacted*, That in all actions and prosecutions by complaint founded on this Act, for or against any town, or against any individual, the Overseers of the poor thereof, or any person, by writing, under their hands, appointed, shall and may appear, prosecute or defend the same to final judgment and execution, in behalf of such town; and every act or thing required or authorized by them to be done by this Act, may be done by them, or the major part of them.

In all actions, &c. by complaint, &c. overseers may appear by themselves or attorney, &c.

Penalty for bringing or leaving a pauper in any town where he has no settlement.

SEC. 22. *Be it further enacted*, That if any person shall bring and leave any poor and indigent person in any town in this State, wherein such pauper is not lawfully settled, knowing him to be poor and indigent; he shall forfeit and pay the sum of sixty dollars for every such offence; to be sued for and recovered by, and to the use of such town, by action of debt, in any Court proper to try the same.

Plantations may raise money for support of poor, and receive duty on licences.

SEC. 23. *Be it further enacted*, That the plantations in this State, be and they hereby are, empowered to raise money for the relief and support of the poor therein; to be applied by the Assessors thereof; and all monies accruing for licences as aforesaid, in plantations, shall be paid into the respective treasuries thereof for this purpose.

[Approved March 21, 1821.]

CHAPTER CXXIII.

An Act to prevent the introduction of Paupers from foreign ports or places.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That when any ship or vessel having any passengers on board, who have no settlement within this State, shall arrive at any port or harbor within the State, the master of such ship or vessel shall, before such passengers come on shore, leave a list of their names and places of residence with the Selectmen or Overseers of the poor of the town where such passengers shall arrive. And the master of such ship or vessel shall not land any such persons, without the permission of the Selectmen unless he shall enter into bonds with sufficient sureties, to the satisfaction of said Selectmen, in a sum not exceeding five hundred dollars for each passenger, to indemnify and save harmless such town as well as the State from all manner of charge and expense, which may arise from such passengers, for and during the term of three years; and if the master of any such ship or vessel shall land any such passengers, without entering their names and giving bonds as aforesaid, he shall forfeit and pay the sum of two hundred dollars for each passenger so landed, to be recovered by action of debt, by any person who shall sue for the same, one moiety thereof to the use of the State, and the other moiety to the prosecutor: *Provided*, That this Act shall not take effect, until the first day of October next, and that nothing in this Act shall be construed to extend to the master of any ship or vessel, in any voyage, on which such ship or vessel, may now be employed.

[Approved June 27, 1820.]

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CHAPTER CXXIV.

An Act for erecting Work Houses for the reception and employment of the Idle and Indigent.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any town in this State shall see meet to erect or provide a house for the reception, support, and employment of the idle and indigent, such town shall be, and hereby is fully authorized and empowered thus to do; and the towns aforesaid, as well as those who have already erected such houses, are hereby empowered, at their annual meeting, for the choice of town officers, to choose three, five, seven, or more Overseers of the said house; who shall have the inspection and government thereof, with full power of appointing a master, and needful assistants for the more immediate care and oversight of the persons received into or employed in the said house; which Overseers, once in every month, and at other times as occasion shall require,

shall assemble together for the purpose of determining the most eligible method of discharging the duties of their office : and at their stated monthly meetings shall have power to make needful orders and regulations for such house, which orders shall be binding until the next public meeting of the inhabitants of such town, to whom such orders shall be presented for approbation ; and when by them approved, shall be obligatory, until revoked by the town.

Several towns may join in building work-house, &c.

SEC. 2. *Be it further enacted,* That when any number of towns shall agree, (at their joint charge, and for their common benefit,) to erect or provide a work house for the employment of persons residing in such towns that are indigent or idle ; or to purchase land whereon to erect such house, or for the accommodation thereof, they shall be and hereby are vested with power and authority thus to do ; and the ordering and governing the same, making the necessary repairs thereof, appointing a master and other assistants, and the power of removing him or them from their respective offices or trusts for irregular behaviour, incapacity, or for other sufficient cause, shall be vested in Overseers, to be from year to year specially chosen by the several towns, at their annual meeting for the choice of town officers ; each town to choose three, unless all the towns engaged in the undertaking shall agree upon a different number : and in case of the death of an Overseer, or his removal from the town for which he was appointed, the vacancy made thereby may be supplied by such town, at any other public meeting : and if any town concerned shall neglect to choose such Overseers, in such case the person or persons, chosen in the other towns may proceed in all affairs of the said house, any such neglect notwithstanding.

Mode of choosing the officers and managing the concerns of such work houses.

Overseers to meet quarterly at work houses.

SEC. 3. *Be it further enacted,* That there shall be stated quarterly meetings of all the Overseers, on the first Tuesday of the months of January, April, July and October, annually, to be held at the work house, in order to inspect the management, and for directing the business thereof ; and besides those stated meetings intermediate ones, to be held at the work house, may be called by the Overseers of any town concerned ; due notice of the time and occasion thereof being given to the rest in such way and manner as shall be agreed upon by the Overseers, at any general stated meeting : and the said Overseers, when duly assembled, may choose a Moderator ; and at their first general meeting annually, after their appointment, they shall likewise choose a Clerk, to enter and record all votes and orders that shall be made and passed by the Overseers, who shall be sworn to the faithful discharge of his trust.

Intermediate meetings.

Their powers and proceedings.

May choose a moderator and clerk.

Overseers may make bye-laws, pay masters, &c. &c.

SEC. 4. *Be it further enacted,* That the Overseers for the time being at a general quarterly meeting, provided one half, at the least, of the whole number chosen are present, shall have full power and authority to make all reasonable orders

and bye-laws, not repugnant to the laws of this State, for the ordering and regulating the said house, and the affairs thereof: which orders and bye-laws shall continue and be in force, until altered, annulled or reversed by them or their successors in office, and may likewise agree with the master or other assistants, and order meet allowance for their care and service: and all other matters of less importance, relating to the said house, may be transacted at any other meeting duly notified, when only one third part of the Overseers are present; subject nevertheless to be altered or reversed at any general stated meeting.

SEC. 5. *Be it further enacted*, That the yearly stipend, or allowance, to the master and assistants, over and above what is provided for by this Act, for their care and trouble, together with charge of keeping the house in repair, shall be paid by the several towns concerned, in proportion as they are taxed to the State, at the time the expense is incurred; or in such other proportion as all the towns concerned shall agree upon: And, if any town or towns shall refuse or neglect to advance, or reimburse their respective proportions of such allowance or other charges before mentioned, after they shall have been stated and adjusted by the Overseers, the same may be recovered of such delinquent town or towns, in any Court proper to try the same, by action to be brought by such person or persons, as the Overseers shall in writing appoint for that purpose.

Compensation of master and assistants to be borne by towns concerned.

Payment may be compelled by action.

SEC. 6. *Be it further enacted*, That any two or more of the Overseers in any town, already provided with such house, and any two or more of the Overseers in any town that, either by themselves or in conjunction with other towns, shall hereafter erect a work house, be, and they are hereby authorized, empowered, and directed to commit to such house by writing, under the hands of the said Overseers, to be employed and governed, according to the rules and orders of the house, any person or persons, residing in such town that are in this Act declared liable to be sent thither: *Provided*, That no greater number of persons belonging to any town, be received into the house, than such town's proportion of the said house to be allotted them, can accommodate, when the receiving them will exclude or incommode such as belong to other towns; and an order of commitment from two or more Overseers, directed to a Constable of the same town, shall, by such Constable, be obeyed and executed.

Any two overseers may commit to work house, by warrant, such persons as are liable to be sent.

No town to send more than its proper share.

SEC. 7. *Be it further enacted*, That the persons who shall be liable to be sent unto, employed and governed in any work house erected or to be erected by one or more towns, in pursuance of this Act, are, all poor and indigent persons that are maintained by, or receive alms from, the town; also all persons able of body to work and not having estate or means otherwise to maintain themselves who refuse or neglect

Description of persons liable to be sent to, and employed and governed in work houses.

so to do ; live a dissolute, vagrant life, and exercise no ordinary calling or lawful business, sufficient to gain an honest livelihood ; and all such as having some ratable estate, but not sufficient to render them liable to pay any tax for such property equal to two thirds of a poll tax, do neglect the due care and improvement thereof ; and such as spend their time and property in public houses, to the neglect of their proper business ; or by otherwise mis-spending what they earn, to the impoverishment of themselves and their families, are likely to become chargeable to the town or to the State.

Idle or indigent foreigners may be sent to such house and employed there.

SEC. 8. *Be it further enacted,* That when any foreigner or other person, not a legal inhabitant of any town within this State, shall become idle or indigent, it shall be the duty of the Overseers of the town in which such person resides, or any two of them to commit such idle or indigent person to the work house belonging to the same town, or in which such town is interested ; and the person or persons so committed, shall be under the care of the keeper of such house, and be employed, if capable of labor, in the same way and manner as is herein before directed, and shall be subject to the same rules and regulations as others committed to said house. And such Overseers shall keep a fair account of the charge of supporting such idle or indigent person from time to time, and shall exhibit the same once in every year, at the least, to the Legislature, for allowance and payment, deducting therefrom the amount of such person's earnings.

Overseers to keep a fair account to be laid before the Legislature for allowance.

Penalty for towns neglecting to furnish its proportion of furniture, materials, &c.

SEC. 9. *Be it further enacted,* That if any town shall refuse or neglect to provide its proportion of the needful furniture for such house, or the materials, implements or other necessary apparatus for carrying on the work there to be performed, according to their agreement, or as shall be directed by the Overseers, such town shall be deprived of the privilege of sending any person thither, until they shall comply with such agreement or direction.

Towns may furnish more than its proportion of materials and tools in certain cases.

SEC. 10. *Be it further enacted,* That beside the aforesaid proportion of materials and other things to be found by the towns concerned, each town may likewise provide such other materials and tools for work, as the Overseers for such town shall determine, any person by them committed to the said house, can be employed about, more advantageously ; and the master of the house shall receive such materials and tools, and keep them separate and apart from those sent from any other town, and shall be accountable to the Overseers of each town concerned, as well for the prime costs, as for all profits and earnings that shall be made by the labor of those belonging to such town under his care ; and shall keep a register of the names of the persons committed to such work house, and of the towns to which they respectively belong, with the time of their being received into, and discharged therefrom, and of their earnings, that the same may appear

Master to keep distinct account, and be accountable for prime costs, as well as profits.

And shall keep a register, &c.

to any of the Overseers whenever they shall incline to inspect them: and all controversies between the master or keeper of such house, and the Overseers of any town, touching his accounts, or other his affairs whatever respecting the work house, may be determined by the Overseers of the house at a general or quarterly meeting.

Overseers to settle controversies, &c. respecting master's accounts, &c.

SEC. 11. *Be it further enacted,* That no town shall be chargeable for the relief or support of any person committed to the said house, who was not sent thither by the Overseers belonging to such town; nor shall any person orderly committed to the said house be discharged therefrom, but by the Overseers that made the commitment, or by the Overseers at a general or quarterly meeting, or otherwise by the Circuit Court of Common Pleas in the same county, upon application to them made for that purpose. And every person thus committed if fit and able to work shall be kept diligently employed in labor, during his or her continuance there: and in case the person so committed, shall be idle and not perform such reasonable task or stint as shall be assigned; or shall be stubborn and disorderly, they shall be punished according to the orders that shall be made for ruling, governing and punishing the persons there committed, not repugnant to the laws of this State.

No town liable to support any one not sent by overseers of such town.

How persons may be discharged from said house.

SEC. 12. *Be it further enacted,* That one third part of the profits or earnings of the work done by the persons detained in such house shall be to the master for, and towards his support, over and above such further annual stipend as the Overseers may allow him: and the prime stock, together with the other two thirds of the profits shall be disposed of by the Overseers of the respective towns, to whom it belongs, either to the master towards his services, or for the support of the families of the persons there detained, if any such they have, or otherwise for the use of such town as occasion shall require.

Profits of labor how divided.

SEC. 13. *Be it further enacted,* That any work house erected or provided as aforesaid, may be discontinued or applied to any other use whenever the town or towns concerned, shall find their circumstances require it, and shall agree thus to do.

Towns may discontinue work houses, &c.

[Approved March 15, 1821.]

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CHAPTER CXXV.

An Act for keeping Watches and Wards in towns, and for preventing disorders in streets and public places.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That all male persons of the age of eighteen years and upwards, being able of body, or having estate sufficient to hire, shall in their respect-

Persons liable to watch.

ive towns, be liable to watch and ward, either in their own persons, or by some other sufficient person or persons in their room, when duly warned to attend the same in the manner hereinafter mentioned, except all persons who shall live more than two miles from the place where the watch or ward is kept: and except Ministers of the gospel.

Justices and selectmen to have power to establish a watch from 9 o'clock to sunrise,

also a ward in day time.

Mode of proceeding and warning watch by constable.

Duty of watch, &c.

SEC. 2. *Be it further enacted,* That the Justices of the Peace, together with the Selectmen of each town in this State, shall have power from time to time, to direct and order a suitable watch or watches to be kept nightly within such town from and after nine o'clock in the evening until sunrise in the morning; and also a ward to be kept in the day time and evenings when they shall think the same watch or ward necessary: and to appoint the number of persons whereof of the same shall consist, the place or places wherein they shall be kept, and the hour or hours for keeping the same; and to give orders in writing accordingly, signed by a major part of such Justices and Selectmen, directed to any Constable or Constables of the town empowering and requiring him or them from time to time, to warn such watch or ward, and to see that all persons, so warned by him or them, do attend and do their duty in such manner as shall be required; and in the warning thereof to take care that some able householders, or other sufficient persons be joined in each watch or ward. And such Constable or Constables shall charge the watch to see that all disturbances and disorders in the night be prevented and suppressed; and to examine all persons whom they shall see walking abroad in the night after ten o'clock, and whom they shall have reason to suspect of any unlawful intention or design, of their business abroad at such season and whither they are going; and in case they give not reasonable satisfaction therein, then to secure by imprisonment or otherwise, all such disorderly and suspicious persons to be safely kept until morning; then to carry them before one of the next Justices of the Peace to be examined and proceeded against, according to the nature of their offences, as is by law directed. And such watchmen shall walk the rounds in and about the streets, wharves, lanes and principal inhabited parts within such town, to prevent any danger by fire, and to see that good order is kept, taking particular observation and inspection of all houses and families of evil fame, and shall strictly observe the charge to be given them as aforesaid. And each Constable when attending watch or ward, shall carry with him the usual badge of his office.

When Justices and selectmen judge that a more effectual watch may be kept, and towns agree, Court of Sessions may

SEC. 3. *Be it further enacted,* That in any town wherein the said Justices and Selectmen shall judge that a watch may be kept more for the benefit and safety thereof in any other manner than is herein before directed, and the inhabitants thereof shall agree to support the charge of the same; the

Justices of the Court of Sessions within the county wherein such town lies, upon application made, are hereby empowered to direct and order the rule for apportioning and levying such sum upon the inhabitants and residents in such town as shall be granted by the town for that purpose, in such manner as they shall judge most equal and just, by poll, estate, or both to be applied accordingly.

SEC. 4. *Be it further enacted,* That whenever a watch shall be so appointed and agreed upon different from a Constable's watch, the number and qualifications of the persons, whereof it shall consist, shall also be agreed upon by the said inhabitants of the town, observing the rule prescribed in the first section of this Act; and one sober, discreet, able bodied householder shall be appointed officer of the watch by said Justices and Selectmen, to take the charge and command of such watch, who as the badge of his office, shall carry a quarter pike with a spire on the top thereof; and every watchmen as well in this, as in the Constable's watch, shall carry a staff with a bill fastened thereon, as is usual. And the powers and duties of the said officer and watchmen shall be the same as are before prescribed in the second section of this Act, in the case of a Constable's watch.

SEC. 5. *Be it further enacted,* That if any person liable to watch or ward as aforesaid, being duly warned by the officer of the watch or Constable, or by other person appointed by such officer or Constable, shall refuse or neglect to appear and attend his duty, in that respect, either by himself or some other sufficient person in his stead, and be thereof convicted before a Justice of the Peace, either by the oath of the Constable, officer or other sufficient testimony on oath, without a just and reasonable excuse to be made and given for the same, he shall forfeit and pay for each offence the sum of one dollar, to the use of the town with costs of prosecution, to be levied by distress and sale of the goods and chattels of such offender, or otherwise be committed to prison until the same shall be paid. And if any Constable or officer of the watch shall neglect or refuse to observe and perform the orders he shall from time to time receive, he shall forfeit and pay to the use of said town, a sum not exceeding ten dollars, to be levied as aforesaid.

SEC. 6. *Be it further enacted,* That when the said Justices of the Peace and Selectmen shall think fit to walk by night to inspect the order of the town wherein they dwell, such of said Constables and watchmen shall attend them as shall be required to do the same, and obey their lawful commands.

SEC. 7. *Be it further enacted,* That the fee to the gaoler for each person taken up in the night, and committed to be secured only till the next day, shall be twenty-five cents and no more.

Direct as to assessment to defray expense.

Towns to agree as to the qualifications of watch.

Duty of watchmen.

Their power.

Penalty for neglecting to watch when warned.

Penalty for neglect of duty by constable.

When Justices and selectmen walk by night to inspect, &c. constable and watch to attend them, &c.

Gaoler's fees for committing &c.

Penalty for riding with naked scythes, &c. in highways.

SEC. 8. *Be it further enacted,* That if any person shall ride with a naked scythe, ground and hung in a sneath, on the highways or through any lanes, streets, or alleys, the person so offending shall forfeit and pay for each offence two dollars.

Penalty for assembling in night, with images, pageants, &c.

SEC. 9. *Be it further enacted,* That if any persons to the number of three or more, between sunsetting and sunrising, being assembled together in any of the streets or lanes in any town, shall have any kind of imagery or pageantry for a public show, although none of the company so assembled, shall be armed or disguised, or exact demand, or ask any money or thing of value, every person being of such company shall forfeit and pay the sum of eight dollars, or be imprisoned not exceeding one month.

Penalty for making bonfires, &c. in the street.

SEC. 10. *Be it further enacted,* That if any person or persons shall set fire to any pile of combustible stuff, or be any ways concerned in causing or making a bonfire in any street or lane, or any other part of any town within this State, such bonfire being within ten rods of any house or building, every person so offending, shall, for each offence, forfeit and pay the sum of eight dollars, or be imprisoned not exceeding one month.

Fines how recovered.

The several fines in the eighth, ninth and tenth sections of this Act, shall be recovered, with costs of prosecution, one moiety of said fines to the use of the town wherein the offence shall be committed; and the other moiety to him or them who shall sue for the same. And all masters are hereby made liable to pay the several fines as aforesaid in this and the two next preceding sections, for the offences of their servants; and all parents for the offences of their children under age and not being servants.

Parents liable for fines in certain cases.

[Approved February 24, 1821.]

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CHAPTER CXXVI.

An Act to diffuse the benefits of Inoculation for the Kine Pock.

Each town required to choose superintendants of inoculation.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That it shall be the duty of every town, and plantation within this State, wherein no board of health shall be established by law, at their annual meetings for the choice of town officers, to choose, in the manner in which other town officers are by law chosen, three or more suitable persons whose duty it shall be to superintend the inoculation of the inhabitants of such town, or plantation, with the kine pock.

and may provide for inoculation and raise necessary funds therefor.

SEC. 2. *Be it further enacted,* That it shall and may be lawful for the inhabitants of any town, or plantation, at any of their said annual meetings, to provide for the inoculation of the inhabitants of such town or plantation with the kine pock under the direction and control of said superintendants, or a

board of health, where such board is established ; and to raise all necessary sums to defray the expense of such inoculation, or such part thereof as they may deem proper, in the same way and manner that other town charges are by law defrayed.

[Approved February 14, 1821.]

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CHAPTER CXXVII.

An Act to prevent the spreading of the Small Pox, and other Contagious Sickness.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That for the better preventing the spreading of infection, when it shall happen that any person or persons coming from abroad, or belonging to any town or place within this State, shall be visited, or shall lately before have been visited with the plague, small pox, pestilential or malignant fever, or other contagious sickness, the infection whereof may probably be communicated to others ; the Selectmen of the town where such person or persons may arrive or be, are hereby empowered to take care and make effectual provision in the best way they can for the preservation of the inhabitants, by removing such sick or infected person or persons, and placing him or them in a separate house or houses, and by providing nurses, attendance and other assistance and necessaries for them ; which nurses, attendance, and other assistance and necessaries, shall be at the charge of the parties themselves, their parents or masters, (if able,) or otherwise at the charge of the town or place whereto they belong ; and in case such person or persons are not inhabitants of any town or place within this State, then at the charge of the State.

Selectmen to make provision for sick persons arising from infected places and removing them to safe places.

SEC. 2. *Be it further enacted,* That any person or persons coming from any place out of this State, where the small pox or other malignant distemper is prevailing, into any town within this State, shall, when thereto required by the Selectmen of such town, within the space of two hours from the time they shall be first informed of their duty by law in this particular, give notice to one or more of the Selectmen, or the Clerk of such town, of their coming there, and of the place from whence they came, upon pain of forfeiting, in case of neglect, the sum of one hundred dollars ; and such person or persons, if not disabled by sickness, shall, within the space of two hours after warning given to him or them by the Selectmen of such town for that purpose, depart from this State in such manner, and by such road, as the said Selectmen shall direct, and in case of refusal, it shall be lawful for any Justice of the Peace in the county where such town may lie, by warrant directed to a Constable or other proper officer, or other person whom the Justice shall judge proper, to cause such per-

Persons arriving from infected places to give notice, when duly required, of their coming place from, &c.

on penalty, &c.

Such persons to depart the State, if able, &c. and on refusal a Justice may remove them.

Penalty for returning without liberty from such Justice.

Penalty on any inhabitant for entertaining such persons, warned to depart.

Selectmen to appoint persons to guard ferries, &c. to prevent infected persons from coming in.

Penalty for any person from infected places, without leave, travelling in this State, unless, &c.

Penalties how to be recovered.

Two Justices may by warrant remove such sick persons, and impress lodgings, necessaries, and attendance.

Sheriff or constable to execute such warrant.

Power of Selectmen and Justice with regard to infected baggage, &c.

son or persons to be removed into the State from whence he or they may have come. And any person removed by warrant as aforesaid, who, during the prevalence of such distemper, shall presume to return into any town of this State, without liberty first obtained from such Justice, shall forfeit and pay the sum of four hundred dollars; and any inhabitant of this State who shall entertain in his house any person warned to depart as aforesaid, for the space of two hours after notice given him of such warning by one or more of the Selectmen aforesaid; shall forfeit and pay the sum of two hundred dollars.

SEC. 3. *Be it further enacted*, That it shall and may be lawful for the Selectmen of any town near to, or bordering upon either of the neighboring States, to appoint, by writing under their hands, some meet person or persons to attend at ferries or other places by or over which passengers may pass from such infected places; which person or persons so appointed, shall have power to examine such passengers as they may suspect to bring infection with them, and if need be, to hinder and restrain them from travelling, until licensed thereto by a Justice of the Peace within such county, or by the Selectmen of the town in which such person or persons may come; and any passenger who, coming from such infected place, shall, (without license as aforesaid,) presume to travel within this State, unless it be to return by the most direct way to the State from whence he came, after he shall be cautioned to depart by the person or persons appointed as aforesaid, shall forfeit and pay the sum of one hundred dollars; the several forfeitures aforesaid to be recovered by action of debt, in any Court of Record proper to try the same; one moiety to and for the use of the town where the offence shall be committed, the other moiety to the use of the person who may sue for the same.

SEC. 4. *Be it further enacted*, That if need be, any two Justices of the Peace may make out a warrant directed to the Sheriff of the county, or his deputy, or Constables of the town or place where any such sick person or persons may be, requiring them, or any of them, in the name of the State, with the advice and direction of the Selectmen of the same, to remove such infected person or persons, or to impress and take up convenient houses, lodging, nurses, attendance and other necessaries, for the accommodation, safety and relief of the sick. And such Sheriff, his deputy and Constable, are hereby authorized and required to execute such warrant accordingly.

SEC. 5. *Be it further enacted*, That whenever there shall be brought into any town within this State, either from any other town therein, or from parts without the State, any baggage, clothing or goods of any kind whatsoever, and it shall be made to appear by the Selectmen of the town to which

such baggage, clothing or other goods shall be brought, or by the major part of such Selectmen, to the satisfaction of any Justice of the Peace, that there is just cause to suspect baggage, clothing or other goods to be infected with the plague, small pox, pestilential fever, or other malignant contagious distemper; it shall be lawful for such Justice of the Peace, and he is hereby required, in such case, by warrant under his hand and seal directed to the Sheriff or his deputy, or any Constable of the town in which such baggage, clothing or other goods shall be, requiring him to impress so many men as said Justice shall judge necessary to secure such baggage, clothing or other goods, and said men to post as a guard and watch over the house or other place or places where such baggage, clothing or other goods shall be lodged; which guard and watch are hereby required to take effectual care to prevent such baggage, clothing or other goods being removed or intermeddled with, by any persons whatsoever, until due inquiry be made into the circumstances thereof; requiring likewise the said Sheriff, his deputy or the Constable aforesaid, if it shall appear necessary, with the advice and direction of said Selectmen, to impress and take up convenient houses or stores, for the receiving, lodging and safe keeping of such baggage, clothing or other goods, until the same shall be sufficiently cleansed from infection; and in case it shall appear highly probable to the said Justice, that such baggage, clothing or other goods are infected as aforesaid he is hereby empowered and directed to issue his warrant in manner as aforesaid, requiring said Sheriff, his deputy or any Constable, or other person therein specially named, to remove said baggage, clothing or other goods, to some convenient place where there shall be the least danger of the infection spreading; there to remain until the same shall be sufficiently aired and freed from infection, in the opinion of the Selectmen; and the said Sheriff, Deputy Sheriff or Constable, in the execution, of said warrants, are empowered and directed, if need be, to break up any house, warehouse, shop or other place particularly mentioned in said warrant, where such baggage, clothing or other goods shall be; and in case of opposition to require such aid as shall be necessary to effect the execution of said warrants, and repel such opposition: and all persons are hereby required at the commandment of either of said officers, having either of the warrants aforesaid, under penalty of ten dollars to be recovered before any Justice of the Peace in the county where such opposition may happen, to assist such officer in the execution of the same warrant against any opposition as aforesaid; and the charges of securing such baggage, clothing or other goods, and of airing and transporting the same, shall be borne and paid by the owners thereof at such rates and prices as shall be set and appointed by the Selectmen of the town where such baggage, clothing or

to have in
guarded.

and stored.

or removed.

Sheriff may
break open
houses, &c. and
command aid
in execution
of their war-
rant.

Disobedience,
penalty for;

expenses, how
to be paid, &c.

other goods shall be ; to be recovered by action of debt, by any person or persons who may have been employed in the business aforesaid, in any Court of Record proper to try the same.

Penalty for masters of vessels from infected ports, &c. refusing to answer questions on oath, by selectmen, &c.

SEC. 6. *Be it further enacted,* That if any master, seaman or passenger belonging to any vessel, on board which any infection is, or may have lately been or suspected to have been, or which may have come from any port where any infectious mortal distemper prevails, shall refuse to make an answer on oath to such questions as may be asked him or them, relating to such infection, by the Selectmen of the town to which such vessel may come, (which oath the said Selectmen are hereby empowered to administer,) such master, seaman or passenger so refusing, shall forfeit the sum of two hundred dollars ; and in case he be not able to pay said sum, he shall suffer six months imprisonment ; said penalty to be adjudged on prosecution by indictment or information in any Court proper to try the same, one moiety of said fine to the use of the town where the offence may be committed, and the other moiety to the use of the Selectmen thereof, whose particular duty it is hereby made to prosecute therefor.

Courts, may adjourn from places of holding, when mortally infectious distempers prevail there.

SEC. 7. *Be it further enacted,* That whenever the small pox or other mortally infectious distemper shall prevail in any of the towns wherein the Supreme Judicial Court of this State, Circuit Courts of Common Pleas, or Courts of Sessions are to be holden, at the times prescribed by law, or by their own adjournment, for their sitting in such town ; the Justices of the said Courts respectively, are hereby empowered to adjourn and hold said Courts in any town within the same county by proclamation to be made in the shire town, or as near the same as safety will in their opinion permit.

Each town at their annual meeting may choose a health committee or a health officer.

SEC. 8. *Be it further enacted,* That each town in this State, may at their meeting held in March or April annually, or at any other meeting legally warned for the purpose, when they shall judge it to be necessary, choose and appoint a health committee, to consist of not less than five, nor more than nine suitable persons, or one person to be a health officer, whose duty it shall be to remove all filth of any kind whatever which shall be found in any of the streets, lanes, wharves, docks, or in any other place whatever within the limits of the town to which such committee or health officer belongs, whenever such filth shall in their judgment endanger the lives or the health of the inhabitants thereof, and also to require the owner or occupier to remove or discontinue any drain from which any such filth may proceed. All the expenses whereof to be paid by the person or persons who placed such filth there, if known ; or if not, by the town by which the said committee or health officer was appointed. And whenever any filth or drain as aforesaid shall be found on private property, said committee or health officer shall notify and

Power and duty of such officer.

order the owner or occupier thereof, after twenty-four hours' notice, to remove the same or discontinue such drain at their own expense; and in case said owner or occupier shall neglect to remove such filth from his or her property or to remove or discontinue such drain after the expiration of the time aforesaid, he or they so offending shall forfeit and pay a fine of one hundred dollars, to be sued for and recovered, with costs of suit, by said committee or health officer, before any Court proper to try the same, for the use of the poor of the town in which such offence is committed: and said owner or occupier as aforesaid shall be liable and obliged to repay to said town all costs and charges which the said committee or health officer may have incurred in removing the filth from his or her property; and in case of refusal to pay the same, he or they may be sued in the same way as is provided in this Act for the recovery of fines as aforesaid.

SEC. 9. *Be it further enacted*, That whenever any vessel shall arrive at any port within this State, having on board any person visited with the plague, small pox, malignant fever, or any other pestilential disease, the master, commander or pilot thereof, shall not bring such vessel up near the town of the port where she first arrives, until liberty be first granted, in writing by the Selectmen thereof; but they may bring such vessel to an anchor in such place below the town, as will be most for the safety of the inhabitants thereof, and the preservation of the vessel and the people on board, there to wait for orders from the Selectmen of such town before any passenger or person belonging to, or any thing on board the same be brought on shore: and any master or commander of such vessel who shall be found guilty of a breach of the law contained in this section, shall forfeit and pay a fine of two hundred dollars for every such offence, upon conviction thereof before any Court proper to try the same. And any pilot who may go on board any such vessel, and pilot the same up to the town, without liberty first had and obtained from the Selectmen thereof as aforesaid, shall upon conviction in manner as aforesaid, forfeit and pay a fine of fifty dollars for every such offence: all which fines contained in this section may be sued for and recovered, with costs of suit in manner as aforesaid, by the Selectmen of the town where the offence is committed, to and for the use of the same town.

SEC. 10. *Be it further enacted*, That whenever it shall appear to the Selectmen of any sea port town within this State, that the safety of the inhabitants thereof requires, that any vessel or vessels which shall arrive in any harbor or river within this State, from any port or place, should perform quarantine, the Selectmen of any town where such vessel shall so arrive, are hereby required and empowered to cause such vessel or vessels to perform quarantine, at such place as they shall appoint, and under such restrictions and regulations as

Vessels arriving in this State having any infected person on board, not to approach town, without leave, &c.

but to anchor below,

and there wait for orders.

Penalty for violating this provision.

Fines, how recovered and applied.

In certain cases, vessels must perform quarantine.

they may judge expedient ; and any owner, master or supercargo, officer, seaman or consignee of such vessel or vessels, or any other person who shall neglect or refuse to obey the orders, directions, rules, regulations and restrictions of the said Selectmen, respecting the said quarantine, and shall be convicted thereof, upon indictment or information, before the Supreme Judicial Court or Circuit Court of Common Pleas, held in the county where the offence may be committed, shall forfeit and pay a sum not exceeding five hundred dollars, or be imprisoned for a term of time not exceeding six months, or both at the discretion of the Court having cognizance of such offence.

Penalty on master for violating orders as to quarantine, or making false and fraudulent declarations, &c.

SEC. 11. *Be it further enacted,* That when any master or commander of any vessel shall come up to any sea port town aforesaid, with his said vessel, after notice given to him by any person or persons whomsoever, that a quarantine has been directed by the said Selectmen for all vessels coming from the port or place from which such master or commander shall have arrived ; or shall falsely or fraudulently attempt to elude the directions of the said Selectmen by false and unfounded declarations of the port or place from whence he came ; or shall land, or suffer to be landed from his vessel, any person or persons, or apparel, bedding, goods or merchandize whatsoever without the permission of the said Selectmen, every such master or commander shall, upon conviction thereof, in manner and form pointed out in the tenth section of this Act, forfeit and pay a sum not exceeding five hundred dollars, or suffer imprisonment for a term not exceeding six months, or both at the discretion of the Court having cognizance of such offence.

When Selectmen order all vessels from particular ports to perform quarantine,

SEC. 12. *Be it further enacted,* That whenever the said Selectmen shall think it necessary to order all vessels which shall or may arrive at any of the sea port towns aforesaid, from any particular port or ports, to perform quarantine, and shall give notice of such order to the pilots of the said sea port towns ; it shall be the duty of such pilots to make known the said order to the captains or masters of all vessels which they shall board. And if any pilot after notice given to him as aforesaid, shall neglect to make known the said order, or shall pilot any such vessel up to any town aforesaid, he shall, upon conviction thereof in manner and form pointed out in the tenth section of this Act, forfeit and pay a fine not exceeding one hundred dollars.

pilots to make such order known. &c.
Penalty for neglect.

Selectmen to provide red flags.

SEC. 13. *Be it further enacted,* That the Selectmen of each of the sea port towns aforesaid, shall provide, at the expense of such towns, a suitable number of red flags, of three yards at least in length ; and the master of every vessel ordered to perform quarantine, for the purpose of purification, shall hoist one of said flags on the head of the mainmast, there to be kept during the whole time, so long as said vessel

Vessels on quarantine to hoist such flag.

or vessels are performing quarantine; and no person during that time shall go on board, except those employed by the said Selectmen; and every person who shall transgress by going on board any such vessel, shall be considered as contaminated with infection, and held to undergo purification in the same manner, and under the same regulations and restrictions as those persons who are performing quarantine on board such vessel or vessels, and shall there remain until discharged by order of said Selectmen, who, by any person or persons employed by them; may forcibly detain such person or persons transgressing as aforesaid, for the purpose of purifying as aforesaid.

No person to go on board, except, &c.

SEC. 14. *Be it further enacted,* That in every sea port town aforesaid, where there is a health committee or a health officer, legally chosen and appointed in manner as directed by this Act, and the Selectmen of such town shall judge it necessary, and shall certify it under their hands, or the major part of them; such health committee or health officer are hereby authorized to perform all the duties, and exercise all the authority which Selectmen are authorized and required to execute, in requiring any person or persons, vessel or vessels as aforesaid, to perform quarantine in manner as pointed out in this Act.

When selectmen judge it necessary, &c. health committee, or health officer may perform all the duties, &c.

SEC. 15. *Be it further enacted,* That all the forfeitures arising from the tenth, eleventh and twelfth sections of this Act, shall accrue to the use of the town where the offence shall be committed; and all expenses arising from any vessel, person or persons, or effects on board the same, performing quarantine as aforesaid shall be paid by the owner or owners of such vessel, or effects on board the same; and in case of refusal to pay such expenses, the same may be recovered by an action of debt in the name of the Selectmen, health committee or health officer as the case may be, in any Court proper to try the same.

Forfeitures, how appropriated.

Expenses how to be paid.

SEC. 16. *Be it further enacted,* That no person shall inoculate any other person or inoculate himself or herself, or suffer himself or herself to be inoculated with the small pox, unless, at some hospital licensed by the Selectmen of the town. *Provided,* No such hospital shall be erected or licensed within one hundred rods of any dwelling house situated in an adjoining town without the consent of the Selectmen of such adjacent town, on pain that every person so offending shall for each offence forfeit a sum not exceeding one hundred dollars, to be recovered on indictment or presentment of the Grand Jury at the Supreme Judicial Court, or Circuit Court of Common Pleas within the county, to the use of the town in which such offence shall have been committed.

No person to inoculate for small pox, but at a licensed hospital.

None such to be within 100 rods of any dwelling-house, without consent, &c.

Penalty and mode of recovery.

SEC. 17. *Be it further enacted,* That whenever any hospital shall be so erected, established or licensed, the physician, the persons inoculated, or sick there, the nurses, attendants, and all persons who shall approach or come within the

Regulations as to such hospital.

limits of the same, and all such property as shall be used or brought there, shall be subject to all such orders and regulations as shall be made by the Selectmen or a committee appointed for that purpose to prevent spreading the infection.

When small pox unexpectedly breaks out in any town, power and duty of selectmen.

SEC. 18. *Be it further enacted,* That when the small pox shall unexpectedly break out in any town, the Selectmen of the same, shall have power, and it shall be their duty, immediately to provide such hospital or place of reception for the sick and infected as they shall judge best for their accommodation and the safety of the inhabitants, and may give license for inoculating there, all such persons as shall be supposed to have taken infection; and such hospitals and places of reception shall be subject to the orders and regulations of the Selectmen in the same manner as is herein before provided respecting licensed hospitals, and the said Selectmen shall cause such sick and infected persons to be removed to such hospitals or places of reception, unless the condition of the sick person should not admit of removal without danger of life, in which case the house or place where the sick shall remain, shall be considered as an hospital to every purpose before mentioned, and all persons residing in, or in any way concerned with the same, shall be subject to the orders and regulations of the Selectmen of the town as before expressed and provided.

Selectmen to give notice to travellers, of infected places.

SEC. 19. *Be it further enacted,* That in all cases above-mentioned, it shall be the duty of the Selectmen to use all possible care to prevent the spreading of infection, and to give public notice to travellers of infected places by displaying red flags at proper distances, and by all other means which in their judgment shall be most effectual for the common safety; and in case any physician or other person within any of the hospitals or places of reception above described, or who shall attend, approach, or be concerned with the same, shall violate or contravene any of the restrictions, orders or regulations of the same, made according to this Act, either in respect of himself or his or any other person's property, the person so offending shall for each offence forfeit and pay a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered by the Selectmen, committee or health officer who may sue for the same, one half to the use of the person or persons who prosecute for the same, and the other half to the use of the town where the offence shall have been committed.

Penalty for violating regulations.

Every householder to give notice to selectmen, if the small pox be in his family, &c.

SEC. 20. *Be it further enacted,* That whenever any householder shall know that any person within his or her family is taken sick of the small pox, such householder shall immediately give notice thereof to the Selectmen of the town of which such householder shall be an inhabitant or resident, on pain that every householder who shall refuse or neglect to give such notice, shall forfeit and pay for such offence, a sum

Penalty for neglect.

not exceeding thirty dollars, nor less than ten dollars, to be recovered in the same manner as is provided for recovering the forfeitures mentioned in the sixteenth section of this Act, and to be appropriated and paid in the same manner.

[Approved March 10, 1821.]

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CHAPTER CXXVIII.

An Act respecting Pounds and impounding Beasts going at large, or damage feasant.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That each town shall keep and maintain a sufficient pound or pounds, in such place or places therein as the town shall direct; wherein horses, asses, mules, swine, goats, sheep and neat cattle may be impounded and kept, for the causes hereinafter mentioned; and any town that shall neglect, for the space of six months, to provide and maintain such a pound shall forfeit and pay the sum of fifty dollars, for the use of the county; to be recovered by presentment of the Grand Jury in any Court in the county; and there shall be chosen in each town, at the annual meeting for the choice of town officers, a suitable person to keep each pound, and three or more suitable persons for field drivers within such town, who shall severally be sworn to the faithful discharge of their duty; and it shall be the duty of the field drivers, thus chosen and sworn, to take and impound any such beasts found going at large, contrary to the provisions of this Act, or damage feasant; and the pound keeper shall restrain all beasts impounded within the pound, and furnish them with suitable and sufficient food and drink at the expense of the person impounding them.

Each town to keep sufficient pounds.

Penalty for neglect.

Pound keepers and field drivers to be chosen annually. Field drivers to be sworn: their duty.

SEC. 2. *Be it further enacted,* That no horses, asses, or mules, of one year old or upwards, or swine, not under the care of a keeper, shall at any time be permitted to go at large on the commons or highways in any town; and no goats, or sheep, not under the care of a shepherd, shall be permitted to go at large, on the commons or highways aforesaid, between the first day of April and the fifteenth day of November in any year; and neat cattle may go at large on such commons or highways, at any and all times: *Provided however,* That any town may, by a vote thereof at the annual meeting for the choice of town officers in any year, prohibit neat cattle, not under the care of a keeper, from going at large as aforesaid, within such town or any part thereof at any or all times within one year from the meeting.

Horses, mules and swine not to go at large, &c.

Nor goats and sheep between April 1, and November 15.

Towns may restrict the right, at all times.

SEC. 3. *Be it further enacted,* That if any horses, asses, mules, swine, goats, or sheep shall be found going at large contrary to the second section of this Act, or any neat cattle when prohibited by a vote of the town, as is provided in said

Penalty for horses, &c. or neat cattle going at large, contrary to this act:

section, shall be found going at large as aforesaid, the owner or owners thereof shall forfeit and pay the sum of seventy-five cents for every horse, ass, or mule; twenty cents for every swine; twenty-five cents for every goat; six cents for every sheep; and fifty cents for every neat creature, so going at large; or the beasts so going at large, may be taken and impounded by a field driver in any pound in the town, and restrained in such pound until the owner or owners thereof shall pay the pound keeper, for the use of such field driver, the sum of seventy-five cents for every horse, ass, or mule; twenty cents for every swine; twenty-five cents for every goat; six cents for every sheep; and fifty cents for every neat creature so found going at large and impounded; together with the pound keeper's fees, and a reasonable sum for furnishing said beasts with food and drink; or until the same shall be replevied, or dealt with as is hereinafter directed: *Provided*, That no mare or gelding of the horse kind, or neat creature shall be so taken, and impounded when the owner of such beast is unknown.

or such beasts may be impounded, &c.

Pound keeper to receive fees for field-drivers, and his own fees, &c.

Proviso.

Penalty for ungelded horse going at large,

Penalty for rams going at large between August 10 and November 30.

Or such horses and rams may be impounded, &c.

Penalties how recovered and limitation as to time.

Persons injured by sheep, swine, horses, &c. may maintain trespass, or impound the beasts,

SEC. 4. *Be it further enacted*, That if the owner of any ungelded horse of the male kind, more than one year old, shall, at any time, suffer the same to go at large on the common or highways in any town, such owner shall forfeit and pay the sum of four dollars for each time such horse shall be so found going at large; and if the owner of any ram or he-goat shall suffer the same to go at large, or out of his or her enclosure between the tenth day of August, and the twentieth day of November, the owner thereof shall forfeit and pay, the sum of two dollars for each time every such ram or he-goat shall be found going at large out of his or her enclosure; or such male horse, ram, or he-goat, may be taken and impounded, by a field driver or any other person, in any pound in the town and restrained in such pound until the owner thereof shall pay to the pound keeper for the use of the field driver or other person, impounding the same, four dollars for every such male horse, and two dollars for every ram or he-goat thus taken and impounded, together with the pound keeper's fees and a reasonable sum for furnishing said male horse, ram or he-goat, with food and drink; or until the same shall be replevied or dealt with, as is hereinafter directed.

SEC. 5. *Be it further enacted*, That any or either of the forfeitures aforesaid shall be recovered by action of debt in any Court competent to try the same, by and for the use of any person who shall sue therefor: *Provided*, That the action therefor shall be commenced within sixty days from and after the forfeiture was incurred, and not afterwards.

SEC. 6. *Be it further enacted*, That any person injured in his tillage, mowing, or other lands under improvement, that are inclosed with a legal and sufficient fence, whether such improved lands be in common or general field, or in a close

by itself ; by swine, sheep, goats, horses, mules, asses, or neat cattle, may have and maintain an action of trespass, *quare clausum fregit*, against the owner of the beasts, for his damages ; or he may impound the beasts doing the damage, or some of them, at his election, with or without the aid of a field driver ; and in case he impound the beasts, he may restrain them in one of the town pounds, or in some other place, under his immediate care and inspection, as may be most convenient for relieving them with suitable food and drink ; which relief it shall be the duty of the person impounding to furnish, or cause to be sufficiently furnished, during their confinement ; and no action of trespass *quare clausum fregit* shall be had and maintained against the owner of any neat cattle for damages, nor shall such cattle be taken damage feasant and impounded, when such cattle broke into such close, or common or general field from the commons or highways in any town, in a part where the fence of such close or field was not good and sufficient, according to law : *Provided*, That such neat cattle, shall, at the time of such breaking, be lawfully going at large on the commons or highways aforesaid.

How beasts may be impounded or secured.

No action, or impounding to be allowed if the beasts entered a field where the fence was not sufficient.

SEC. 7. *Be it further enacted*, That when an action of trespass shall be brought against the owner of any of the beasts aforesaid, for damages by them done upon his enclosed lands under improvement ; or when such creatures, taken damage feasant and impounded, shall be replevied, it shall be in the power of the Justice or Court before whom the cause shall be determined, to render judgment in favor of the person demanding damages for the injury sustained, upon satisfactory evidence being produced, that such creatures were clandestinely turned in, or broke into the close in a part where the fence was good and sufficient, according to law ; some other parts of the fence round the same close being deficient notwithstanding.

Otherwise, if the cattle were secretly turned in, or broke through the fence where it was sufficient, though some parts of the fence be insufficient.

SEC. 8. *Be it further enacted*, That when any of the beasts aforesaid shall be impounded, whether it be done for being at large out of the owner's enclosure ; or on the commons or highways ; or for doing damage as aforesaid, the person impounding, shall inform the owner of the beasts impounded, (if known,) within the space of twenty-four hours, by giving him a notification thereof in writing, describing the creatures, and specifying the time, place, and cause of impounding the same : and in case the owner of the beasts impounded be absent, such written notification shall be left at his house or usual place of abode. And the person impounding shall also leave with the pound keeper, if such beasts are impounded in a town pound, at the time they are committed to his custody, a memorandum, in writing, under his hand, of the cause of impounding, and the sum he demands as a forfeiture, or in damages from the owner before they are liberat-

Proceedings where beasts are impounded, and notice to be given.

Mode of estimating damages in certain cases.

ed; and no action shall be maintained against the pound keeper for detaining such beasts, until that sum, with his lawful fees, and the reasonable expense of furnishing them with food and drink, shall be paid: *Provided*, That if the person, whose beasts are impounded damage feasant, shall think the damages mentioned in the memorandum left with the pound keeper, are unreasonable, he may within twenty-four hours after notice given as aforesaid, procure from the Clerk of the town, or a Justice of the Peace, a warrant directed to two such disinterested judicious persons as the Clerk or Justice shall appoint, to estimate the amount of such damages upon oath, according to their best judgment; and the persons thus appointed, shall within twenty-four hours, estimate and certify to the pound keeper the amount of damages; and the sum thus certified shall be taken instead of the sum first left with the pound keeper.

If owner do not pay damages and fees, or replevy cattle in 3 days, what proceedings are to be had.

SEC. 9. *Be it further enacted*, That if the owner of any beast or beasts taken and impounded by virtue of this Act, shall not, within two full days, after notice given as aforesaid, pay the forfeiture or damages, and all fees and charges, and the reasonable expense of keeping them as aforesaid, or replevy the same, the impounder, if the owner of such beast or beasts be known, and has been notified as aforesaid, shall file an information of the transaction, by him subscribed and sworn to, with the Clerk of the town or a Justice of the Peace, and if it shall appear from such information that such impounder has substantially complied with the directions of the law in such cases, such Clerk or Justice may issue a warrant, returnable into the town Clerk's office, in seven days from the date, directed to any Constable of the same town, or to any other discreet or disinterested inhabitant of said town, if the Constable be the impounder or interested, to sell at public sale to the highest bidder, after giving twenty-four hours notice of such sale, by posting up a notification thereof at some public place within said town, all, or so many of such beasts as shall be sufficient to satisfy and pay the forfeitures or damages, and all fees and charges, and the expenses of keeping such beast or beasts, to be taxed and allowed by the Clerk or Justice; and the Constable or other person to whom such warrant shall be directed, after paying the forfeitures or damages, and the fees and charges, and expense of keeping as aforesaid, and his fees, shall pay the overplus, if any there be, to the owner of the beast or beasts so sold on demand; and the remainder of the beasts if any such there be, shall be liberated by the impounder; *Provided*, That when such beast or beasts are taken and impounded damage feasant, the impounder shall, prior to such sale, procure from the Clerk of the town, or a Justice of the Peace, a warrant directed to two such disinterested, judicious persons as the Clerk or Justice shall appoint, to estimate the amount of such damage upon oath according to

Sale to be made of cattle sufficient to pay damages, fees, &c.

Damages to be ascertained by appraisement under warrant from Justice of the Peace, prior to sale.

their best judgment; and the persons thus appointed shall certify the amount of such damages to the pound keeper; and the sum thus certified shall be the amount of damages to be paid out of the proceeds of the sale instead of the sum first left with the pound keeper.

SEC. 10. *Be it further enacted,* That if the owner of the beast or beasts impounded be unknown, the person impounding the same shall cause a notification thereof as aforesaid to be posted up in two public places in the same town, and in the two adjoining towns, nearest the place where the same may be taken up; and if no owner or claimer appear within the space of three full days next after the impounding and notifying as aforesaid, then the person so restraining them may proceed with them in all respects as the law provides respecting stray beasts, after having his damages ascertained, in case the beast or beasts be taken damage feasant, in manner as is before provided in the last proviso.

If the owner of beasts impounded be unknown, what proceedings are to be had.

SEC. 11. *Be it further enacted,* That if any person shall rescue any beast or beasts, which may have been taken up for being at large out of the owner's inclosure as aforesaid, out of the hands of the field driver, or from the custody and possession of any other person about to drive or convey them to pound, whereby the field driver or other person shall be prevented from impounding such beast, and the law evaded; every person so offending shall forfeit and pay not more than twelve dollars nor less than three dollars; to be recovered by action of debt in any Court proper to try the same, by and to the use of the field driver or other persons from whom the rescue may be made; and if any person shall rescue any beasts, taken up damage feasant as aforesaid, out of the hands or care of the field driver, or from the hands of any other person about to drive or convey them to pound, whereby the party injured may be in danger of losing such his remedy, and the law evaded, the person thus offending shall, for such rescue, forfeit and pay not more than twelve dollars, nor less than three dollars, to be recovered by action of debt in any Court proper to try the same, by and to the use of the field driver, or persons from whom the rescue may be made; and shall be further liable to pay the party injured the full damages he might be entitled to recover by impounding such beasts, to be recovered by an action of the case.

Penalty for rescuing beasts taken up going at large, before they are impounded.

Penalty for rescuing beasts taken up damage feasant, and mode of recovery.

SEC. 12. *Be it further enacted,* That if any person shall make any pound breach, or by any indirect way or manner whatever, convey or deliver any of the beasts aforesaid, impounded from the pound or place where they may be restrained; the person thus offending shall forfeit and pay a fine of not more than fifty dollars nor less than fifteen dollars; to be recovered by a presentment of the Grand Jury, to the use of the county: And the person offending as aforesaid, shall be liable to pay the party injured or impounding such beasts.

Penalty for pound breach and mode of recovery.

Parent or master liable for the wrongful act of minor child or apprentice.

In action for penalty or for damages in such cases, defendant not allowed to give in evidence, insufficiency of fence, &c.

double the damage or forfeitures he may be entitled to by the impounding such beasts to be recovered in an action of the case; and such party or impounder, when the pound breach is effected by an apprentice or a minor, may prosecute, for his damages or forfeitures, the parent or master under whose care such apprentice or minor may then be, or the apprentice or minor at his election; in which action, as well as for damages occasioned by the rescue of the cattle about to be impounded, the defendant shall not be permitted to give in evidence, the insufficiency of the fence, if any such there be; or that the beasts, when taken were under such circumstances as to render the impounding illegal, to prevent the party from recovering his full damages or forfeitures.

[Approved March 20, 1821.]

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CHAPTER CXXIX.

An Act extending the powers of towns to restrain Cattle running at large.

Towns may order that commonable cattle shall not go at large.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That the inhabitants of any town in this State, may at any legal town meeting, order and direct that any particular description of neat cattle or other commonable beasts, shall not go at large within certain particular parts of such town, without a keeper, under the penalties now provided by law in similar cases, and to be recovered in the same manner.

[Approved June 27, 1820.]

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CHAPTER CXXX.

An Act respecting lost Goods and stray Beasts.

Finder of money or goods to give notice to town clerk.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That whoever shall find any money or goods lost of the value of one dollar or upwards, whereof the owner is unknown, the finder shall, within ten days next following, give notice thereof in writing, unto the Clerk of the town in which they are found. And the finder shall also cause a notification thereof to be posted up in some public place within the same town, and also shall cause the same to be publicly cried therein, on three several days: *Provided*, There shall be any public crier in said town: And if the money or goods so found be of the value of ten dollars or upwards, then to be cried as aforesaid, and notice thereof posted up in like manner in the same, and the two next adjoining towns, within one month next after such finding.

Persons finding stray beasts to give notice to town clerk.

SEC. 2. *Be it further enacted*, That every person who shall find and take up any stray beast shall cause the same to be entered with the color and marks, natural and artificial, and also to be posted up and cried in manner and time as afore-

said; and likewise within ten days put and keep a withe about the neck of such stray beast, (sheep only excepted.) And such finder of lost goods or stray beast shall also within two months, and before any use thereof is made to its disadvantage, procure from the town Clerk, or a Justice of the Peace, a warrant directed to two such disinterested judicious persons as the Clerk or Justice shall appoint, returnable into the town Clerk's office in seven days from the date, to appraise and value the goods or stray beast, upon oath, at the true value thereof in money, according to their best judgment.

Appraisers to be appointed by Justice, or town clerk to value goods, &c. found.

SEC. 3. *Be it further enacted,* That if the owner of any such lost money, goods, or stray beast, appear within one year and a day next after such notice of the finding given to the town Clerk as aforesaid, and make out his right and title thereunto, he shall have restitution of the same, or the full value thereof allowing and paying all necessary charges, to be liquidated and adjusted by some Justice of the Peace of the same county, in case of disagreement between the owner and the finder. And if no owner appear within one year and a day as aforesaid, then such strays, lost money or goods, shall be and remain to the finder, he paying one half of the value thereof, (all necessary charges being first deducted,) according to appraisement, unto the Treasurer of such town; who is authorised to sue for the same in an action of the case.

If no owner appears in a year, what proceedings to be had.

SEC. 4. *Provided however: Be it further enacted,* That any person who shall find or take up any horse or horse kind, as a stray, and shall procure the same to be appraised, agreeably to the provisions of this Act, in case the same shall be appraised at a sum not exceeding twenty dollars, shall, at the expiration of two months after such appraisal, proceed to sell the same at public vendue, having given four days previous notice of the time and place of sale, and shall pay over the money for which such horse may be sold to the Treasurer of the town in which he lives, after deducting therefrom the expenses of taking up, posting and appraising such horse, as provided for in this Act, with one dollar for his fee in selling such horse.

Stray horses may be sold after 2 months, in case.

Mode of proceeding.

SEC. 5. *Be it further enacted,* That the owner of such horse, so taken up and sold, shall be entitled to receive the money so deposited with the town Treasurer: *Provided,* He shall apply for the same within the space of one year after the same shall have been paid to the Treasurer aforesaid; and in case the owner of such horse shall neglect to apply for such money for the term of one year, the same shall be appropriated as is provided by this Act.

Owner entitled to money, if he apply within one year, otherwise, &c.

SEC. 6. *Be it further enacted;* That if any finder of any lost goods, money or stray beast, of the value of one dollar or upwards, shall neglect to cause the same to be entered, cried and posted up in manner and time as before directed, or to withe such stray beast, he shall forfeit and pay the full value

Penalty for neglect.

of such goods, money or stray beast, one half to the use of the town, and the other half to him or them that will prosecute and sue for the same. And if the owner of any stray beast or other person, shall take off the withe from the same, or take away such stray beast, before all the necessary charges arisen for entering, crying, notifying, keeping and appraising thereof be defrayed, such person so offending, shall forfeit and pay unto the finder of such stray beast the full value of the same.

Horses, &c. not to be taken up as strays between April 15 and Nov. 1, unless, &c.

SEC. 7. *Be it further enacted,* That no person from the fifteenth day of April, to the first day of November, shall take up any horse, gelding, mare or other beast for a stray, unless such beast be taken damage feasant in some inclosure, and impounded for that or some other sufficient cause.

[Approved January 27, 1821.]

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CHAPTER CXXXI.

An Act for the due regulation of Weights and Measures.

Former standards continued.

State treasurer to procure public standards of weights and measures.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That the brass and copper weights and measures heretofore adopted, used and allowed as standards, be and remain the public allowed standards throughout this State, by which all weights and measures shall be tried, proved and sealed, in manner as is hereinafter provided. And it shall be the duty of the Treasurer of this State, at the expense thereof, to cause to be had and preserved as public standards, and which shall be used only as such, the following beams, weights and measures, to wit: one bushel, one half bushel, one peck, one half peck, one ale quart, one wine gallon, one wine half gallon, one wine quart, one wine pint, one wine half pint, and one wine gill; said measures to be made of copper or pewter, conformable as to contents, to said standard measures, and as to breadth, that is to say, the diameter of the bushel, not less than eighteen inches and a half, containing thirty two Winchester quarts; of the half bushel, not less than thirteen inches and three quarters, containing sixteen Winchester quarts; of the peck, not less than ten inches and three quarters, containing eight Winchester quarts; and of the half peck, not less than nine inches, containing four Winchester quarts; the admeasurement to be made in each instance, within side of the measure: also one ell, one yard, one set of brass weights to four pounds, computed at sixteen ounces to the pound, with fit scales and steel beam: also a good beam and scales, and a nest of Troy weights, from one hundred and twenty-eight ounces, down to the least denomination, with the weight of each weight, and the length of each measure marked or stamped thereon respectively, and sealed with a seal, to be procured and kept

by the Treasurer aforesaid; and also one fifty-six pound weight, one twenty-eight pound weight, one fourteen pound weight, and one seven pound weight, made of iron.

SEC. 2. *Be it further enacted*, That it shall be the duty of the Treasurer of each county, at the expense thereof, to procure if the same has not already been done, one complete set of beams, and of the brass, copper, pewter, and iron weights, and of the measures aforesaid, excepting the bushel measure, well tried, proved and sealed by the said State standards, and marked or stamped as aforesaid; said measures, as to breadth, as well as contents, to be conformable to the State standards as aforesaid;—which the said county Treasurer shall keep and preserve, for the use of the respective counties, and to be used as standards only. And once in ten years, after the same are, or shall have been procured, the respective Treasurers for the time being, of the several counties, shall cause the same to be tried, proved and sealed by the Treasurer, and standards of the State: and if any county Treasurer shall neglect his duty in this behalf, he shall forfeit and pay, for each neglect, the sum of two hundred dollars to the use of the State, to be recovered in an action of debt, in the name of the State, in any Court proper to try the same, with costs of suit.

County treasurer to procure beams, weights and measures to be sealed by State standards:

to be proved by State standards every ten years.

Penalty for neglect.

SEC. 3. *Be it further enacted*, That it shall be the duty of the Treasurer of each town within this State, at the expense of such town to procure, if the same has not already been done, and ever after to preserve as town standards, a complete set of the beams, weights and copper or pewter measures, conformable to the State standards as aforesaid; excepting however, the said bushel measure; and excepting also, that no Treasurer of any town shall be bound to procure a nest of Troy weights other than from the lowest denomination to the size of eight ounces, which it is hereby made his duty to procure: *Provided however*, That it shall be lawful for the Treasurer of any town aforesaid, to procure a wooden half bushel, peck, and half peck, conformable as to breadth and contents to the copper or pewter measures of the same denomination, in lieu of such copper or pewter measures, all of which he shall cause to be well tried, proved and sealed as aforesaid, either by the Treasurer of this State, or of the county within which such town shall be situated, and to have the same tried, proved and sealed as aforesaid, once in every ten years afterwards. And it shall also be the duty of town Treasurers, to procure at the expense thereof, and to preserve a proper town seal, for the purposes herein-after mentioned. And if any town Treasurer shall neglect his duty in the premises, he shall for each neglect, forfeit and pay one hundred dollars, one moiety thereof to the use of the town, and the other moiety to him or them who shall sue for the same, to be recovered in an action of debt, with costs of suit, in any Court proper to try the same.

Town treasurers to procure beams, weights and measures conforming to State standards.

Proviso—wood measures may be used.

Town seal to be kept.

Penalty for neglect.

sealer shall deface and destroy all weights and measures which cannot be brought to their just standards.

SEC. 7. *Be it further enacted,* That the said sealer be, and he hereby is, authorized and required, to go to the houses of such innholders, and to the ware-houses, stores and shops of such merchants, traders and retailers of spiritous liquors, and to the houses of such of the other inhabitants, as shall neglect as aforesaid, to bring or send in, the said beams, weights and measures; and there, (at their said houses, stores, shops and ware-houses) to try, prove and seal the same beams, weights and measures. And if any such person or persons, shall refuse or neglect to have his, her or their beams, weights or measures so tried, proved and sealed, he, she or they, shall forfeit and pay ten dollars for each offence; one moiety to the use of the poor of the town, and the other moiety to the sealer, to be recovered in an action of debt, with costs as aforesaid. And if any sealer of weights and measures shall neglect his duty in any of the cases in this Act specified, he shall for each neglect, forfeit and pay not less than five nor more than ten dollars: one moiety thereof to the town, and the other moiety to the informer, to be recovered by an action of debt, or on the case with costs as aforesaid.

Sealer to visit houses, stores, &c. to prove weights and measures.

Penalty for neglect.

SEC. 8. *Be it further enacted,* That the directors of the several Banks, which are or shall be incorporated within this State, shall annually, in the month of June, at the expense of said Banks, have all the weights used in their respective Banks compared, proved and sealed by the Treasurer, or by some person specially authorized by him for that purpose; which shall supersede, in all respects such Banks, the sealing of their weights by any sealer; and no tender of gold or silver coin, or any other weights other than those so proved, sealed and stamped, shall be legal. And if any person, who is the possessor of any scale beam, or any other weight, or any gold, or silver, or any other coin, shall refuse to have the same weighed in conformity with the provisions of this Act, he shall be liable to a fine of ten dollars, to be recovered by an action of debt, or on the case with costs as aforesaid.

Banks to have their weights sealed in June annually.

Selectmen to appoint sealers and remove them and fill vacancies.

SEC. 4. *Be it further enacted*, That it shall be the duty of the Selectmen of each town in this State, in the month of March or April annually, to appoint a suitable person to be a sealer of weights and measures within the same. And it shall also be the duty of the Selectmen in such towns in this State, as shall, at any of their annual meetings, vote to have more than one sealer of weights and measures within their town, to appoint suitable persons therefor. And the Selectmen of the several towns are hereby authorized to remove from office any person or persons by them appointed as sealers of weights and measures by virtue of this Act. And it shall be the duty of the Selectmen, upon any vacancy which shall happen in the office of sealers of weights and measures, either by death, removal, resignation, refusal to accept, or otherwise, immediately to appoint some other suitable person to fill the place. And each person who shall be appointed to such office shall be notified of his appointment, and sworn as other town officers are. And if any person so appointed and notified shall refuse or neglect to take such oath, for the term of seven days after he shall have received such notice, he shall forfeit and pay five dollars, to be recovered in the manner and to the uses other fines are, for refusing to serve in other town offices. And if any Selectman shall not duly execute this law, so far as to him appertains, he shall forfeit and pay, for each month's neglect, the sum of ten dollars, to be recovered in like manner, and to like uses. And the Treasurers of such towns as shall, as aforesaid, vote to have more than one sealer of weights and measures within their town, shall at the expense thereof, procure, and shall preserve the necessary additional seals, weights and measures, before specified; so that each sealer in such town may have complete sets of the same, under like penalties and forfeitures as are provided in the third section of this Act.

Sealers to be sworn.

Penalties for neglects.

Sealers when sworn to keep the town standards.

SEC. 5. *Be it further enacted*, That it shall be the duty of each sealer of weights and measures, as soon as appointed and sworn, to receive of the town Treasurer, the said town standards and seal, and to give him a receipt therefor, expressing the contents thereof and the condition in which the same may be, and in such receipt engaging, at the expiration of his, (the said sealer's,) office, to deliver the same in like order and condition, to the said Treasurer; and such sealer shall be accountable to the town for the due preservation of the same, so long as he shall hold them on such receipt.

Sealer to notify, in May, the places where he will attend to seal, &c.

SEC. 6. *Be it further enacted*, That it shall be the further duty of the said sealer of weights and measures in the month of May in every year, to post up written notifications in the several parts of the town, expressing therein the time and place, when and where he will attend such of the inhabitants as live within the limits described in his notification, and seal all such of their great and small beams, weights and measures as they shall bring in for that purpose. And the said

sealer shall deface and destroy all weights and measures which cannot be brought to their just standards.

SEC. 7. *Be it further enacted,* That the said sealer be, and he hereby is, authorized and required, to go to the houses of such innholders, and to the ware-houses, stores and shops of such merchants, traders and retailers of spiritous liquors, and to the houses of such of the other inhabitants, as shall neglect as aforesaid, to bring or send in, the said beams, weights and measures; and there, (at their said houses, stores, shops and ware-houses) to try, prove and seal the same beams, weights and measures. And if any such person or persons, shall refuse or neglect to have his, her or their beams, weights or measures so tried, proved and sealed, he, she or they, shall forfeit and pay ten dollars for each offence; one moiety to the use of the poor of the town, and the other moiety to the sealer, to be recovered in an action of debt, with costs as aforesaid. And if any sealer of weights and measures shall neglect his duty in any of the cases in this Act specified, he shall for each neglect, forfeit and pay not less than five nor more than ten dollars: one moiety thereof to the town, and the other moiety to the informer, to be recovered by an action of debt, or on the case with costs as aforesaid.

Sealer to visit houses, stores, &c. to prove weights and measures.

Penalty for neglect.

SEC. 8. *Be it further enacted,* That the directors of the several Banks, which are or shall be incorporated within this State, shall annually, in the month of June, at the expense of said Banks, have all the weights used in their respective Banks compared, proved and sealed by the Treasurer, or by some person specially authorized by him for that purpose; which shall supersede, so far as respects such Banks, the sealing of Troy weights by the town sealer; and no tender of gold by any Bank in this State, weighed with weights other than those compared, proved and sealed as aforesaid, shall be legal. And to prevent the unavoidable imperfection of scale beams, from operating unequally in payments of gold, the payer or receiver may require that the gold shall be weighed in each scale, so that the irregularity of the different ends of the beam, if any, may be ascertained, and the mean weight resulting therefrom, shall be considered as the true weight of the parcel of gold so to be paid or received.

Banks to have their weights sealed in June annually.

SEC. 9. *Be it further enacted,* That it shall be the duty of the several county Treasurers at the expense of their respective counties, before the first day of July, which shall be in the year of our Lord one thousand eight hundred and twenty-four, and once in every ten years afterwards, to have their county standards of Troy weight compared, proved and sealed by the Treasurer of the State, or some person by him thereto specially authorized: and it shall be the duty of the Treasurers of the several towns, at the expense of their respective towns within one year after the first day of July aforesaid, and once in every ten years afterwards, to have

County treasurers to have weights, &c. sealed every 10 years.

their town standards of Troy weight compared, proved and sealed by the Treasurer of the State or of the county wherein such town shall be, or some person thereto specially authorized by said State or county Treasurer.

Vibrating
steelyards may
be used, &c.

SEC. 10. *Be it further enacted*, That the vibrating steelyard invented by Benjamin Dearborn, and the vibrating steelyard invented or improved by Samuel Hills, be permitted to be used in all cases of weighing throughout this State : *Provided*, That before being offered for sale, or the same shall be used, each beam and the poises thereof, shall be sealed by some public sealer of weights and measures, appointed according to law.

Size of fruit
measures.

SEC. 11. *Be it further enacted*, That all measures by which fruit or any other thing usually sold by heaped measure, shall be sold, shall be conformable as to capacity and breadth, to the public allowed standards as aforesaid. And if any person shall sell, or expose to sale, any fruit or other thing, usually sold by heaped measure, by any other measure as to capacity and breadth, than is before mentioned, or shall sell or expose to sale, any goods, wares or merchandize, grain or other commodity whatsoever, by any other beams, weights or measures, than those sealed as aforesaid, he shall forfeit and pay, for each offence, not less than one dollar, nor more than ten dollars according to the circumstance of the case ; one moiety thereof to the use of the town, and the other moiety to the said sealer or to him or them who shall sue for the same, to be recovered in an action of debt, or on the case, with costs of suit, in any Court proper to try the same.

Penalty for
using weights,
measures, &c.
not sealed.

Limitations.

SEC. 12. *Be it further enacted*, That this Act shall take effect and be in force until such time as the Congress of the United States shall have fixed by law the standards of weights and measures.

[Approved February 5, 1821.]

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CHAPTER CXXXII.

An Act respecting Engine Men, Fire Engines and the Extinguishment of fire.

Selectmen to
appoint engine
men.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled*, That the Selectmen of such towns in this State as are or may be provided with a fire engine, or engines, be and they are hereby empowered, if they judge it expedient, to nominate and appoint a number of suitable persons not exceeding twenty-five to one engine, for engine men ; who shall continue in said office during the pleasure of such Selectmen ; which engine men shall be, and they are hereby authorized and empowered, to meet together some time in the month of May annually ; at which meeting, they shall have authority to choose a master, or director, and Clerk of the said engine ; and establish such rules and regu-

who are to
meet in May,
choose officers
and establish
regulations,
&c.

lations, respecting their duty as engine men, as shall be approved of by the Selectmen, and to annex penalties to the same which may be recovered by the Clerk of said engine men, before any Justice of the Peace, in the same county: *Provided*, No penalty shall exceed six dollars and that such rules and regulations shall not be repugnant to the laws of this State.

SEC. 2. *Be it further enacted*, That the respective companies of engine men who may be nominated and appointed in pursuance of this Act, shall be held and obliged to meet together once a month and oftener if necessary, for the purpose of examining the state of the engine to which they belong, and the appendages belonging to the same, and seeing that the said engine is in good repair, and ready to proceed on any emergency to the relief of any part of the community that may be invaded by the calamity of fire; and the said engine men appointed as aforesaid shall be held and obliged to go forward either by night or by day, under the direction of the fire wards in the same town, and to use their best endeavors to extinguish any fire that may happen in the same town, or the vicinity thereof, and shall come to their knowledge without delay. And whereas there may, in some towns, be an engine or engines the property of individuals who would incline, the same might be employed for the benefit of the said town, subject to the like regulations and privileges as though the said engine or engines appertained to the said town:

SEC. 3. *Be it further enacted*, That whenever the proprietor or proprietors of any engine or engines shall apply to the Selectmen of any town in which the said engine or engines may be, setting forth that they have such engine or engines which they are desirous should be employed for the benefit of the said town, the Selectmen of such town, upon application as aforesaid, may appoint engine men in the same manner, with the same privileges and subject to the same regulations as though the said engine or engines were the property of the said town.

SEC. 4. *Be it further enacted*, That if any person, being appointed in manner herein before directed shall, in the opinion of the said Selectmen be negligent and remiss in the duties required of him as an engine man, by this Act, it shall be the duty of the Selectmen in the same town, upon sufficient evidence thereof, to discharge him from said company, and proceed to appoint another engine man in his room, in the manner herein before directed.

SEC. 5. *Be it further enacted*, That the said Selectmen, may in their discretion select from the engine men aforesaid, any number for each engine in their respective towns, whose duty it shall be, under the direction of the fire wards, to attend fires therein, with axes, fire hooks, fire sails and ladders. and who shall do such further duty as the said Selectmen shall

Engine companies to meet monthly to examine engines, &c.

and to be under the direction of fire wards, on duty.

Selectmen may in same manner appoint engine men for private engines.

Selectmen may discharge negligent engine men and appoint others.

Selectmen may select certain engine men for special service at fires, &c.

from time to time prescribe, and shall be entitled to all the exemptions and privileges aforesaid.

Towns may choose fire-wards.

SEC. 6. *Be it further enacted*, That each town in this State in their March or April meeting annually, wherein the qualified voters shall think it expedient to choose fire wards, shall hereafter have power to elect such number of suitable persons to be fire wards therein, as shall be deemed necessary; and each person so elected shall be notified thereof within three days; and shall within three days after being so notified, enter his acceptance or refusal of the said office with the town Clerk. And if any person being so elected and notified, shall neglect to enter his acceptance or refusal as aforesaid, he shall forfeit and pay ten dollars, unless excused by the town; and the town shall have power to elect another in his place, in case of such neglect or refusal. And when any fire shall break out in any town wherein fire wards shall be appointed, they shall immediately attend thereat, and carry with them a suitable staff or badge of their office.

Penalty for refusing to serve.

Their duty at fires.

Duty and power of fire wards at fires;

and of certain other civil and military officers in their absence.

Power in such officers to require assistance.

Penalty for refusing to obey such orders, &c.

When a building is demolished to stop a fire, how the owner is to be indemnified.

SEC. 7. *Be it further enacted*, That when any fire shall break out in any town, the fire wards thereof, who shall be present at the place in immediate danger, or any three of them, and where no fire wards shall be appointed, a major part of the Selectmen present; or in their absence two or three of the civil officers present; or in their absence two or three of the chief military officers of said town present, shall have power to direct the pulling down or demolishing any such house or building as they shall judge necessary to be pulled down or demolished, in order to prevent the further spreading of the fire. And during the continuance of any fire, the said fire wards or officers, as the case may be, shall have power to require assistance for extinguishing the same, and for removing any furniture, goods, or merchandize from any building on fire, or in danger thereof, and to appoint guards to secure the same; and also assistance for pulling down or demolishing any house or building as the case may require; and further to suppress all tumults and disorders. And the said fire wards, Selectmen or officers, as the case may be, shall have authority to direct and appoint the stations and operations of the engine men with their engines and of all other persons, for the purpose of extinguishing the fire, and preventing its increase; and if any person shall refuse or neglect to obey any order given by said fire wards or officers in the premises, the person so offending shall forfeit and pay for each offence ten dollars.

SEC. 8. *Be it further enacted*, That if the pulling down or demolishing of any house or building, by the directions aforesaid, shall be the means of stopping the said fire; or if the fire stop before it come to the same, then every owner of such house or building shall receive a reasonable compensation, and be paid for the same by the inhabitants of the town

in which the fire shall happen. And it shall be the duty of the qualified voters in such town, to grant such sum or sums of money as shall be thought necessary and proper by the Selectmen of the same town, and of the Assessors to assess the same: *Provided always*, That when it shall be adjudged fit that the house or building where the fire shall first begin and break out should be pulled down or demolished to prevent the further spreading and increase of the same fire: then the owner of such house or building shall receive no compensation for the same: *Provided also*, That if any person shall find him or herself aggrieved by the doings of the town, Selectmen or Assessors thereof in estimating, voting or assessing such sum or sums, he or she shall have a right to appeal and complain to the next Court of Sessions to be holden in the county; and the said Court thereon shall have power, on a consideration of all the circumstances of the case, to confirm said doings of said town, Selectmen or Assessors, or to alter the same in such manner as the said Court shall judge proper; and in either case to award legal costs, as the justice of the case may require; and the Collectors to whom the said assessments shall be committed to collect, shall have the same powers and be subject to the same duties, as in the collection of other town taxes, as well in collecting an assessment so confirmed or altered, as in cases wherein there shall be no appeal.

SEC. 9. *Be it further enacted*, That if any person shall, in such case of fire, plunder, purloin, embezzle, convey away or conceal any furniture, goods or chattels, rights or credits, merchandize or effects of the inhabitants whose houses or buildings shall be on fire or endangered thereby, and said inhabitants shall be put upon removing the same, and shall not restore or give notice thereof to the owner, (if known,) or to one of the fire wards of the town, or bring them into such public place as shall be assigned by the Selectmen of the town within two days after public notice shall be posted in some public place in the town by the Selectmen thereof, for that purpose, the person or persons so offending, and being thereof convicted, shall be deemed guilty of larceny, and punished accordingly.

Punishment for concealing, embezzling or plundering goods, &c. at Area.

SEC. 10. *Be it further enacted*, That if any person shall occupy or improve any tenement or building whatever in any part of any maritime town in this State, for the business or employment of a sail maker or rigger or keeper of a livery stable except only in such parts of the town as the Selectmen thereof or a major part of them shall direct and determine, such sail maker or rigger, so offending, shall forfeit and pay for each offence ten dollars; and such keeper of a livery stable shall forfeit and pay for each offence fifty dollars, for every month so occupying the same, and so in proportion for a longer or shorter time.

Penalty for occupying any building as a sail loft or livery stable except in such places as may be approved by selectmen.

Fines and penalties how recovered and appropriated.

SEC. 11. *Be it further enacted,* That the several fines or forfeitures aforesaid, shall be, two third parts thereof to the use of the poor of the town where the offence shall be committed, and the other third thereof to him or them who shall inform and sue for the same; and shall be recoverable with costs of suit, in any Court proper to try the same.

Engine men excused from serving as jurors, in case their town so vote.

SEC. 12. *Be it further enacted,* That all persons legally attached to any engine within this State, be and they hereby are excused from being chosen or drawn to serve as jurors in any Court within this State, in all cases where the town to which such engine men belong, shall at a legal meeting of its inhabitants, by vote declare the expediency of excusing such persons from serving as jurors.

[Approved March 16, 1821.]

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CHAPTER CXXXIII.

An Act for the regulation of Innholders, Retailers and common Victuallers.

Innholders, &c. to be licensed.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no person shall presume to be a common victualler, innholder, or seller of wine, beer, ale, cider, brandy, rum, or any strong liquors, by retail, or in a less quantity than twenty eight gallons, and that delivered and carried away all at one time, except such person be duly licensed as is hereinafter provided, on pain of forfeiting the sum of fifty dollars: and if any person shall at any time sell any spiritous liquors, or any mixed liquors, part of which is spiritous, without license therefor, duly had and obtained according to law, he shall forfeit and pay for each offence the sum of ten dollars.

Penalty for selling, &c. without license.

Duty of selectmen, &c. to notify meetings in September for granting licenses;

SEC. 2. *Be it further enacted,* That it shall be the duty of the Selectmen, Treasurer, and town Clerk of each town, and the Assessors, Treasurer, and Clerk of each plantation, to meet on the second Monday of September, or the succeeding day annually at such time on either or both of such days, and at the place they shall appoint, by posting notice thereof, at two public places in such town or plantation, seven days before the time of such meeting, and at such meeting may license to be victuallers, innholders, or sellers of wine, beer, ale, cider, brandy, rum, or other strong liquors, by retail in such town or plantation, for one year from that date, as many persons of sober life and conversation, and suitably qualified for the employment, for which they may severally apply to be licensed, as they may deem necessary, each person who shall be so approved, shall, before being licensed, pay to the Treasurer for the use of the town or plantation six dollars, and to the Clerk for his use twenty-five cents; and the Clerk shall make a record of all licenses granted, and shall within one month return a list of all such licenses to the

at such meetings may grant licenses.

Duty to be paid for license.

Clerk to record and return a list of such licenses to C. C. Common Pleas.

Clerk of the Circuit Court of Common Pleas for the same county; and said Selectmen, or Assessors, and Treasurer and Clerk, may at any other time, at a meeting held for that purpose, license any person suitably qualified as aforesaid, on his paying one dollar for their use; and to the Treasurer, for the use of the town or plantation, fifty cents for each month from the time of granting such license, till the expiration thereof; and all licenses shall expire on the first Monday in September after granting the same; all licenses now granted shall continue for the time for which they were granted. If any Clerk shall neglect to make any record or return, as herein required, he shall forfeit for each offence five dollars.

Selectmen, &c. may at any other meeting held for that purpose, grant licenses.

Licenses when to expire.

SEC. 3. *Be it further enacted,* That all innholders shall at all times be furnished with suitable provisions and lodging for the refreshment and entertainment of strangers and travellers, pasturing and stable room, hay and provender, (saving that in populous sea port towns, stable room, hay and provender only are required,) for their horses and cattle, on pain of being deprived of their license. And every licensed innholder, shall at all times, have a board or sign affixed to his or her house, or in some conspicuous place near the same, with his or her name at large thereon, and the particular employment for which he or she is licensed; and if any innholder, enjoined by law to be suitably provided to receive and entertain strangers, travellers or others, as occasion may require, shall be convicted of refusing to make suitable provisions when desired, for the receiving of strangers, travellers, and their horses and cattle, or for any public entertainment, such person upon being convicted thereof before the Circuit Court of Common Pleas, of the county to which such person belongs, shall by the said Justices be deprived of his or her license: and the said Justices shall be, and they are hereby empowered and directed to order the Sheriff of the same county, or his deputy Sheriff to cause the sign of such convicted person to be taken down.

Innholders to be suitably provided, &c.

To have sign.

Punishment for neglect.

SEC. 4. *Be it further enacted,* That no innholder, victualler, or retailer, shall have or keep in or about their houses, shops, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or any other implements used in gaming; nor shall suffer any person or persons resorting unto any of their houses or shops to use or exercise any of the said games, or any other unlawful game or sport within their said houses, shops, or any of the dependencies as aforesaid, or places to them belonging, on pain of forfeiting the sum of ten dollars for every such offence; and every person convicted of playing as aforesaid, in any such house, shop, or dependencies thereof, shall forfeit the sum of five dollars.

No innholder to keep in or about his houses cards, billiard tables, &c. or suffer gaming therein.

Penalty for violation.

SEC. 5. *Be it further enacted,* That no innholder, victualler, or retailer, shall suffer any revelling, riotous or disorderly conduct in his house, shop, or dependencies thereof, on

No innholder, &c. to suffer riot, or disturbance, or excessive drinking in his house,

penalty of five dollars, to be paid by the master or keeper of the said house or shop who shall suffer the same; and the penalty of two dollars to be paid by each person offending in any of the said particulars. And no innholder, victualler, or retailer, shall suffer any person to drink to drunkenness or excess in his or her house or shop, or suffer any minor, (travellers excepted,) or servant to sit drinking there, or to have any strong drink there, without special allowance of their respective parents, guardians or masters, on pain of forfeiting the sum of five dollars for every offence of that kind.

under penalty.

Common drunkards to be posted in public houses by selectmen, &c.

Penalty for suffering such persons to tipple or game in the house, &c.

SEC. 6. *Be it further enacted,* That the Selectmen in each town, and the Assessors in each plantation, shall cause to be posted up in the houses or shops of all innholders, victuallers and retailers as aforesaid, within such towns or plantations, a list of the names of all persons reputed common drunkards, or common tipplers, or common gamesters, mispending their time and estate in such houses, and every keeper of such house or shop, after notice given him as aforesaid, that shall be convicted of entertaining or suffering any of the persons in such list to drink, or tipple, or game in his or her house or shop, or any of the dependencies thereof, or of selling them spiritous liquor as aforesaid, shall forfeit and pay the sum of five dollars.

Selectmen, &c. to forbid the sale of spiritous liquors for one year to excessive drinkers, &c.

SEC. 7. *Be it further enacted,* That whenever any person shall by idleness, or excessive drinking of spiritous liquors, so mispend, waste, or lessen his estate, as thereby either to expose himself or his family to want or indigent circumstances, or the town to which he belongs, to a charge or expense for the maintenance or support of him or his family, or shall so indulge himself in the use of spiritous liquors, as thereby greatly to injure his health, or endanger the loss thereof, such Selectmen or Assessors, shall, in writing under their hands, forbid all licensed persons, in their respective towns or plantations, to sell to any of the afore-described mispenders of time and estate, any spiritous or strong liquors, in this Act mentioned, for the space of one year, and shall in like manner forbid licensed persons of any other town or plantation to which such mispender may resort for the same. And if any of the persons contained in the said prohibition shall not in the opinion of the said Selectmen or Assessors, or the major part of them have reformed during the said year; in such case, the Selectmen of such town or the assessors of such plantations shall renew the prohibition in manner as aforesaid; and if any licensed victualler, innholder, or retailer of spiritous or strong liquors, shall during any such prohibition, sell to any person contained therein, any spiritous liquors in this Act mentioned, he shall forfeit and pay for each offence the sum of five dollars.

And may renew such prohibition.

Penalty for selling, &c. contrary to such prohibition.

Penalty for any person procuring spiritous li-

SEC. 8. *Be it further enacted,* That whenever the Selectmen of any town, or the Assessors of any plantation, shall

have posted up in their town or plantation, the names of any common drunkards, common tipplers, or common gamesters, or whenever they shall have forbidden licensed persons from selling to any mispenders of their time and estate, any spiritous or strong liquors agreeably to the directions of this Act, it shall not be lawful for any person to purchase or procure, for and in behalf of such prohibited person, for his use, any spiritous or strong liquors; and if any person or persons shall purchase, procure or sell, or shall cause to be purchased, procured or sold, any spiritous or strong liquors to, or for the use of any such prohibited person during the continuance of such prohibition, as aforesaid, he shall forfeit and pay the sum of ten dollars.

quors for those drunkards or gamblers who are posted.

SEC. 9. *Be it further enacted,* That any fine, forfeiture or penalty, not exceeding twenty dollars, arising for any of the offences aforesaid, shall be recovered by action of debt, before any Justice of the Peace within the same county, where said offence was committed; one moiety thereof to the use of the person who may sue therefor, and the other moiety thereof to the use of the town where such offence was committed; and all fines, forfeitures and penalties exceeding twenty dollars, shall be recovered upon information or indictment, in any Court competent to try the same; and the whole of such fines, forfeitures or penalties, shall be for the use of the county where the offence was committed. It shall be the duty of the several county attornies to file an information against each and every person, who, without being duly licensed shall presume to be a common victualler, innholder, or retailer, upon his obtaining evidence thereof, or he may lay the same before the Grand Jury of the county for their consideration.

Penalties, and mode of recovery and appropriation.

[Approved March 20, 1821.]

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CHAPTER CXXXIV.

An Act to regulate the sale of Goods at public Vendue.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no person unless he be licensed by the major part of the Selectmen of the town to which he belongs, shall sell at public vendue or outcry, any goods or chattels whatsoever: and if any person, without such license, shall sell any goods or chattels at public vendue or outcry, he shall forfeit and pay a sum not exceeding six hundred dollars for each offence; and the Selectmen or the major part of them, at a meeting had for that purpose, are hereby empowered, by a writing, under their hands, to license for the term of one year, any suitable person or persons to make sale of goods or chattels, in manner aforesaid; and the Selectmen are hereby directed to record every

No auctioneer to sell without license.

Penalty.

Selectmen may license for one year.

license, they may so grant, in a book to be by them kept for that purpose.

If Selectmen, unreasonably refuse, Court of Sessions may grant license.

SEC. 2. *Be it further enacted,* That on application in writing of any person to the Selectmen of any town in this State, to be licensed to sell goods or chattels at public vendue, if the Selectmen shall unreasonably neglect or refuse, after such application, to license such person or persons, applying as aforesaid, it shall and may be lawful for such applicant or applicants, first giving ten days notice to the Selectmen, so neglecting, or refusing as aforesaid, to apply to the Court of Sessions for the county where such applicant or applicants reside; which Court or a major part thereof, are hereby authorized and empowered, on hearing the parties, to license said applicant or applicants, if they shall adjudge the same just and reasonable: *Provided,* Such applicant give bonds to the Selectmen to pay all costs arising by the case being brought before the Court of Sessions.

Proviso.

Penalty for receiving goods for sale from a minor or servant.

SEC. 3. *Be it further enacted,* That if any person or persons, thus licensed, shall receive any goods for sale at public vendue or outcry, of any servant or minor, knowing such person to be a servant or minor, or shall sell any of his own goods before sunrise, or after sunset at public vendue or outcry, he shall forfeit and pay a sum not less than fifty dollars, nor more than one hundred and seventy dollars, for each offence: and every person thus licensed, shall keep a fair and particular account of all goods and chattels sold by him, as aforesaid, of whom the same were received and of the names of the persons to whom the same shall have been sold: *Provided,* That nothing in this Act shall extend to sales made by Sheriffs, deputy Sheriffs, Coroners, Constables, Collectors of taxes, executors or administrators, or any other person who already is, or hereafter may be authorized or required by law to sell goods, chattels or lands at vendue or outcry.

Sheriffs, coroners, &c. not embraced in this act.

Occupants of a house liable to fine for permitting sales therein by unlicensed auctioneers.

SEC. 4. *Be it further enacted,* That the tenants or occupants of any house or store, having the actual possession and control of the same, who shall knowingly permit or allow any person or persons, not being licensed as in the said Act prescribed, to sell any goods or chattels at public vendue or outcry, in his said house or store or in any apartment or yard appurtenant to the same, shall forfeit and pay a sum not exceeding six hundred dollars, nor less than one hundred dollars.

Penalties how recovered.

SEC. 5. *Be it further enacted,* That any penalty, incurred as aforesaid, may be recovered in an action of debt, or by indictment or information, in any Court of Record competent to try the same; and to be appropriated to the use of the complainant.

[Approved January 23, 1821.]

CHAPTER CXXXV.

An Act concerning Parishes.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That any persons twenty-one years of age, or upwards, desirous of incorporating themselves into a parish or religious society, may apply to any Justice of the Peace in the county where the majority of such applicants reside, who shall issue his warrant to one of such applicants, directing him to notify them to meet at some suitable place, in the manner by this Act provided for the purpose of incorporating themselves into a parish or religious society. And such persons so assembled, may choose a Clerk, and such other parish officers, as they may think proper; and thereupon shall be, and hereby are declared to be a body politic, to be known by such name and style as they may see fit to adopt; and shall have all the powers and privileges incident by law to parishes and religious societies.

How parishes and religious societies may be incorporated.

May elect officers and become bodies politic, with parish powers.

SEC. 2. *Be it further enacted,* That every parish or religious society shall have power to take by gift, grant or purchase any estate real or personal, until the clear annual income of such parish or society arising from such estate, shall amount to three thousand dollars; and to give and grant or bargain and sell the same; and shall have power to order and establish such regulations and bye-laws for the management of their affairs as they may see fit: *Provided,* The same be not contrary to the laws of this State.

May take and hold real estate of annual income 3,000 dollars.

SEC. 3. *Be it further enacted,* That the inhabitants of each parish or religious society may meet annually and at such other times as they may deem proper, in the town where the religious meetings of such parish or society are usually held, at such time and place as they shall be notified to attend by the Assessors or standing committee of such parish or society, or by such other person as may have the warrant of such Assessors or committee therefor, such meetings to be notified seven days at least before the holding of the same, by written advertisements posted up at the principal outer door of the meeting house or place of worship of such parish or society, or in such other mode as any parish or society may agree upon at any legal meeting of the same; and being so assembled may, by written ballot or otherwise, elect a Clerk, who shall be sworn or affirmed to the faithful discharge of his office, two or more Assessors, a Collector, Treasurer, and a standing committee, or such other officers as may be deemed proper for the convenient management of their concerns. And the Assessors of such parish or society shall have power to manage the prudential affairs thereof, when no other persons are appointed for that purpose.

Mode of calling parish or society meetings and proceedings.

SEC. 4. *Be it further enacted,* That the Moderator of any meeting of any parish or religious society, shall have power

Government of such meetings by moderator.

to regulate and manage the business of such meeting, to preserve due order and decorum therein, to remove therefrom every person guilty of irregular and disorderly conduct and to administer the oath of office to the Clerk. And when any vote declared by the Moderator, shall immediately be questioned by any person present, the Moderator shall make the same certain in such manner as a majority of the members present may desire.

Justice of peace may call a meeting in certain cases.

SEC. 5. *Be it further enacted,* That when any five members of any parish or religious society shall signify in writing their desire to have any article inserted in the warrant or notification for calling the next meeting thereof, it shall be the duty of the Assessors to insert the same accordingly. And if such Assessors unreasonably refuse to call a meeting, or any parish or religious society be destitute of Assessors, or other officers empowered to notify a meeting of the same, any Justice of the Peace within the county upon application in writing of five members of such parish or society, may issue his warrant to any suitable person therein, who may notify a meeting thereof accordingly; and where any parish or religious society shall not establish the method of calling meetings of the same, such meetings may be notified and called in the manner herein before provided for the calling of annual meetings.

May vote and assess monies, and collect them,

SEC. 6. *Be it further enacted,* That every parish and religious society may at any legal meeting thereof, grant and vote such monies as they may judge necessary for the support of the public ministry of religion, for the building, repairing, enlarging or removing of houses of public worship and for all other necessary parish charges; and may assess the same on the polls and estates of the several members thereof, and cause the same to be collected, conforming to the laws providing for the assessment and collection of State taxes; and where any house of public worship belongs to the members of a parish or religious society it shall be lawful for such parish or society if they see cause to assess any monies voted aforesaid either wholly or in part upon the pews and seats of all individual proprietors therein: *Provided,* That such individual proprietors of pews and seats whether members of such society or not may be present and vote in granting all sums to be assessed on such seats and pews in manner aforesaid. And if the taxes or any of them so assessed on said pews and seats shall remain unpaid for the space of six months after the assessment thereof, the Treasurer of such parish or religious society shall sell such pews and seats at public vendue to the highest bidder; first posting up a notification of such intended sale at the principal outer door of such house of public worship, at least three weeks before the time of sale, therein setting forth the numbers of the pews or seats if any, and the amount of taxes due thereon; and shall make, execute and deliver to the purchaser

on pews in part or wholly.

Proviso.

Pews may be sold for taxes.

Mode of proceeding.

sufficient deeds of conveyance of the same, and the monies arising from such sale over and above the taxes and incidental reasonable charges, said Treasurer shall pay over to the former owners of the pews and seats so sold respectively, or their assigns on demand.

SEC. 7. *Be it further enacted*, That all monies paid by any person for the support of public worship, or of public teachers of religion by a tax on any pew or seat, shall, if such person require it, be paid over to such teacher of his own religious sect as he may designate, he leaving a written notice of such designation with the Clerk of such society on or before their annual meeting; unless such owner shall use such seat or pew by attending public worship himself, his family or other person occupying the same under him; and it shall be sufficient that such teacher be ordained and qualified agreeably to the usages of his particular sect or communion.

Each man's pew tax to be paid to his own designated teacher, unless, &c.

SEC. 8. *Be it further enacted*, That any person may become a member of any parish or religious society now existing or hereafter to be created, by being accepted by the society of which he wishes to become a member, at a legal meeting of the same and giving notice thereof in writing to the Clerk of the society which he is about to leave; which notice and the time of receiving the same, it shall be the duty of such Clerk to record. But every person ceasing to be a member of any parish or religious society shall be liable to be taxed for all monies raised by such parish or society before his ceasing to be a member thereof: *Provided*, That no person shall be compelled to join or be classed with any parish or religious society without his or her consent, and when any person shall choose to withdraw from any parish or religious society, and shall leave a written notice thereof with the Clerk of such society, he or she shall be no longer liable to pay any part of any future expenses which may be incurred by such society.

Mode of becoming a member of a society, &c.

To pay taxes assessed on him by a parish, before his leaving it.

Mode of withdrawing, &c.

SEC. 9. *Be it further enacted*, That the records of every parish or religious society shall be free to the inspection of every member thereof, and of the Clerk of any other parish or religious society. And it shall be the duty of each Clerk to make and attest copies of record upon request and reasonable compensation therefor.

Records of every parish to be open to inspection.

SEC. 10. *Be it further enacted*, That the minister or ministers of every parish or religious society of every denomination are, and shall be deemed capable of taking in succession any estate granted to the minister and his successors or for the use of the ministry, or of the poor of the church, and of prosecuting and defending all actions, petitions and processes touching the same, and no alienation by any minister, of any estate granted to the minister and his successors or for the use of the ministry shall be valid any longer than

Ministers of all parishes may take estates in succession, &c.

Mode of alienation by such ministers.

and by deacons
and elders in
certain cases.

Mode of alienation
by such.

Limitation as
to amount of
estate.

during such alienor's continuing minister. And the deacons, elders, trustees, stewards, or other presiding officers of every church or religious society having by its usages no settled minister, shall be deemed capable of taking in succession any estate granted to them to the use of such church or of the poor thereof: and of prosecuting and defending all actions, petitions and processes touching the same. But no alienation of such estate by such deacons, elders, trustees, stewards, or presiding officers shall be valid any longer than during the alienor's continuing in office: *Provided however*, That such deacons, elders, trustees, stewards, or presiding officers, may with the assent of the church or society alienate in fee any estate acquired by them or by such church or society by purchase; and no minister, deacons, elders, trustees, stewards or other presiding officers shall be deemed capable of taking any estate granted as aforesaid, so long as the clear annual income of any prior grants to such minister, deacons, elders, trustees, stewards, or presiding officers or their predecessors, or to the church, shall be and remain equal to the sum of three thousand dollars.

SEC. 11. *Be it further enacted*, That all laws now in force in this State inconsistent with the provisions of this Act, be and they are hereby repealed.

[Approved March 13, 1821.]

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CHAPTER CXXXVI.

An Act for recording Births and Deaths by the Clerks of towns.

Town clerk to
record births
and deaths.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That it shall be the duty of every town Clerk within this State, to record all births and deaths which shall happen within his town and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed by law, to be paid by his town.

Parents to give
him notice of
births and
deaths,

also each house-
holder.

Each master of
almshouse or
ship or vessel.

SEC. 2. *Be it further enacted*, That it shall be the duty of parents to give notice to the Clerk of the town in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any almshouse, workhouse or prison; and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the Clerk of the town in which such event shall happen; and in case any person whose duty it shall be by virtue of this Act, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth

or death shall happen, the person so neglecting shall pay a fine of one dollar, to be recovered with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same. Penalty for neglect.

[Approved February 28, 1821.]

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CHAPTER CXXXVII.

An Act defining the general powers and duties of Manufacturing Corporations.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all corporations which may hereafter be established within this State, for the purpose of carrying on any kind of manufacture, or manufactures, shall have power from time to time, to choose a Clerk, who shall be sworn by a Justice of the Peace to the faithful discharge of his duty, and who shall record all votes of the corporation in a book, to be by him kept for that purpose; a Treasurer, who shall give bonds in such manner and in such sum as any such corporation shall direct, and such other directors, agents and factors, as shall be thought necessary and convenient for their regular government and to carry into effect the several objects for which any such corporation may be established; and to make and establish any rules and by-laws for the regulation and government of said corporations, with reasonable penalties for the breach thereof, not exceeding the sum of twenty dollars, and the same at their pleasure to repeal and annul: *Provided*, That such rules and bye-laws shall not be repugnant to the Constitution and laws of this State. Manufacturing corporations may choose officers, &c. and make bye-laws.

SEC. 2. *Be it further enacted*, That a majority of the persons named in any Act of incorporation may call the first meeting of the corporation, by giving notice of the time and place of meeting, in some public newspaper printed in the county where the manufactory shall be established, at least fourteen days before the time of the meeting; and if no paper is printed within the county, then public notice of the time and place of meeting shall be given as aforesaid, in a newspaper printed in some adjoining county. How first meetings may be called.

SEC. 3. *Be it further enacted*, That the property of all such corporations shall be divided into shares, and numbered in progressive order, beginning at number one; and every original member of such corporation shall have a certificate under the seal of the corporation, and signed by the Treasurer, certifying his property in such share as shall be expressed in the certificate. Property of such corporations to be divided into shares and numbered.

SEC. 4. *Be it further enacted*, That any share may be alienated by the proprietor thereof by a deed under his hand and seal, acknowledged before some Justice of the Peace, and Shares how to be transferred.

recorded by the Clerk of the corporation in a book to be by him kept for that purpose; and any purchaser named in such deed so recorded, shall on producing the same to the Treasurer, and delivering up to him the former certificate, be entitled to a new certificate executed in form aforesaid.

Corporation may assess money on the shares.

SEC. 5. *Be it further enacted,* That any such corporation may from time to time, at any legal meeting called for that purpose, assess upon each share, such sum or sums of money, as shall be judged by such corporation necessary for raising a capital for the establishment and completion of the object of the incorporation, and for defraying the charges and expenses incident thereto, to be paid to their Treasurer at such time or times, and by such instalments as shall be directed by the corporation; and if the proprietor of any share or shares shall refuse or neglect to pay any tax or assessment duly voted and agreed on by said corporation, for the term of thirty days after the time set for the payment thereof, the Treasurer of such corporation is hereby authorized to sell, at public vendue, the share or shares of such delinquent proprietor, sufficient to pay all taxes or assessments which may be then due from said proprietor, with all necessary and incidental charges; after having given public notice in some newspaper printed in the county where the manufactory is established, if any is printed therein, otherwise in some adjoining county, of the time and place of sale, with the sum due on each share, at least three weeks successively before the sale; and such sale shall be a legal transfer of the shares so sold to the purchaser, and when the purchaser shall produce a certificate of such sale from the Treasurer to the Clerk of the corporation, with the name of the purchaser, and the number of the share or shares sold, the same shall be entered by the Clerk on the books of the corporation; and such person shall be considered, to all intents and purposes, the proprietor thereof; and shall be entitled to a certificate in the form prescribed in the third section of this Act.

Mode of enforcing payment by sale of shares.

Notice to be given.

Effect of sale.

Acts authorizing such corporations, to be considered public acts.

SEC. 6. *Be it further enacted,* That all Acts incorporating manufacturing companies, shall be deemed and taken to be public Acts, and as such may be declared upon, and given in evidence in any Court of law, without specially pleading the same: *Provided always,* That the Legislature may from time to time, upon due notice to any corporation, make further provisions and regulations for the management of the business of the corporation, and for the government thereof, or wholly to repeal any Act, or part thereof, establishing any corporation as shall be deemed expedient.

[Approved March 8, 1821.]

CHAPTER CXXXVIII.

An Act defining the general powers and duties of Turnpike Corporations.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That no turnpike corporation shall be created, except a committee shall have first been appointed by the Legislature, and viewed the rout proposed by the petitioners, who shall be at the expense thereof. And that all committees appointed for the purpose aforesaid, shall, before they proceed to view any proposed road, give public notice of the time and place of their meeting, by publishing the same in some newspaper printed in the county where said road is proposed to be laid, if any such paper is printed therein, and if not, in such other way as they may think will give general notice to all interested, and shall also give notice to one or more of the Selectmen of each town through which they propose to view, and of the time they shall make their report to the Legislature, that all persons may then appear and shew cause, if any they have, against the prayer of the petition.

Turnpike corporations not to be granted, until after a viewing committee.

Viewing committee to give notice, &c.

SEC. 2. *Be it further enacted,* That whenever any grant is made for a turnpike road, and application is made to the Court of Sessions within the county where said road is situated, said Court shall appoint a committee of five disinterested freeholders within the same county, at the expense of the corporation, who shall be invested with the same powers, observe the same rules, be under the same restrictions, perform the same duties, and make return of their doings, in the same manner as is provided by law for similar committees appointed by said Court for laying out public highways. And said corporation shall be liable to pay all damages that may be estimated by said committee; saving to either party the right of trial by Jury respecting damages only, according to law making provision for the recovery of damages arising from the laying out highways: *Provided however,* That said corporation may purchase and hold lands, over which they may make their road; in every such case, the estimation of damages shall be omitted by said committee. And no turnpike road hereafter granted shall be less than four rods in width, and the travelled part of the same shall not be less than twenty-four feet in any part thereof.

When turnpike is granted, Court of Sessions may appoint committee to lay it out.

Corporation to pay damages estimated by said committee; saving to each party a right to jury, &c.

unless the corporation purchase the land.

Width of such roads.

SEC. 3. *Be it further enacted,* That no gate shall be erected by any turnpike corporation, on any county or town road before established; and no turnpike gate shall be erected across any turnpike road where full toll shall be demanded, except said gate be ten miles distant from any other turnpike gate, on the same road, unless the Act granting the same road shall contain a different provision.

Where gates may be erected.

SEC. 4. *Be it further enacted,* That it shall be lawful for all turnpike corporations that may be established by law, when-

After the road is made and approved by C. C. Com. Pleas,

corporation
may erect
gates.

Rates of toll.

Sign-board to
be erected, ex-
hibiting such
rates of toll.

Penalty for de-
stroying or in-
juring gates or
road; or forc-
ibly passing, &c.
gates without
paying toll.

ever the road shall be sufficiently made, and so allowed and approved by the Justices of the Circuit Court of Common Pleas within said county where said road shall be situated; and they are hereby authorized to erect gates, in such place or places as the said Justices shall direct; to demand and receive of each traveller or passenger at each of said gates, the following rates of toll, viz. For each coach, chariot, phaeton or other four wheel spring carriage, drawn by two horses, twenty five cents; and if drawn by more than two horses, two cents for each additional horse; for every waggon drawn by two horses, ten cents; and if drawn by more than two, two cents for each additional horse; for every cart or waggon drawn by two oxen, ten cents; and if by more than two, twelve and a half cents; and if by more than four oxen or horses, two cents for each additional ox or horse; for every curricle, fifteen cents; for every chaise, chair, sulkey or other carriage for pleasure drawn by one horse, twelve and a half cents each; for every cart, waggon or truck drawn by one horse, six and one quarter of a cent each; for every man and horse, four cents; for every sleigh or sled drawn by two oxen or horses, eight cents; and if drawn by more than two oxen or horses, one cent for each additional ox or horse; for every sleigh or sled drawn by one horse, four cents; for all horses, mules or neat cattle led or driven, besides those in teams or carriages, one cent each; for all sheep or swine, at the rate of three cents by the dozen: *Provided however,* That the corporation may if they see cause, commute the rates of toll with any person or persons or with any corporation, by taking of him or them a certain sum annually, to be mutually agreed on, in lieu of the toll aforesaid; and carts or waggons having wheels, the feloes of which shall be six inches broad or more, shall be subject to pay only half the toll which carts or waggons otherwise constructed shall be liable to pay. And all turnpike corporations shall erect in some conspicuous place where the toll is collected, exposed to view, a sign-board, with the rates of toll of all tollable articles, fairly and legibly written or printed in capital letters; and whenever said corporation shall neglect so to do, they shall not be entitled to demand or receive any toll at the said gate.

SEC. 5. *Be it further enacted,* That if any person shall cut, break down or otherwise injure or destroy any turnpike gate, on any turnpike road; or shall dig up or carry away any earth or gravel from such turnpike road, or in any other manner damage the same; or shall forcibly pass, or attempt to pass any such turnpike gate, without having first paid the legal toll, with an intent to avoid the same, such person shall forfeit and pay a sum not exceeding fifty dollars, nor less than five dollars, to be recovered by the Treasurer of the corporation to their use, in an action of trespass. And if any person, with his or her horse, team or cattle, shall turn out of

such road to pass any turnpike gate with intent to avoid paying the toll, and again enter on the said road, such person shall forfeit and pay treble the toll which could have been payable at such gate, to be recovered by the Treasurer of said corporation, to their use in an action of trespass on the case. *Provided however,* That nothing in this Act shall extend to entitle any turnpike corporation hereafter established, to demand or receive toll from any person that shall be passing on foot, or with his horse or carriage, to or from his usual place of public worship; or from any person passing on military duty; or from any person residing in the town where the gate may be placed, unless they are going or returning from beyond the limits of said town; or from any person going to or from any grist mill, or on the common and ordinary business of family concerns.

Penalty for fraudulently avoiding a gate.

Certain persons exempted from toll.

SEC. 6. *Be it further enacted,* That every traveller being about to pass any turnpike gate or toll bridge within this State, and claiming to be exempted by law from the payment of toll, shall, if required by a toll gatherer, first deliver to him his name and place of abode; and whoever shall for the purpose of avoiding the payment of toll at any such gate or bridge, wilfully give a false account to a toll gatherer of his name or place of abode, and thereby pass the gate, toll free; shall forfeit and pay to the use of such corporation, for every such offence, the sum of ten dollars, to be recovered by the Treasurer of said corporation by an action of debt.

Penalty for giving a false answer to toll gatherer, when claiming exemption.

SEC. 7. *Be it further enacted,* That if any turnpike corporation, their toll gatherer, or others in their employ, shall demand or receive more toll than is by law established, the said corporation shall forfeit and pay a sum not exceeding ten dollars, nor less than two dollars; to be recovered before any Justice of the Peace within the county where the offence is committed, by the person injured, delayed or defrauded, to his or her use, in a special action of the case; and all writs against any turnpike corporation shall be served on the Treasurer of said corporation, or on some individual member thereof, living in the county where the offence shall be committed, by leaving a true and an attested copy of the same with the said Treasurer or individual member, at least fourteen days before the day of trial. And the said Treasurer or individual member shall be allowed to defend the same suit in behalf of said corporation; and the said corporation shall be liable to pay all damages which may happen to any person from whom toll is demandable, for any damages which shall arise from defect of bridges or want of repair of said turnpike road; and also liable to presentment by a Grand Jury, for not keeping the same in good repair.

Penalty for demanding more than legal toll.

How to be recovered.

Mode of serving process on such corporations.

Corporation liable in damages,

and to indictment for neglect to repair.

SEC. 8. *Be it further enacted,* That if any turnpike or bridge corporation, or any agent thereof, shall unreasonably delay or hinder any person driving any cart or waggon, sleigh

Penalty for hindering or delaying travellers at toll gate.

or carriage, from passing any turnpike gate or toll bridge, such turnpike or bridge corporation, shall forfeit and pay to such person so delayed or hindered a sum not less than two dollars, nor more than twenty dollars, to be recovered by such person by a special action of the case.

Where turnpike intersects another road, how to be made.

SEC. 9. *Be it further enacted*, That where any turnpike road hereafter established shall intersect any former public highway, it shall be the duty of the proprietors of such turnpike so to construct their road; that it shall be convenient and feasible for travellers to pass from such former public highway on to such turnpike.

Shares in turnpikes to be personal estate,

How transferable.

SEC. 10. *Be it further enacted*, That the shares in all turnpike corporations shall be taken, deemed and considered to be personal estate, to all intents and purposes; and may be transferable, and the mode of transferring the said shares shall be by deed, acknowledged before any Justice of the Peace, and recorded by the Clerk of said corporation, in a book kept for that purpose.

When a proprietor neglects to pay assessments, what proceedings to be had.

SEC. 11. *Be it further enacted*, That whenever any proprietor of a share or shares in any turnpike corporation hereafter established, shall neglect or refuse to pay any tax or assessment duly voted and agreed on by such corporation, to their treasury, within sixty days after the time set for the payment thereof, the Treasurer of said corporation is hereby authorized to sell at public vendue the share or shares of such delinquent proprietor, sufficient to defray the said tax or assessment, and all necessary and incidental charges, after having given public notice in some newspaper printed in the county where the road lies, if any is printed therein; otherwise in some public paper printed in an adjoining county; with the sum due on each share, and the time and place of sale, three weeks successively, at least, before the sale. And such sale shall be a legal transfer of the shares so sold, to the purchaser; and on the purchaser's producing a certificate of such sale from the Treasurer to the Clerk of said corporation, with the name of such purchaser, together with the number of the share or shares so sold, shall be by the Clerk entered on the books of the corporation; and such person shall be considered to all intents and purposes, the proprietor thereof; and the overplus, if any there be, shall be paid by the Treasurer, on demand, to the person whose share or shares were so sold.

Description of wheels to be used on turnpikes, with certain loads.

Penalty for violating this provision.

SEC. 12. *Be it further enacted*, That all loaded carts or waggons, passing on any turnpike road within this State, carrying more than forty-five hundred gross weight, shall be drawn on wheels having each a felloe not less than three and an half inches wide; and if any person or persons shall pass on any turnpike road in this State, with a cart or waggon loaded as aforesaid, with narrower felloes than is above provided, he or they shall pay to such turnpike corporation, three times

the legal toll for such loaded cart or waggon. And it shall be the duty of any person or persons driving or having the care of a loaded cart or waggon, passing on any turnpike road as aforesaid, upon the request of the toll gatherer to give a true account of the weight of his load, and also his name and place of abode; and if he shall refuse to give, or wilfully misrepresent the weight of his load, or shall give a false account of his name or place of abode, with intent to defraud any turnpike corporation, he shall forfeit and pay to the use of such turnpike corporation, the sum of ten dollars for every such offence, to be recovered by the Treasurer of such turnpike corporation by action of debt.

Teamsters to give true account of themselves and the weight of their loads;

under penalty, &c.

SEC. 13. *Be it further enacted*, That if any person or persons shall open or make any road or passway, leading from any turnpike road within this State, and reunite said road or passway with the same turnpike road, or any other road connected therewith, with an intent and for the purpose of avoiding, or aiding others to avoid, any gate on such turnpike road, he or they shall forfeit and pay to the use of such turnpike corporation, so intended to be injured, a sum not less than two hundred dollars, nor more than one thousand dollars, to be recovered by the Treasurer of such turnpike corporation in an action of trespass on the case: *Provided however*, That nothing in this section contained shall be construed to extend to the opening or making of any county road.

Penalty for making roads connected with turnpikes so as to avoid toll gates, &c.

Proviso.

SEC. 14. *Be it further enacted*, That if any owner or person having the care of any drove of neat cattle or horses, and driving the same over any turnpike bridge, or over any toll bridge within this State, shall permit more than twenty neat cattle or horses to be on any such bridge which shall be more than fifty feet in length from one abutment, pier or trussel part to another, at one and the same time, without the consent of the toll gatherer or agent of said corporation; or if any owner or person shall drive or transport over any such bridge without the consent of the toll gatherer or agent thereof, any loaded cart or waggon, or other carriage, the weight whereof shall exceed forty-five hundred gross weight, exclusive of the team and carriage, and shall thereby break down or injure such bridge, such person or persons, owner or owners, shall not recover any damages of the corporation owning such bridge.

Penalty for driving more than a certain number of cattle or horses over bridges, &c. at once;

or loaded teams beyond a certain weight.

SEC. 15. *Be it further enacted*, That if any person driving or having the care of any loaded cart or waggon, passing on any turnpike road, within this State, shall lock, chain or fasten any of the wheels of such loaded cart or waggon, without putting under such locked, chained or fastened wheel, an iron shoe, not less than six inches wide and twelve inches long, such person driving or having the care of such loaded cart or waggon, shall for every offence forfeit and pay to such turnpike corporation, a sum not less than two dollars, nor more

Penalty for chaining wheels, &c. without an iron shoe under them, &c.

than twenty dollars, to be recovered by the Treasurer of such turnpike corporation, in an action of trespass on the case.

First meeting of such corporation to be called by a major part of the grantees.

SEC. 16. *Be it further enacted,* That the first meeting of all turnpike corporations hereafter established, shall be held at such time and place as shall be agreed on by a major part of the persons to whom the grant is made, for the purpose of choosing a Clerk, who shall be sworn to the faithful discharge of the duties of his office, and such other officers as may be agreed on by said corporation; and may then or at any subsequent meeting, establish such rules and regulations, as shall be judged necessary for the well ordering of the affairs thereof: *Provided,* That no such rules and regulations shall, in any manner, be repugnant to the Constitution and laws of this State; and that said first meeting shall be notified, by publishing the same in some newspaper printed nearest to where the said road lies, at least two weeks before the said meeting.

May make rules &c. not repugnant to constitution, &c.

C. Court of Com. Pleas may, on petition, remove gates.

SEC. 17. *Be it further enacted,* That whenever the directors of any turnpike corporation heretofore established or which may hereafter be established, by law, shall wish to remove a gate or gates, by such corporation then duly erected on the turnpike road of such corporation, it shall and may be lawful for such directors, or a majority of them, to petition the Circuit Court of Common Pleas, to be holden within and for the county where such gate or gates may be erected praying for the removal of such gate or gates, and stating the reasons therefor; and thereupon it shall and may be lawful for the said Court to nominate and appoint a committee of three disinterested and sufficient freeholders, inhabitants of said county, whose duty it shall be after being duly sworn to the faithful discharge of their trust, at the expense of the corporation, whose gate or gates are intended to be removed, to give notice to all persons interested, of their appointment, and the time and place of meeting, for the purpose of attending to the business of their commission, by advertising the same in such newspaper as the said Court may order, ten days at least, before the time appointed for such meeting; and also at the said time appointed as aforesaid, to repair to the gate or gates mentioned in such petition; and after hearing all parties interested, to determine whether the said gate or gates shall be removed, as prayed for, and report their said determination as soon as may be to the same Court; who are authorized, if they should deem it expedient, to order said gates to be removed and located according to the report of such committee.

Proceedings to be had in such cases.

C. Courts of Common Pleas may in certain cases order gates to be opened after notice to corporation.

SEC. 18. *Be it further enacted,* That whenever any turnpike road shall be suffered to be out of repair, the Justices of the Circuit Court of Common Pleas, within and for the county where the same road may lie, or a major part of them, or a committee to be appointed for that purpose by said Justices, are hereby authorized to order the gate or gates of such cor-

poration to be set open; said Justices or their committee having previously notified the Clerk of such corporation, of complaint having been made of the badness of such road, at least ten days previous to ordering such gate or gates to be set open, and immediately upon leaving such order in writing under the hands of said Justices or their committee, with the Clerk of such corporation, the said gate or gates shall be opened, and no toll shall be legally demandable thereat, until the said Justices or their committee shall grant a counter order.

No toll to be taken till such order is revoked.

SEC. 19. *Be it further enacted,* That it shall not be lawful for any turnpike corporation hereafter granted, without the consent of the owner or owners of any real estate, over which the road granted to such corporation shall pass, to throw open any fences or enclosures upon the same, or remove any buildings, or cut down any trees thereon standing, or make such road, or in any way injure the property of any owner or possessor of such real estate, until the damage done by the passing of such road over said real estate, shall have been first duly ascertained by the committee who may by law be authorized to assess the same; and such damages, so ascertained, shall have been paid or tendered to the person or persons entitled to receive the same: *Provided however,* That nothing in this Act contained, shall be construed to prevent any turnpike corporation, their agents or servants from entering on any lands, over which any such road may pass, for the purpose of surveying or laying out the same. And whenever a committee or Jury shall be appointed by the Court of Sessions for the purpose of estimating whether sufficient or insufficient damages have been allowed, in laying out a turnpike road, the turnpike corporation being a party, shall be liable to costs in those cases, in like manner as counties are liable in laying out county roads.

Turnpike corporations not to open road and expose enclosures, without consent of owner until damage are paid such owners.

Proviso.

Corporations liable to costs in certain cases like counties.

SEC. 20. *Be it further enacted,* That whenever any turnpike road, in whole or in part, shall be discontinued, the land over which such discontinued turnpike was laid, shall revert in the person or persons, their heirs and assigns who were owners thereof at the time such land was taken or purchased for the purpose of making said turnpike, any conveyance of said land by deed to said corporation notwithstanding.

When turnpike is discontinued land to revert to the person owning it at the time it was taken, &c.

SEC. 21. *Be it further enacted,* That every turnpike corporation hereafter established, shall, within six months from the time of erecting their gates, lodge in the Secretary's office an account of the expenses thereof; and each corporation shall annually, in the month of January, exhibit to the Governor and Council a true account of the income or dividends arising from said toll, with their necessary annual disbursements on the said road; and the books of all corporations shall at all times be subject to the inspection of the Governor and Council and of the Legislature.

Corporation to lodge in the secretary's office account of expense, and annual acc. out of dividends and imbursements.

SEC. 22. *Be it further enacted,* That the Legislature may

Legislature may dissolve

corporations in certain cases.

dissolve any corporation hereafter established, after the expiration of twenty years, or sooner if it shall appear to their satisfaction that the income of said road shall have compensated such corporation for all money they may have expended, in purchasing lands for said road, and in making, repairing, and taking care of the same, together with twelve per centum by the year; and thereupon the property of said road shall be vested in the State and be at the disposal of the Legislature: *Provided however*, That if any corporation granted as aforesaid, shall neglect to complete the road within five years from the date of the grant, the same shall be void.

Grants void, if objects not completed within five years.

[Approved February 15, 1821.]

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CHAPTER CXXXIX.

An Act to define the powers, duties and restrictions of Insurance Companies.

Powers of insurance companies.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all insurance companies which shall hereafter be incorporated in this State, shall have power and authority to make insurances on vessels, freight, money, goods, and effects, and against captivity of persons, and on the life of any person and in cases of money lent upon bottomry and respondentia, and to fix the premiums and terms of payment; and all policies of insurance by them made, shall be subscribed by the president, or in case of his death, sickness, inability, or absence, by any two of the directors, and countersigned by the secretary of such corporation, and shall be binding and obligatory upon the said companies, and have the like effect and force, as if under the seal of the said companies; and all losses duly arising under any policy so subscribed, may be adjusted and settled by the president and board of directors, and the same shall be binding on the said companies respectively.

Form of policy.

Adjustment of losses by directors, binding on company.

Dividends—how and when to be made, and on what principles.

SEC. 2. *Be it further enacted*, That it shall be the duty of the directors of all such companies, at such times as the charter or bye-laws of said companies shall prescribe, to make dividends of so much of the interest arising from the capital stock and the profits of said companies as to them shall appear advisable; but the monies received and notes taken for premiums of risks, which shall be undetermined and out standing at the time of making such dividends, shall not be considered as parts of the profits of said companies; and in case of any loss or losses, whereby the capital stock of the said companies shall be lessened before all the instalments are paid in, each proprietor or stockholder's estate shall be held accountable for the instalments that may remain unpaid on his share or shares, at the time of such loss or losses taking place. And no subsequent dividend shall be made until the sum aris-

Responsibility of stockholders in case.

Subsequent dividend not to be made, until...

ing from the profits of the business of the said companies, equal to such diminution, shall have been added to the capital; and that once in every three years, and oftener if required, by a majority of the votes of the stockholders, the directors shall lay before the stockholders, at a general meeting, an exact and particular statement of the profits, if any there be, after deducting losses and dividends.

SEC. 3. *Be it further enacted*, That the said companies shall not directly nor indirectly deal or trade in buying or selling any goods, wares, or merchandize, or commodities whatever; and the capital stock of said companies, collected at each instalment, shall within six months, be invested, either in the funded debt of the United States, or of this State or in the stock of the United States Bank, or of any incorporated Bank in this State, in either or all of them, and in such proportion as may be most for the interest of said companies, at the discretion of the president and directors of said companies; or of such other person or persons as said companies shall for such purpose at any meeting appoint: *Provided however*, That the president and directors of said companies, and of all other companies of insurance heretofore incorporated, shall have power to loan to any citizen of this State, any portion of their capital stock, not exceeding one half, on respondentia or bottomry: *Provided also*, That the sum loaned, on any one bottom at one time, including the sum insured in any other way upon the same bottom, shall not exceed ten per centum upon the capital stock of such companies; nor shall the same be loaned, but with the assent of three fourths of the directors of such companies; and such loans, together with the assent aforesaid, shall be entered at large in the records of said companies; and shall be laid before the stockholders at their meeting next following the said loan; and it shall be in the power of the directors of said companies, in case they shall deem it more for the interest of the stockholders in said companies than any of the investments above described, to loan any portion of their capital stock aforesaid, not exceeding two thirds of the whole amount, to any person or persons within this State either on mortgage of real estate within this State, or on pledges of the public stocks of the United States, or of the Bank of the United States, or of any other Bank incorporated in this State.

Insurance companies not to engage in any merchandize.

Capital stock, how to be invested.

May loan one half on respondentia or bottomry.

Sum loaned on one bottom not to exceed ten per cent. of capital, &c.

Such loans to be laid before stockholders.

In certain cases may loan for security on real estate or stocks to extent of 2/3 capital.

In certain cases directors liable jointly and severally for losses.

President and directors to publish yearly

SEC. 4. *Be it further enacted*, That in case of any loss or losses taking place, which shall be equal to the amount of the capital stock of the said companies, and the president or directors, after knowing of said loss or losses taking place, shall subscribe to any policy of insurance, their estate jointly and severally shall be accountable for the amount of any and every loss which shall take place under policies so subscribed.

SEC. 5. *Be it further enacted*, That the president and directors of such companies shall, previous to subscribing to

in newspapers, amount of their stock, &c.

Not to take on any one risk more than 10 per cent. of capital.

Shall make statement of their affairs to Legislature when required.

No insurance company to be incorporated with capital less than 100,000 dollars.

Individual stockholders liable in case, &c.

Companies may insure against fire, &c.

But on no one risk more than 10 per cent. of capital.

Meetings of stockholders how to be called.

any policy, and once in every year after, publish in two of the newspapers printed within this State, one of which at least shall be in the town of Portland, the amount of their stock, exclusive of premium notes and profits of their business; against what risks they mean to insure, and the largest sum they will take on any one risk: *Provided*, No insurance company shall ever take on any one risk a sum exceeding ten per centum of their capital stock actually paid in.

SEC. 6. *Be it further enacted*, That the president and directors of any insurance company within this State, shall when and as often as required by the Legislature thereof, lay before them a statement of the affairs and situation of their respective companies, and submit to an examination of the same under oath.

SEC. 7. *Be it further enacted*, That no insurance company shall hereafter be incorporated in this State, with a capital of less than one hundred thousand dollars, to be paid in at such periods, and in such payments, as in their respective acts of incorporation shall be particularly pointed out. And whenever it shall so happen that by losses on policies or otherwise, their corporate property shall be insufficient to pay all their debts, the individual stockholders shall be liable in their private capacity, in case the whole amount of the capital stock is not paid in, to any creditor of said company, to the amount that may be due from said stockholders on their shares; and shall be liable to be sued therefor severally or jointly in a special action of the case, by any such creditor as aforesaid.

SEC. 8. *Be it further enacted*, That all insurance companies, which may hereafter be incorporated, shall be authorized, whether particularly expressed in their acts of incorporation or not, to make insurance against fire, on any dwelling-houses or other buildings; and on merchandize or other property within the United States; on such terms and conditions as may be agreed upon by the parties: *Provided*, No sum shall be insured on any one risk against fire, exceeding ten per cent. of the capital stock actually paid in.

SEC. 9. *Be it further enacted*, That in addition to the mode, which may be pointed out in the charter of any insurance company, which is or may be incorporated, for calling meetings of the stockholders, it shall be the duty of the secretary at any time, on the application in writing of the proprietors of twenty per centum of the capital stock, to call a meeting of the stockholders to be holden at such time and place, and for the purposes mentioned in such application, by giving notice of the same, as provided in the act incorporating such company for giving notice of meetings.

[Approved February 24, 1821.]

CHAPTER CXL.

An Act enabling Proprietors of Aqueducts to manage the same.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That when any number of persons shall, by writing associate and become proprietors of any aqueduct, or of any funds raised for making and constructing the same, for the purpose of conveying fresh water by subterraneous or other pipes, into any town or place within this State; it shall be lawful for the proprietors of a major part of the shares, to apply, in writing, to some Justice of the Peace for the county in which the said aqueduct may be, or is proposed to be placed; when it shall be or proposed to be placed so as to extend into several counties, application may be made to a Justice of the Peace of either of such counties, stating in such written application the name and style of their association, the objects of their proposed meeting and requesting such Justice to issue his warrant to some one of the proprietors so applying, directing him to call such meeting: And such Justice is hereby authorized to issue his warrant accordingly, therein stating the time and place, and objects of the said meeting. And such proprietor shall notify and warn such meeting, by posting up the said warrant or a true copy thereof, with his notice, seven days at least before the said meeting, in some public place in the town and towns in which the said aqueduct may be or is proposed to be placed.

Meeting of proprietors, how to be called.

SEC. 2. *Be it further enacted,* That the proprietors of any such aqueduct or fund, duly met and assembled in pursuance of any such warrant, and their successors, shall be a corporation and body politic, by the name and style aforesaid; and at such meeting of said proprietors, or of any number of them, they shall have power to agree upon the method of calling future meetings of the corporation.

Proprietors thus assembled to be corporation.

May agree on mode of calling future meetings.

SEC. 3. *Be it further enacted,* That at any legal meeting of said proprietors, or of any number of them, they shall have power to choose a Clerk, whose duty it shall be fairly and truly to enter and record, in a book or books to be provided and kept for that purpose, this Act and all rules, by-laws, votes and proceedings of such corporation; which book or books shall at all times be subject to the inspection of any person appointed for that purpose by the Legislature. And the said Clerk shall be sworn to the faithful discharge of the duties of his office; and at any such meeting the said proprietors or any number of them duly met as aforesaid, shall have power to elect a Moderator, and any such number of directors to manage the prudential business of said corporation, as to them may appear expedient; and such directors, or a major part of them, are hereby authorized from time to time to assess such taxes on the proprietors of the shares in such aque-

May choose clerk.

Who must be sworn.

May choose directors.

who may assess taxes on the shares.

and sell them at public auction.

after 20 days' notice.

May choose other officers.

Each proprietor entitled to one vote for each share, and to vote by proxy.

Proprietors may order fines and penalties for breach of their laws.

Corporation may take and hold real estate, not exceeding 30,000 dollars, and to be deemed personal estate.

Mole of transfer.

May, by leave of selectmen dig up roads, streets, &c. to lay pipes.

duct, or in the funds which may be raised for making and constructing such aqueduct, as they shall find necessary; and on the neglect or refusal of any proprietor to pay such tax, to sell at public vendue so many of his or her shares as will be sufficient to pay such taxes, with necessary intervening charges; first advertising the sale of such share or shares in some newspaper printed in the county, or by posting up notifications thereof in some public places in the town and towns wherein such aqueduct may be, or is proposed to be placed, twenty days at least previous to such sale; and the overplus monies, (if any there may be,) arising from such sale, shall be paid to the owner or owners of the share or shares so sold. And the said proprietors, or any number of them duly met as aforesaid, may, at any of their meetings, elect any other officer or officers, or act upon any other thing necessary for carrying into effect the objects of their institution: *Provided*, That the subject matter thereof be expressed in the warrant or notification for such meeting.

SEC. 4. *Be it further enacted*, That in all meetings of such proprietors, each proprietor shall be entitled to one vote for each and every share he or she may hold in such aqueduct or fund, and they are also hereby respectively empowered to depute and appoint any other person to appear and vote for him or them in such meetings; the appointment to be in writing, signed by the person or persons to be represented, and filed with, or recorded by the Clerk of such corporation.

SEC. 5. *Be it further enacted*, That the said proprietors, or any number of them, duly met as aforesaid, may at any of their meetings, enjoin and order fines and penalties, for the breach of any bye-law of such corporation, not exceeding thirty dollars for any one breach.

SEC. 6. *Be it further enacted*, That any such corporation shall have power to purchase, take and hold any real estate necessary for the purpose of their institution: *Provided*, That the real estate which any one aqueduct corporation may hold, shall not exceed thirty thousand dollars in value. And all such real estate shall during the continuance of such corporation, be deemed and considered, to all intents and purposes, as personal estate, and as such, with the other interest and estate in such propriety, shall be transferable by such mode of transfer as such corporations, at any of their meetings, shall agree on and determine: *Provided however*, That the transfer shall be in writing, and recorded by the Clerk of the corporation in the book or books aforesaid within three months next after such transfer shall be made.

SEC. 7. *Be it further enacted*, That such proprietors or corporation, when they shall find it necessary, shall have power to enter upon, dig up and open any such parts of the streets, highways or townways in any place within this State, for the purpose of placing such pipes as may be necessary for making

and constructing such aqueduct, or for repairing or extending the same, as the Selectmen of the town or the major part of them for the time being, shall in writing, authorize and allow: *Provided*, Such Selectmen shall not have power to authorize and allow any such streets, highway or townway to be entered upon, dug up or opened, so as to obstruct or hinder the citizens of the State or others from conveniently passing therein with their teams and carriages.

Not obstructing travellers.

SEC. 8. *Be it further enacted*, That to the end that the proprietors of the shares in any such corporate property may be known, it shall be the duty of the Clerk of any such corporation, at or immediately after the first meeting, to enter in the book or books aforesaid, the names of the several proprietors, and the shares and parts of shares each proprietor shall own, and when any share or part of a share, shall afterwards be sold for taxes or otherwise transferred, such sale or transfer shall be entered by said Clerk in such book or books, in such form, and for such fees, as the director shall appoint; and no person shall be deemed a proprietor whose share or interest shall not be so entered.

Clerk to keep a record of the names and shares of all the proprietors.

In case of sale of a share, record to be made of it.

SEC. 9. *Be it further enacted*, That notwithstanding the dissolution of any such corporation, all contracts made by or with such corporation shall remain in full force, and the last proprietors or share holders shall have a corporate capacity, until all contracts and agreements, made by or with them prior to such dissolution, shall be performed; and are and shall be capable and liable, in and by the same name and capacity, as before such dissolution, to sue and be sued; and by their agent or agents, to prosecute and defend in all actions, suits and demands, respecting such contracts and agreements, until final judgment and execution. And if no corporate property can be found to satisfy any judgment which may be recovered against them as aforesaid, and such judgment shall not be satisfied within six months after the same shall have been recovered, it shall be lawful for the judgment creditor to satisfy his judgment and execution out of the private estate of such proprietors or of any of them, in the same way and manner as if the judgment had been against him or them, in his or their private capacity: *Provided*, That each and every such action shall be commenced within six years next after such dissolution; or within the like time next after such right of action shall accrue. And in case any such corporation shall at its dissolution, be seized or possessed of any estate, the several proprietors at such dissolution shall become tenants in common thereof, in such proportions as they shall respectively then hold their shares and parts of shares therein; and upon such tenure as the corporation would have held the same, had not provision been herein made for making all their property personal estate. And all shares in such aqueducts shall be liable to be

Corporation to continue till all debts are paid.

If judgments against corporation cannot be satisfied by corporate property, private estate of members liable.

Provided action be brought within six years from dissolution.

Estate holden at the time of dissolution, shall be deemed real estate and held in common.

Shares may be attached and

taken in execution. attached on mesne process, and taken in execution for the debts of the owner thereof: *Provided*, That when any share or part of a share or shares shall be so attached, an attested copy of the process shall be left with the Clerk of the corporation, fourteen days before the day of the sitting of the Court, to which the same shall be returnable. And when any such share or part of a share or shares shall be taken and sold on execution, the officer shall leave with such Clerk an attested copy of the execution, and of his return thereon, within ten days next after such sale.

And taken on execution and sold. *Manner.*

Penalty for injuring aqueducts wantonly, &c.

Modes of recovery.

SEC. 10. *Be it further enacted*, That if any person shall maliciously or wantonly injure any such aqueduct, he or she shall forfeit and pay a sum not exceeding twenty dollars, to be recovered by indictment in the Supreme Judicial Court or Circuit Court of Common Pleas; one moiety thereof to the prosecutor, and the other moiety thereof to the use of the town in which such offence shall have been committed; and shall also be liable to pay treble damages to the corporation so injured, to be recovered by action on the case, with costs of suit.

Towns may lay pipes, connected with the corporation's aqueduct to draw off water in case of fire.

Proviso.

SEC. 11. *Be it further enacted*, That any town in which any such aqueduct shall be placed, shall have the privilege of placing conductors into and from the pipes and conductors laid by any such corporation, for the purpose of drawing such water therefrom, as may be necessary when any building shall be on fire in such town; and of withdrawing water therefrom on such occasions, without paying such corporation any price therefor: *Provided*, That every such town shall be holden to secure such conductors so by them placed in such manner that water cannot be drawn therefrom, unless by the orders of the Selectmen or fire wards of the town wherein the same may be.

[Approved March 8, 1821.]

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CHAPTER CXLI.

An Act to enable the Proprietors of Social, Military and Law Libraries to manage the same.

Proprietors of libraries may incorporate themselves.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That any seven or more persons, capable of contracting, in any town in this State, who shall become proprietors in common of any library, may form themselves into a society or body politic, for the express purposes of holding, increasing, preserving and using such library; and to that end, any five or more of them, may, by an application in writing, by them signed, to any Justice of the Peace within the same county wherein the said town may be, stating the purposes of their meeting, and requesting him to issue his warrant for calling a meeting of the said proprietors; and the said Justice may grant his warrant to one of

them, directing him to call a meeting of the said proprietors at the time and place, and for the purposes expressed in such warrant; and said meeting shall be called by posting up the purport of said warrant in some public place in the said town where the said library shall be kept, seven days at least before the time of said meeting; and the proprietors being thus met and organized, they may then agree and determine upon a method of calling future meetings; and in all cases votes shall be determined by counting and allowing one vote to each share. And the proprietors of any such library shall have power to possess and hold, to them, their successors and assigns, real or personal estate, to any amount not exceeding five thousand dollars, over and above the value of their books.

and hold estate not exceeding 5000 dollars.

SEC. 2. *Be it further enacted,* That any seven or more of the proprietors of such library, met in pursuance of such notice, shall have power to choose a Moderator, Clerk, Librarian, Collector, Treasurer, and such other officers as they may find necessary: and the Clerk shall be sworn to the faithful performance of his duties; and the Treasurer shall give bond, with sufficient surety or sureties, faithfully to account for all monies he may receive by virtue of this Act: and the said proprietors when so incorporated and organized, shall have power to raise monies by assessments on the several shares in such library, as they may judge necessary for preserving and increasing the same; to make bye-laws for the due regulation of the concerns of the said corporation, not repugnant to the constitution and laws of this State, and to annex and recover penalties for any breach of such bye-laws, not exceeding three dollars for any one breach thereof.

Mode of calling meetings and their powers.

SEC. 3. *Be it further enacted,* That the proprietors of any such library, so incorporated, shall be called and known by the name of the proprietors of the Social Library, in the town of —; and by that name shall sue and be sued, prosecute and defend, plead and be impleaded, in all actions and processes in law; and when there shall be more than one such library in any town, the proprietors thereof, shall be known and called by the name of the proprietors of the second, third, fourth, &c. (as the case may be,) Social Library, in the town of —.

Such to be called proprietors of social libraries.

SEC. 4. *Be it further enacted,* That any seven or more persons, who are officers in any division of militia of this State, who shall, by writing, associate themselves for the purpose of forming a Military Library Society, within the limits of their division, may become a body politic, by the name of the Military Library Society, in the — Division, for the express purpose of purchasing, holding, increasing, preserving, and using such library: and to this end, any five or more of them may make an application in writing to any Justice of the Peace, within the limits of the division to which said appli-

Military Libraries.

Mode of calling meetings, and powers.

cants may belong, stating the purposes of their meeting, and requesting him to call a meeting of the said proprietors. And the said Justice may thereon grant his warrant to any one of them, directing him to call a meeting of the said proprietors at the time and place expressed in such warrant; and said meeting shall be called by posting up the purport of said warrant, in such public places, within the division where the said library is to be kept, or by publishing the same in one or more newspapers printed within the said division, twenty days at least before the time of said meeting, as the said Justice shall order. And the said proprietors being thus met and organized may then agree and determine upon the method of calling future meetings; and shall be entitled to all the other rights, powers, and privileges, and be under all the limitations and restrictions, mutatis mutandis, which are contained in this Act.

Law libraries.

Mode of calling meetings and their powers.

SEC. 5. *Be it further enacted*, That in every county within this State, wherein there shall reside five or more attorneys at law regularly admitted and sworn to practice before the Circuit Court of Common Pleas, it shall be lawful for any five or more of them to make application in writing to any Justice of the Peace within and for said county, requesting him to issue his warrant for calling a meeting of the practitioners at law within the same county, to meet at some certain time and place for the purpose of organizing the establishment of a Law Library: and such Justice shall thereupon issue a warrant under his hand and seal, directed to some practitioner at law, residing within the shire town of said county, requiring him to notify the other members of the bar residing therein, either personally or by written notification posted up at some conspicuous place in the Court House in said county, at least seven days before the time of meeting as mentioned in said warrant; which meeting shall be holden at the next succeeding term of the Circuit Court of Common Pleas in said county, on some day subsequent to the second day from the commencement of its session; and the person to whom such warrant is directed shall serve the same in manner as aforesaid, and make return thereof under his hand to the Justice who issued the same, or to some other Justice of the Peace within and for said county; whose duty it shall be to preside at said meeting in the choice of a Clerk, a Treasurer and Librarian, each of whom shall thereupon be sworn by the presiding officer, to the faithful discharge of their respective duties, and to hold their offices during the pleasure of the association; and the said members of the bar so notified and met, to the number of five or more, shall at their first meeting prescribe the mode of calling future meetings of said association, and establish such rules and regulations as may be found necessary from time to time, to carry the purposes of this Act into effect, not repugnant to the Constitution and laws of this

State : and at all future meetings the oldest member of the bar residing within said county, who is present, shall preside.
 [Approved January 27, 1821.]

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CHAPTER CXLII.

An Act concerning Plates for Printing Bank notes.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no bills of the denomination of one, two, three, four, and five dollars shall be issued or emitted by the president, directors and company of any incorporated Bank within this State, unless the said bills shall be printed and impressed from stereotype steel plates ; from which plates original impressions of the bills of the several denominations aforesaid shall be deposited in the office of the Secretary of the State of Maine ; nor unless the said bills of the denomination of five dollars shall have on the back of the same an impression from the check plates, one of the impressions from which shall be also deposited in the office of said Secretary of this State.

No bills of five dollars and under, to be issued by any bank unless printed from stereotype plates.

Original impressions of the bills to be lodged in secretary's office. Backs of 3 dollar bills to be impressed by check plates, &c.

Plates to be kept in bank vault,

to be taken out only in presence of president, director or cashier, and returned every night, &c.

Penalty for having plates, &c. in possession contrary to this act.

Proviso in favor of Abraham Perkins,

SEC. 2. *Be it further enacted,* That all plates used by any incorporated Bank within this State, for the purpose of making impressions of bills or notes issued by such Bank, shall at all times be kept in the vaults of said Bank, when not in actual use for making impressions of bills or notes as aforesaid : and whenever the same plate or plates shall be wanted for the purposes aforesaid, the same shall not be taken from the vaults of the Bank aforesaid but in the presence of the president, a director or the cashier of said Bank ; and the same plates shall be returned every night to the vaults of said Bank, in the presence of the president, a director or the cashier of said Bank as aforesaid ; and during all the time they shall be out of said vaults, they shall be in the sole custody, and be used only in the presence of such president, director or cashier.

SEC. 3. *Be it further enacted,* That if any person shall have in his possession any plate or plates, used for making impressions of Bank bills or notes, contrary to the provisions of this Act ; or having the same in custody under the authority of this Act, shall put the same out of his custody ; or shall suffer the same to be used out of his presence ; or shall not return the same to such vault every night, as herein before provided, and be thereof convicted upon indictment in any Court of competent jurisdiction, such person shall forfeit and pay to the use of the State a fine not exceeding ten thousand dollars, or be punished by imprisonment in the common gaol ; or confinement to hard labor for a term not exceeding ten years, at the discretion of the Court, before whom the conviction may be : *Provided however,* That it shall be lawful

for Abraham Perkins, owner of the stereotype plate used for printing Bank bills, to keep possession of the said plate and use the same, in the same manner as by law he might do, if this Act had not been passed.

[Approved March 13, 1821.]

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CHAPTER CXLIII.

An Act to enforce the payment of Bank Notes and for other purposes.

Penalty on banks for not paying their bills.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any incorporated Bank within this State, shall refuse or neglect to pay on demand any bill or bills by such Bank issued, such Bank shall be liable to pay to the holder of such bill or bills, after the rate of two per cent. per month, on the amount thereof, from and after the time of such neglect or refusal; to be recovered as additional damages in any action against said Bank for the recovery of said bill or bills.

Bills must be payable where issued.

SEC. 2. **Be** it further enacted, That no incorporated Bank in this State, shall issue any bill, note, check or draft, payable at any place other than said Bank, unless the same shall also, on the face thereof, be made payable at the Bank issuing the same; and no bank shall issue any bill or note, redeemable at such Bank, in any other manner than by payment in specie.

Bills issued by any bank, made payable elsewhere, to be paid at the bank—

SEC. 3. **Be** it further enacted, That every incorporated Bank within this State, which has issued or shall issue any bill, note, check or draft, redeemable in any other manner than by payment in specie, or payable at any place other than the place where such bank is by law established and kept, shall be liable to pay the same in specie to the holder thereof, on demand at said Bank, without a previous demand at the Bank or place where the same is, on the face of such bill, note, check or draft, made payable. And if the Bank which issued the same shall neglect or refuse to pay on demand made as aforesaid, any bill, note, check or draft, such Bank shall be liable to pay to the holder thereof the same penalties as are provided in and by the first section of this Act:

on penalty.

Proviso, as to bills for more than 100 dollars.

Provided however, That nothing herein contained, shall extend to any check or draft drawn by the president or cashier of any Bank within this State, on any other incorporated Bank, either within or without this State, for any sum exceeding one hundred dollars; but all such checks or drafts shall first be presented for payment at the Bank on which the same shall be drawn, and in default of payment, the holder shall be entitled to recover against the Bank which issued the same, the amount of such check or draft, with two per cent. per month on the amount thereof, from and after the time when such check or draft shall have been refused payment,

as additional damages in any action against such Bank for the recovery of such check or draft.

SEC. 4. *Be it further enacted,* That no Bank or banking company whatever, within this State, shall, at any time, make or issue any bill or bills whatever, wherein a fractional part of a dollar is expressed, under a penalty of one hundred dollars for every bill so made and passed, to be recovered by action of debt in any Court proper to try the same, to the use of the person who shall sue therefor.

No bills for less than 1 dollar to be issued.

SEC. 5. *Be it further enacted,* That the president and directors of all the Banks, which now are or may be hereafter incorporated in this State, shall have the power to issue and emit bills of the denomination of one, two and three dollars, to the amount of twenty-five per centum of their capital stock actually paid in, any thing in their respective acts of incorporation to the contrary notwithstanding.

Banks may issue small bills to amount of 25 per cent. of capital.

[Approved January 27, 1821.]

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CHAPTER CXLIV.

An Act imposing a tax on the Banks within this State.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled,* That the corporation of each and every Bank within this State which now is in operation, or which shall hereafter come into operation, shall, within ten days after the first Mondays of October and April annually, pay to the Treasurer of this State, for the use of the same, a tax of one half of one per cent. on the amount of such part of their original stock as shall have been actually paid in by the stockholders in the respective Banks: *Provided,* That when the amount of the capital stock actually paid in on the said days, should not have been paid in for the full term of six months then next preceding, said banking corporations are hereby required to pay such portion of said sum of one half of one per cent. on such proportion of capital stock as shall not have been paid in for the full term of six months' next preceding; as the time from the payment of such portion of such capital stock to the day when such payment of such tax shall become due, may bear to the term of six months.

Tax on banks to be paid semi-annually.

Proviso.

SEC. 2. *Be it further enacted,* That it shall be the duty of the corporation of the several Banks aforesaid, which have not yet completed the payment of their several instalments, and of all such as shall hereafter be incorporated, to furnish the Treasurer of the State with an abstract of the amount of stock actually paid by the stockholders in the respective corporations, into their respective Banks, together with the time when the several instalments were paid, within ten days after such instalment shall have been paid in.

Banks to furnish State Treasurer with abstract of stock paid annually.

Mode of enforcing payment of tax.

SEC. 3. *Be it further enacted,* That if any Bank shall neglect to pay the said tax for the space of thirty days, after the same shall become due, it shall be the duty of the Treasurer to issue a warrant of distress, directed to the Sheriff of the county in which such Bank is situated, or his deputy, commanding him to levy and collect the sum due from the estate and effects of such Bank, which warrant shall be in the same form, (*mutatis mutandis,*) as warrants of distress against delinquent Sheriffs are by law directed to be issued.
[Approved January 23, 1821.]

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CHAPTER CXLV.

An Act making further provisions in respect to the Banks in this State.

Bank tax to be paid to treasurer of this State.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That the several Banks within this State, which by their respective charters, and the laws in force prior to the fifteenth day of March last, were required to pay a semi-annual tax to the Treasurer of the Commonwealth of Massachusetts, are, and shall be required and held to pay the same to the Treasurer of this State, at the times, in the manner and under the same penalties in said Acts provided.

Banks to make semi-annual returns.

SEC. 2. *Be it further enacted,* That the president and directors of the several Banks in this State, shall on the last Wednesday in December and June, annually, and as much oftener as required by the Legislature, make a return of the situation and state of their respective Banks, as they actually exist during the then next preceding Saturday, and transmit the same to the Secretary's office, within fifteen days thereafter, to be by him laid before the Governor and Council; which returns shall state the amount of specie actually in their respective vaults, and the names of the several Stockholders and amount of stock holden by each; and in other respects conform to the returns as required by their respective charters, and the laws now in force.

Form thereof.

Provision for loans to Massachusetts now to apply to Maine.

SEC. 3. *Be it further enacted,* That the provision in the charters of the several Banks in this State, requiring them to make loans to the Commonwealth of Massachusetts, shall hereafter be taken and considered as requiring said loans to be made to this State. And said Banks shall, and are hereby held and required to make any loan to this State, whenever the Legislature shall require, to the amount and on the conditions mentioned in their respective charters.

In certain cases stockholders liable to amount of their stock.

SEC. 4. *Be it further enacted,* That whenever there shall be a deficiency of the capital stock of any Bank within this State, and they shall thereby become unable to pay their bills in circulation and their deposits, the persons who are stockholders at the time any such Bank shall suspend payment,

shall be respectively liable in their private and individual capacities, to pay to any holder of bills of such Bank or to such person as may be a depositor therein, the amount of such bills by him holden, or the amount of such sum as he may have deposited in such Bank to his credit: *Provided however*, That no stockholder shall be liable to pay a sum exceeding the amount of the stock then at the time of such failure actually held by him.

This Act passed to be enacted in both Houses of the Legislature on the twenty-fourth day of June, 1820; and the bill not having been returned by the Governor with his objections thereto, within the period limited by the Constitution, became a law on the thirtieth day of January, 1821.

ASHUR WARE, *Secretary of State.*

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CHAPTER CXLVI.

An Act directing the mode and time of making returns of, and enforcing the right to loans from the several Banks in this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the directors of the several Banks which are or may be incorporated within this State, shall, on the first Monday of January and June in every year, and as much oftener as may be required of them, make a return of the state of their several Banks, as it existed on the day immediately preceding the Monday aforesaid, and that they transmit the same as soon thereafter as may be, not exceeding fifteen days, to the Secretary of this State; which return shall specify the amount of the capital stock actually paid in; the value of the real estate belonging to the corporation; the amount of all debts due, and of the cash deposited; bills in circulation; gold, silver, and other coined metals on hand; bills of other Banks incorporated by the State; bills of other Banks incorporated elsewhere; bills of one, two, and three dollars, in circulation, and the amount of said bills on hand; the rate and amount of the last dividend of profits, with the amount of reserved profits of said Bank: which said return shall be signed by a majority of the directors and by the cashier of the several Banks, who shall make oath or affirmation before some magistrate, qualified to administer oaths, and who shall have no interest in said corporate body, to the truth of said return according to their best knowledge and belief.

Banks to make returns in January and June.

Particulars to be stated,

under oath.

SEC. 2. *Be it further enacted*, That in case the directors of any incorporated Bank in this State, shall neglect or refuse to comply with the provisions of this Act, the said corporation shall forfeit and pay the sum of five thousand dollars, for each neglect or refusal, to be sued for and recovered in an action of debt by the Attorney General, for the use of the State.

Penalty for neglect.

SEC. 3. *Be it further enacted*, That it shall be the duty of the Treasurer of this State, whenever he shall have occasion

State treasurer to notify president and cash.

ier, when loan wanted, the amount in writing.

to borrow any sum of money of any incorporated Bank, under and by virtue of any authority for that purpose, given by any Act or resolve of this State, to give notice in writing to the president or the cashier of any such incorporated Bank, of the amount which he has so an occasion to borrow, and demanding of said Bank the loan of the same, conformably to the provisions of the Act incorporating such Bank.

Penalty on bank refusing to loan.

SEC. 4. *Be it further enacted,* That if any incorporated Bank aforesaid, shall neglect or refuse, for the space of ten days after notice given as aforesaid, to loan to the said Treasurer the sum so demanded, said Bank shall forfeit and pay into the Treasury of this State, the sum of two per cent. per month upon the amount of any sum so demanded, as a loan, as aforesaid; and so after that rate for a shorter or longer time, so long as the said neglect or refusal to comply with such demand of the said Treasurer shall continue.

Treasurer to commence process against bank for the penalty, monthly.

SEC. 5. *Be it further enacted,* That it shall be the duty of the said Treasurer, at the expiration of one month after the said demand shall have been made to cause to be instituted, in any Court of competent jurisdiction, an action in the name and behalf, and for the use of this State against the Bank so neglecting or refusing as aforesaid, for the recovery of the said penalty; and so at the expiration of every succeeding month thereafter, from month to month, to cause to be instituted a similar action as aforesaid for the amount of the penalty accruing for the neglect and refusal of the then next preceding month, so long as such neglect or refusal shall continue; and it shall also be the duty of the said Treasurer, upon the obtaining judgment and execution on any such action or actions, to cause the amount thereof to be forthwith levied upon the goods, chattels or lands of the Bank against which the same shall have been obtained.

[Approved January 25, 1821.]

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CHAPTER CXLVII.

An Act to restrain unincorporated Banking Associations and for other purposes.

Penalty for becoming a member of an unincorporated banking association.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no person shall subscribe to or become a member of any association, institution or company, or proprietor of any Bank or fund, for the purpose of issuing notes, receiving deposits, making discounts, or transacting any other business which incorporated Banks may or do transact, by force of their respective Acts of incorporation, unless such person shall be authorized by law so to do. And if any person not authorized shall hereafter subscribe, or become a member, or proprietor as aforesaid, he shall forfeit and pay for every such offence, the sum of one thousand

dollars, to be recovered by any person who shall sue therefor, in action of debt; one half thereof to his own use, and the other half to the use of this State. And all notes and securities for the payment of money, or delivery of property, made or given to any such association, institution or company, not authorized as aforesaid, shall be null and void.

Mode of recovery and appropriation.

Notes, &c. payable to such association to be void.

Penalty for issuing, passing or receiving bank bills under \$ dollars, except, &c.

SEC. 2. *Be it further enacted,* That if any person or Bank shall receive, issue or pass any note, bill, order or check, other than the notes or bills of any Bank incorporated in this State, or in the State of New-Hampshire, or Commonwealth of Massachusetts, or by authority of the United States, for a less sum than five dollars, or whereon less than five dollars shall be due at the time of such issuing or passing thereof, with an intent that the same shall be circulated as currency, he shall forfeit and pay for every such offence the sum of fifty dollars; to be recovered by indictment in the Supreme Judicial Court, to the use of the State, indictment in the Circuit Court of Common Pleas to the use of the county, or action of debt, to the use of any person who shall first sue therefor, in any Court of competent jurisdiction.

[Approved March 13, 1821.]



CHAPTER CXLVIII.

An Act to regulate the Inspection of Beef and Pork intended to be exported from this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That there shall be an Inspector General of beef and pork for this State, who shall be well skilled in the knowledge of the same, to be appointed by the Governor, with the advice and consent of Council, and to be by them removeable at pleasure, who before he shall enter on the duties of his office, shall give bonds with sufficient sureties to the Treasurer of this State, in the penal sum of four thousand dollars for the faithful discharge of his duty; and shall also be sworn faithfully to perform the same. And such inspector shall have power, when so qualified, to appoint, and shall appoint deputy inspectors, who shall be removeable by him at pleasure, in every sea port town in this State where beef and pork are exported; and a sufficient number in the several counties in the State to accommodate the citizens without any unreasonable delay; for which deputies he shall be answerable; and the said deputy inspectors shall also be sworn for the faithful discharge of their duty, and shall give bond to the Inspector General, with surety to his satisfaction, in a sum not exceeding one thousand, nor less than three hundred dollars, conditioned for the faithful performance of their duty, according to the provisions of this Act.

Governor to appoint inspector general of beef and pork;

who shall give bond to State treasurer.

He may appoint deputies who shall be sworn and give bond.

Quality and size of barrels and half barrels

SEC. 2. *Be it further enacted,* That every barrel and half barrel in which beef or pork shall be packed and repacked

to contain beef
and pork for ex-
portation.

for exportation, shall be made of good seasoned rift white oak, white ash, or maple staves and heading free from any defect; each barrel shall contain two hundred pounds of beef or pork, and each half barrel one hundred pounds of beef or pork: the beef barrels to measure not less than sixteen inches, nor more than sixteen and one half inches between the chimes, and to be not less than twenty-eight, nor more than twenty-eight and a half inches long, to be covered three fourths of the length with good oak, ash, elm, leverwood or walnut hoops, leaving one fourth in the centre; the heads and staves to be of a proper thickness, the hoops to be well set and drove together; the half barrels to contain not less than fifteen nor more than fifteen and a half gallons, to be hooped in the same manner as the whole barrels. The pork barrels shall measure seventeen inches and one quarter between the chimes, and contain not less than thirty-one gallons, nor more than thirty-one gallons and one half, to be hooped in the same manner as beef barrels: and all beef and pork barrels and half barrels shall be branded on the bilge with the manufacturer's name.

Manner of be-
ing hooped.

Quality of beef
for exporta-
tion.

Different kinds
of beef.

Mess beef.

Beef No. 1.

No. 2.

No. 3.

SEC. 3. *Be it further enacted,* That no beef shall be packed or repacked in barrels or half barrels for exportation, unless it be of fat cattle not under two years old; that all such beef shall be cut into pieces as nearly square as may be, and which in size shall not exceed eight pounds, nor be less than four pounds. That all beef which the inspector or deputy inspector shall find on examination to have been killed at a proper age, to be fat and otherwise good and merchantable, shall be sorted and divided by him into five different sorts for packing or repacking into barrels or half barrels to be denominated Mess, No. 1, No. 2, No. 3, and Hearts and Checks. And mess beef shall consist of oxen, cows and steers well fat- ted, of three years old and upwards and weighing six hun- dred pounds and upwards: the shin, shoulder, clod, and neck shall be taken from the fore quarters, and the leg and the leg rand from the hind quarters; and each barrel and half bar- rel containing beef of this description, shall be branded on one of the heads with the words Mess Beef: No. 1, shall consist of oxen, cows, steers and heifers not under three years old, and weighing not under four hundred pounds, and to average five hundred and twenty pounds, without any necks or shanks. On one head of each barrel and half bar- rel containing beef of this description, shall be branded No. 1. No. 2, shall consist of fat cattle of all descriptions not before mentioned of two years old and upwards, (bulls excepted,) with not more than half a neck and two shanks, and without any hocks: each barrel and half barrel of which shall be branded No. 2. And those parts of beef which are excluded from mess, No. 1, and No. 2, (not excluding hearts and checks,) shall be packed and inspected by the Inspector General, or

his deputies, in the same manner as No. 1, or No. 2, and shall be branded No. 3; first taking from said pieces, excluded as aforesaid, viz: the end of the neck, weighing not less than four pounds, nor more than six pounds; and from the shank and shin of each quarter not less than four pounds, nor more than eight pounds: which pieces thus excluded, shall not be exported from this State. And the hearts and cheek pieces of beef may be inspected, and when thus inspected shall be branded Hearts and Cheeks. And every barrel of beef shall be well salted with seventy-five pounds of clean St. Ubes, Isle of May, Lisbon or Turks Island salt, or eighty pounds of Liverpool salt, or other salt of equal quality, exclusive of a pickle made of fresh water, as strong as salt will make it; and to each barrel of mess beef shall be added six ounces of saltpetre; and to each barrel of No. 1, No. 2, and No. 3, Beef, shall be added four ounces of saltpetre; and each half barrel of beef shall be salted and saltpetred with one half of the quantity of salt and saltpetre above mentioned.

SEC. 4. *Be it further enacted*, That all pork packed or repacked in barrels or half barrels for exportation, shall be sorted and divided by the inspector or his deputy, and denominated as follows:—Clear pork, Bone middlings, Navy mess pork, No. 1, No. 2, and No. 3; and in all cases the following parts shall be taken out as refuse, viz: nose pieces or faces, ears, brains, tails, feet and lard. Clear pork shall consist of the best pieces of large well fatted hogs, weighing three hundred pounds and upwards, free from bones or the lean part of the meat. Bone middlings shall consist of middle pieces taken from hogs well fatted, weighing two hundred and thirty pounds or upwards. Navy mess pork shall consist of all parts of the carcass, well fatted, weighing from one hundred and sixty pounds, to two hundred and thirty pounds, except the head, fore and hind legs, the shoulder joint, lard and refuse parts above mentioned. No. 1, shall consist of all parts of hogs well fatted, averaging two hundred and twenty pounds or upwards, and each of which shall weigh not less than one hundred and eighty pounds, and to have no more heads, legs, shoulders, or other coarse parts than belong to one carcass, deducting the lard and refuse as above. No. 2, shall consist of all parts of one and an half hog well fatted, which shall weigh two hundred pounds, deducting the lard and refuse as above. No. 2, also in half barrels, shall consist of pig pork, all parts of one carcass or not, and not to contain the head or legs of more than one carcass, excluding the lard and refuse as above. And in all cases where the legs of pork are taken out for bacon, or for any other purpose, the weight shall not be made up with heads or shoulders, but with other parts of the carcass not less valuable than the legs would be if they were salted. No. 3, shall consist of the merchantable parts of wholesome pork, of a quality inferior to good No. 2 pork,

Hearts and checks.

Beef, how salted and preserved.

Quality and kinds of pork.

Clear pork.

Bone middlings.

Navy mess.

No. 1.

No. 2.

No. 3.

Pork heads or feet.

Barrels of pork, how salted, &c.

Duty of inspectors to inspect as soon as may be in counties where they reside.

Manner of branding barrels and half barrels of beef and pork.

Name of month may be abbreviated in certain cases of inspection.

Penalty for inspectors branding any packages of provisions not inspected and weighed by them; or any cask not inspected, or being guilty of fraud, &c. in inspecting.

and the barrels shall contain two hundred pounds of pork each, and there shall not be any more than the merchantable parts of two carcasses of pork in one barrel, except where any of the legs are taken out, the same number of shoulder pieces, and no more may be added, making up the deficiency of weight in better parts of a carcass of pork. Barrels filled with pork heads or feet, shall be branded *Pork heads*, or *Feet*, as the case may be: And each barrel of pork shall be well salted with seventy pounds of clean coarse salt; exclusive of a strong pickle, and shall be branded on one of the heads with the quality of the pork it contains.

SEC. 5. *Be it further enacted*, That it shall be the duty of the Inspector General and his deputies to attend, as soon as may be, within twenty-four hours after request made, at any suitable place within the county where he resides, for the purpose of inspecting any quantity of beef or pork exceeding thirty barrels: And whenever said inspector or his deputies shall have inspected and assorted beef or pork, as the law requires, the said inspector or his deputies, with their own laborers and coopers, or such other laborers and coopers as they shall employ, and for whose conduct in said business they shall be accountable, shall cut, weigh, pack, salt and cooper the said beef, which they have thus inspected.

SEC. 6. *Be it further enacted*, That all barrels and half barrels of pork and beef packed or repacked for exportation, shall be branded with the first letter of the christian name, and the surname at length, of the inspector who has inspected the same, with the name of the town where, and with the month and year in which the same has been, or may hereafter be so inspected, in legible letters, with the addition of the word *Maine*; and every barrel and half barrel of the three first sorts shall also be branded with the name of the person for whom the pork or beef was packed.

SEC. 7. *Be it further enacted*, That the Inspector General or his deputy or either of them, may, when the month in which any beef or pork shall be inspected, shall consist of more than one syllable, so abbreviate the name of the month, as conveniently to brand the same on the head of each barrel or half barrel, by him or them inspected.

SEC. 8. *Be it further enacted*, That the Inspector General and his deputies shall not, nor shall either of them, brand any packages of provisions, other than those which they have inspected, and have caused to be weighed and packed as the law requires. And if any inspector or deputy inspector, appointed by virtue of this Act, shall be guilty of any neglect or fraud in inspecting any beef or pork, contrary to the true intent and meaning of this Act, or shall mark with their respective brands any cask containing beef or pork, which has not been actually inspected, he or they shall forfeit and pay ten dollars for each and every cask so falsely marked.

SEC. 9. *Be it further enacted,* That no deputy appointed by virtue of this Act, shall inspect or brand any cask of beef or pork out of the town or county for which he shall be appointed, under the penalty of fifty dollars; and if any person, other than the said inspector or his deputy shall presume to stamp or brand any cask of beef or pork, in the manner directed by this Act, every person so offending, shall forfeit the sum of twenty dollars for each and every cask so unlawfully branded.

Penalty for deputy inspector branding any cask of beef or pork out of the town for which he is appointed.

SEC. 10. *Be it further enacted,* That if any inspector or deputy inspector shall neglect or refuse to brand any beef or pork to be exported agreeably to this Act, he shall be subject and liable to the same penalties and forfeitures as are recoverable in the eighth section of this Act for falsely marking any cask.

Penalty for inspector's refusal or neglect to brand beef or pork intended for exportation.

SEC. 11. *Be it further enacted,* That if any person shall intermix, take out or shift any beef or pork out of any cask inspected or branded as by this Act is required, or put in any other beef or pork for sale or exportation contrary to the intention of this Act, the person or persons so offending shall for each and every offence, forfeit and pay the sum of twenty dollars.

Penalty for fraudulently mixing or shifting contents of casks.

SEC. 12. *Be it further enacted,* That no person or persons whatsoever shall ship or export from this State any salted pork, except in barrels or half barrels, nor any salted beef except in barrels or half barrels of the quality and dimensions herein provided, and the contents thereof are inspected and packed, and unless the casks containing the same are branded agreeably to the direction in this Act.

Penalty for exporting, &c. beef and pork, except in barrels and half barrels made, marked and contents inspected and packed as aforesaid.

SEC. 13. *Be it further enacted,* That no salted beef or pork shall be exported out of this State, unless the master or owner of the vessel produces to the Collector, or any other officer authorized by the laws of the United States to clear vessels out, a certificate from the Inspector General or his deputy, that the same has been inspected and branded according to the directions in this Act; and each certificate shall express the number of barrels and half barrels of beef or pork of each sort. And the master or owner of every vessel in which beef or pork, is so exported, on producing said certificate, shall take and subscribe the following oath before the officer authorized as aforesaid.

Collector of customs to be furnished with certificate of inspection and branding, by master of vessel.

Substance of certificate.

To be sworn to.

I, A. B. of the —, do swear, that according to the best of my knowledge and belief the certificate hereunto annexed contains the whole quantity of salted beef, (or pork, as the case may be,) on board the —, — master; and that no salted beef, (or pork, as the case may be,) is shipped on board said vessel for the ship's company, on freight or on cargo, but what is inspected and branded, according to the law of this State. *So help me GOD.*

Form of oath.

SEC. 14. *Be it further enacted,* That nothing in this Act

Rounds of beef may be exported in kegs, &c. and how branded. shall prevent the exportation of rounds of beef in kegs or tubs as is now practised: *Provided however*, That the name of the owner, and the town where he resides, shall be branded on one head of each keg or tub, under the penalty of one dollar for each keg or tub not branded.

Feet, ears, and faces shall not be exported under brand refuse, &c. SEC. 15. *Be it further enacted*, That the feet, ears and faces of pork, (when separated from the cheek part of the head, or any other pieces prohibited by this Act,) shall not be exported under the brand *refuse*, or any other brand approved or provided for the exportation of pork.

Penalty for exporting beef or pork not inspected. SEC. 16. *Be it further enacted*, That if any person or persons shall export or ship for exportation out of this State any salted beef or pork not inspected and branded as by this Act is directed, every such exporter or shipper, and the master of every vessel having on board such uninspected beef or pork, shall, on conviction, respectively forfeit and pay the sums following: The owner or exporter shall forfeit and pay the sum of six dollars, and the master of every vessel having the same on board, the sum of two dollars, for every cask exported or shipped for exportation. And it shall be lawful for any Justice of the Peace, upon any information given of any beef or pork being put on board any vessel as aforesaid, not inspected and branded as required by this Act, to issue his warrant, directed to the Sheriff, or his deputy, or to a Constable, requiring them respectively to make seizure of any such salted beef or pork not marked and branded as aforesaid, and to secure the same in order for trial; and said officers are hereby respectively required and empowered to execute the same. And it shall be the duty of every person when required, to give the necessary aid for that purpose, on pain of forfeiting five dollars for his refusal.

Justice of Peace may issue warrant for seizing uninspected beef or pork on board vessel, and to secure it for trial.

Penalties how recovered.

SEC. 17. *Be it further enacted*, That all penalties and forfeitures aforesaid shall be recovered by an action of debt or information, in any Court proper to try the same; one moiety thereof to the use of the town wherein the offence shall be committed, and the other moiety to him or them who shall inform or sue for the same.

Inspectors may seize beef and pork laden for exportation in certain cases,

SEC. 18. *Be it further enacted*, That if the Inspector General of beef, or any of his deputies, having information or knowledge of any quantity of beef or pork being laden in any port or place within this State for exportation, in respect to which there shall not be a conformity to this Act, it shall and may be lawful for the said Inspector General or his deputy, to make seizure thereof forthwith, and to file a libel or information thereupon, in any Court proper to try the same: And upon trial of such beef or pork so seized as aforesaid, in case a breach of this Act shall be proved, shall be liable to condemnation and forfeiture; one moiety to the use of the State, and the other moiety to the use of the officer seizing and prosecuting for the same.

which may be condemned as forfeited, in case.

SEC. 19. *Be it further enacted,* That all the provisions, penalties, regulations and requirements contained in this Act, shall be construed to extend, and shall extend to all beef or pork transported, or intended to be transported coastwise from any port or place in this State, to any of the United States, or shipped on board of any vessel for any purpose whatever.

This act to extend to beef and pork transported coastwise from this State to any other of the U. States.

SEC. 20. *Be it further enacted,* That it shall be the duty of every deputy inspector to make a return to the Inspector General once in every year of the number of barrels and half barrels of beef or pork inspected by them agreeably to the directions of this Act; and the Inspector General in the month of January annually shall make a return into the office of the Secretary of this State, of the whole number of barrels and half barrels inspected according to the directions of this Act, by him or his deputies the year preceding, under each of the respective brands used by him, designating in the return the different sorts and the places at which it was inspected: said returns to be made up to the first day of January in each year. And the Inspector General may, and he is hereby authorized to administer the several oaths required by this Act.

Deputy inspectors to make annual return to inspector general.

Inspector general to make annual returns to secretary of State, of whole number of barrels, &c inspected by him and his deputies.

SEC. 21. *Be it further enacted,* That no beef or pork shall be weighed by the owners or keepers of any slaughter houses, stores or warehouses, or by any persons under their direction or control in said houses, in any greater quantity than fifty pounds, except in scales and with weights, or by the vibrating steelyard invented by Benjamin Dearborn, or the vibrating steelyard invented or improved by Samuel Hills duly sealed, according to the Act entitled "An Act for the due regulation of weights and measures;" and every owner or keeper of any slaughter house, store or warehouse, or any person or persons by their direction, or under their control in said houses, who shall weigh any beef or pork in any greater quantity than fifty pounds by steelyards other than above named, or in any other way than by scales and weights duly sealed as aforesaid, shall, for every such offence, forfeit and pay the sum of ten dollars to be recovered by action of the case, before any Court competent to try the same, by any person who shall first sue for the same; one half to the use of the person who shall sue as aforesaid, and the other half to the use of the poor of the town in which such offence shall be committed.

How beef and pork may be weighed in slaughter houses.

Penalty for weighing in any other manner.

SEC. 22. *Be it further enacted,* That it shall be the duty of the Selectmen of every town within this State where beef cattle are sold for the purpose of market, or barrelling, to appoint one or more person or persons not being dealers in cattle, and conveniently situated in such town, to be weigher or weighers of beef, who shall be sworn to the faithful dis-

Selectmen may appoint weighers of beef to be sold in market.

Weighers to be sworn.

charge of the duties of their office, and shall receive such fees as are hereinafter described.

Beef so sold to be weighed by sworn weighers, who are to give certificates, &c.

SEC. 23. *Be it further enacted,* That all beef sold as aforesaid, shall be weighed by the said sworn weighers, and certificates of the weight of all beef, hide and tallow of each head of cattle, in the form following, shall be signed by the said weighers, and delivered to the seller or sellers thereof.

Form of Certificate.

Form of certificate.

This certifies that I have duly weighed the cattle bought by _____ of _____ from _____ of _____ this _____ day of _____ 182 .

Beef					
Hide					
Tallow					
Total					

Sworn Weigher.

Penalty for buying beef cattle for market or barreling, contrary to this act, &c.

SEC. 24. *Be it further enacted,* That any butcher or purchaser of beef cattle, intended for market or barreling, who shall purchase any such beef cattle contrary to the true intent and meaning of this Act shall forfeit and pay the sum of thirty dollars for each and every such offence, to be recovered with cost of suit by action, before any Court proper to try the same ; one half to the use of the State, and the other half to the person who shall prosecute for the same: *Provided,* nothing in this Act shall prevent any person or persons from buying or selling live cattle, commonly called cattle on the foot : and *Provided,* that no person shall be obliged to weigh any beef cattle when the weight or mode of weighing shall be agreed upon by the buyer and seller.

Provision for continuing present inspectors, &c. in office.

SEC. 25. *Be it further enacted,* That the inspector of beef and pork and his deputies, who are now in office in this State, shall and may continue to exercise and perform all the duties of their respective offices, in as full and ample manner as they might lawfully do if appointed pursuant to the first section of this Act.

[Approved March 19, 1821.]

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CHAPTER CXLIX.

An Act to ascertain the quality of Butter, and Hogs Lard ; and for the more effectual inspection of the same.

Governor to appoint inspector of butter and lard,

who shall give bond and be sworn,

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That there shall be an inspector of butter and lard for the State who shall be skilled in the knowledge and properties of the same, to be appointed by the Governor, with the advice and consent of the Council, to be by them removable at pleasure ; and who, before he shall enter upon the duties of his office, shall give bond.

with sufficient sureties, to the Treasurer of the State, in the penal sum of one thousand dollars, for the faithful discharge of his duty; and shall also be sworn faithfully to discharge the same. And such inspector shall have power, when so qualified, to appoint, and shall appoint deputy inspectors in every sea port town where butter or lard is exported, and such other places as he shall judge necessary, for whom he shall be answerable; and shall take bonds from them with sufficient surety or sureties, in the penal sum of five hundred dollars, for the faithful discharge of their duty; and they shall also be sworn to the faithful discharge of their duty.

and may appoint deputies,

who shall also give bond.

SEC. 2. *Be it further enacted*, That no person or persons whatsoever, shall ship any butter or lard for exportation, before he shall first have submitted the same to the view and examination of the inspector or his deputy, who shall be appointed as is hereinafter provided; who shall inspect and prove all butter and lard in casks, firkins or kegs that shall be intended to be laden on board any vessel for exportation.

No butter or lard to be shipped before being inspected.

And every such inspector or his deputy, shall examine the casks, kegs or firkins containing the said commodity, intended to be exported as aforesaid, and with a hollow iron searcher shall, from one side of the head of said casks, kegs or firkins, perforate diagonally to the other head, and thereby draw out so much butter or lard as shall determine the quality of the whole; and see that it be preserved with a due proportion of good fine salt, sweet, and in all respects fit to be exported, without danger of spoiling, to any foreign market.

Mode of inspection.

And every cask, keg or firkin of butter and lard which according to the inspector's best judgment, appears to be good and merchantable as aforesaid, he shall distinguish by the words first, second, or third, and all other butter and lard shall be distinguished by the word *refuse*, and branded in plain legible letters, together with the word MAINE, and the name of the town where it shall be thus inspected, with the initial letters of his christian name and his surname at large; and each cask, keg or firkin of butter or lard, inspected as aforesaid, shall also be branded with the word *butter* or *lard*, as the case may be:

Manner of branding.

SEC. 3. *Be it further enacted*, That every cask, keg or firkin, in which butter or lard shall be packed for foreign exportation, shall be made of sound and well seasoned white oak or ash staves and heading, full bound, twelve and an half inches in length, and eight and an half inches diameter in the head, or fifteen inches in length, and ten and an half inches diameter in the head, or kegs twelve inches long and seven and an half inches diameter in the heads; or ten inches long with six inches head.

Size and quality of casks, kegs and firkins to contain butter and lard for exportation.

SEC. 4. *Be it further enacted*, That each cask, keg or firkin, before any butter or lard be packed therein, shall be filled with a strong brine, which shall remain therein three

Casks to be filled with brine and weighed and marked, and how.

days; and as soon as the brine is emptied from the cask, keg or firkin, it shall be weighed by the owner of such butter or lard, who shall, with a marking iron, mark on one of the heads thereof, the full weight of the cask, keg or firkin, and shall brand or imprint, with a burning iron, the initial letter of his christian name; and his surname at large; and in case he shall falsely mark the same, such owner, upon conviction thereof shall forfeit three dollars.

Master of vessel to produce to collector, a certificate of inspection, before clearance,

SEC. 5. *Be it further enacted*, That no butter or lard shall be exported out of this State unless the master or owner of the vessel produces to the collector or any other officer authorized by the laws of the United States to clear vessels out, a certificate from the Inspector General or his deputy, that the same has been inspected and branded according to the directions in this Act; each certificate shall express the number of casks, and their weight; and the master or owner of any vessel in which butter or lard is so exported, on producing said certificate, shall take and subscribe the following oath before the officer authorized as aforesaid.

and make oath to such certificate.

Form of oath.

I, A. B. of _____, do swear, that, according to the best of my knowledge and belief, the certificate hereunto annexed contains the whole quantity of butter or lard, (as the case may be,) on board _____, master; and that no butter or lard, (as the case may be,) is shipped on board said vessel for the ship's company, on freight, or on cargo but what is inspected and branded according to the law of this State. *So help me GOD.*

Penalty for exporting from this state, any butter or lard without inspection,

SEC. 6. *Be it further enacted*, That if any person or persons shall export, or ship for exportation, out of this State, any butter or hogs lard, not inspected and branded as by this Act they are directed; every such exporter or shipper, and the master of every vessel having on board such uninspected butter or lard, shall on conviction thereof, respectively forfeit and pay the sums following; the owner or exporter shall forfeit and pay the sum of five dollars; and the master of every vessel having the same on board, the sum of three dollars, for each cask exported or shipped for exportation. And it shall be the duty of any Justice of the Peace, upon any information given of any butter or hogs lard being put on board any vessel as aforesaid, not inspected and branded as required by this Act, to issue his warrant, directed to the Sheriff or his deputy, or to a Constable, requiring them respectively to make seizure of any such butter or hogs lard not marked and branded as aforesaid, and to secure the same in order for trial; and said officers are hereby respectively required and empowered to execute the same; and it shall be the duty of every person, when required, to give the necessary aid for that purpose, on pain of forfeiting five dollars for his refusal.

on owner and master of vessel.

Justice of peace may issue his warrant for seizing butter or lard not inspected and branded, on board any vessel.

SEC. 7. *Be it further enacted*, That if any inspector of but-

ter and lard, (according to the duties of this Act,) shall on application made for the examination of any butter or lard as aforesaid, unreasonably refuse, neglect or delay to proceed to such examination and inspection, for the space of three hours after such application so made to him, the inspector so refusing, neglecting or delaying to make such examination or inspection, shall, for each offence forfeit the sum of two dollars.

Penalty for inspector refusing or delaying to examine and inspect for three hours.

SEC. 8. *Be it further enacted,* That if any inspector or deputy inspector shall neglect or refuse to brand any butter or lard, to be exported agreeably to this Act, the person or persons so offending, shall be subject and liable to the same penalties and forfeitures mentioned in the seventh section of this Act.

Penalty for neglect, &c. to brand butter or lard.

SEC. 9. *Be it further enacted,* That if any person shall counterfeit any brand belonging to, or proper to be used by the said inspector or any of his deputies, or shall impress or brand any cask, keg or firkin of butter or lard with any brand or brands of such inspector, or with any counterfeit brand as aforesaid, he shall forfeit and pay for each offence the sum of ten dollars.

Penalty for counterfeiting brand.

SEC. 10. *Be it further enacted,* That if any person shall empty any cask, keg or firkin of butter or lard inspected and branded as by this Act is required, and put in any other butter or lard for sale or exportation, without first cutting out the said brands and marks, the person or persons so offending, shall for each such cask, keg or firkin, forfeit and pay the sum of ten dollars.

Penalty for shifting contents of casks, fraudulently.

SEC. 11. *Be it further enacted,* That all fines and forfeitures mentioned in this Act shall, and may be sued for and recovered, with costs, by any person to his own use before a Justice of the Peace, or any other Court proper to try the same, with liberty of appeal, as in other civil actions.

Fines and penalties how recovered and appropriated.

SEC. 12. *Be it further enacted,* That it shall be the duty of the inspector of butter and lard in the month of January annually to make a return of the number of casks of different qualities of these articles branded by him, and his deputies, and the weight of the respective kinds, into the office of the Secretary of this State: The returns above specified to be made up to the first day of May of each year. And the said inspector shall require of his deputies to make the returns to him necessary to carry into effect the provision aforesaid.

Inspector to make annual returns to secretary of State,

and require of his deputies to make the requisite returns to him.

SEC. 13. *Be it further enacted,* That the inspector of butter and lard and his deputies, who are now in office in this State, shall and may continue to exercise and perform all the duties of their respective offices in as full and ample manner as they might lawfully do, if appointed pursuant to the first section of this Act.

Inspector and deputies now in office to continue, &c.

[Approved March 19, 1821.]

CHAPTER CL.

An Act to provide for the packing and inspection of Pickled and Smoked Fish.

Governor to appoint inspectors of pickled fish and smoked alewives and herrings.

Inspector to be sworn and give bond to town treasurer, &c.

Selectmen to examine such bonds, annually;

If found insufficient, to be renewed, or inspector to be removed.

Persons injured may sue such bonds.

Proceedings on such suits.

Quality and size of casks for packing pickled fish,

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Governor with the advice of Council is hereby authorized and directed to appoint and commission during his pleasure in each town and plantation in this State, where pickled fish or smoked alewives and herrings are cured or packed for the purpose of exportation, one or more suitable person or persons inspector or inspectors of pickled fish and smoked alewives and herrings, who shall be well skilled in the quality of the same, and before he enters on the duties of his office shall be sworn to the faithful discharge thereof, and shall give bond with sufficient sureties to the Treasurer of the town or plantation in which he is appointed, in the penal sum of not less than five hundred nor more than one thousand dollars for the faithful performance of the duties of his office. And the Selectmen of towns, and Assessors of plantations in which such inspectors shall be appointed, shall annually examine the bonds given as aforesaid, and if the bond of any such inspector shall by them be considered insufficient, they shall forthwith notify such inspector of the same, and if any inspector shall for thirty days after such notice, neglect to give bond as aforesaid to the satisfaction of such Selectmen or Assessors, it shall be their duty to give information thereof to the Governor who shall remove such inspector and appoint some other person to such office. And any person injured by the neglect or misdoings of any such inspector shall be entitled to a copy of such bond, and shall have a right to bring an action thereon in the name of such Treasurer for his own use and benefit: and on producing the original in Court and obtaining judgment thereon, execution shall issue for such sum only as shall be found due in damages to the person for whose use any such action shall be brought; and the amount thereof being entered by the Clerk of the Court on the original bond, the same may be delivered back, (by leaving a copy.) to the Treasurer from whom the same was received.

SEC. 2. *Be it further enacted,* That all barrels, half barrels and tierces which shall be made or used for the purpose of packing or containing pickled fish, shall be made of sound, well seasoned white oak, ash, red oak, spruce, pine or chestnut staves of rift timber, with heading of either of the said kinds of wood, sound, well seasoned, and the pine heads free from sap: said heading to be well planed; the barrels, half barrels and tierces to be well hooped, with at least three hoops on each bilge, and three hoops on each chime, all of which shall be good hoops of sufficient substance, the barrel staves to be twenty-eight inches in length, and the heads to be seventeen inches between the chimes; and to contain not

less than twenty-nine nor more than thirty gallons; and barrels, half barrels and tierces shall be branded on the side of the cask near the bung with the name of the maker or owner of said cask, and shall be made in a workmanlike manner, to hold pickle; the half barrels to contain not less than fifteen gallons, and the tierces to contain not less than forty-five nor more than forty-six gallons: *Provided however*, That nothing contained in this Act, shall extend to fish packed in kegs of less than ten gallons.

Provide as to fish in kegs.

SEC. 3. *Be it further enacted*, That all boxes which shall be made for the purpose of packing smoked alewives or herrings and containing the same, shall be made of good sound boards, sawed and well seasoned, the sides, top and bottom of not less than half inch boards, and the ends not less than three quarters of inch boards, securely nailed with not less than eight sixpenny nails, and sixteen fourpenny nails to each box, and the top of each box to be planed, and shall be seventeen inches in length, eleven inches in breadth and six inches in depth in the clear, inside. And all alewives or herrings intended to be smoked and packed shall be sufficiently salted and smoked, to cure and preserve the same; and afterwards closely packed in the boxes, in clear and dry weather.

Quality and size of boxes for packing alewives and herrings.

Herring, &c. for exporting to be well salted and smoked.

SEC. 4. *Be it further enacted*, That it shall be the duty of the inspector to see that salmon, mackerel, shad and all other kinds of split pickled fish, or fish for barrelling, have been well struck with salt or pickle in the first instance, and preserved sweet, free from rust, taint or damage. And such fish as are in good order, and of a good quality, shall be packed in tierces, barrels or half barrels; the tierces shall contain three hundred pounds, the barrels shall contain two hundred pounds, and the half barrels one hundred pounds of fish each; and the same shall be packed with thirty-five pounds of good and clean coarse salt, suitable for the purpose to each barrel; and said casks after being packed and headed up with the fish, and sufficient salt to preserve the same, shall be filled up with a clear strong pickle; and shall be branded Salmon, Mackerel, Shad, (or as the case may be;) those of the best quality, caught in the right season, to be most approved, and free from damage, shall be branded Cargo No. 1; those which remain after the best have been selected, being sweet and free from taint, rust or damage shall be branded Cargo No. 2; and there shall be a third quality, which shall consist of the thinnest and poorest of those that are sweet and wholesome, which shall be branded Cargo No. 3. And the inspector shall also brand in plain legible letters on the head of each and every cask, in which inspected merchantable fish or whole fish are packed or repacked, the weight, and initials of his christian name, with his surname at large, the name of the town for which he is appointed, and the word *Maine* an-

Duty of inspectors as to packing salmon, mackerel, &c.

Mode of branding.

Cargo No. 1.

Cargo No. 2.

Cargo No. 3.

Penalty for fraudulently mixing or shifting inspected fish.

nexed: And each cask shall be filled with fish of one and the same kind; and if any person shall intermix, take out or shift any inspected fish which are packed and branded as aforesaid, or put in other fish for sale or exportation contrary to the true intent and meaning of this Act, he or they shall forfeit and pay fifteen dollars for each and every package so altered: *Provided however*, If any casualty shall render it necessary to repack a cask of inspected fish, it may in all cases be done by an inspector of such fish. And if any person shall sell or export or cause to be sold or exported, within or from this State, any tainted or damaged fish, he shall forfeit and pay ten dollars for every hundred weight that shall be thus sold or exported.

Penalty for exporting damaged fish.

Cod fish, haddock, &c. how to be packed. Quality of casks &c.

SEC. 5. *Be it further enacted*, That all cod fish, haddock, hake, pollock and halibut pickled and hereafter offered for sale, shall be packed in casks of the contents required by the second section of this Act, each barrel to contain two hundred and twenty-five pounds, and each half barrel to contain one hundred and twelve and an half pounds, agreeably to the rules of packing in the fourth section of this Act, with sufficient salt to preserve the same. And it shall be the duty of the inspectors to brand with plain and legible figures, the weight of the aforesaid five kinds of fish in addition to the brands required by the fourth section of this Act.

Inspectors to brand the weight, &c. on casks.

Small fish, whole, how to be packed, and in what casks.

SEC. 6. *Be it further enacted*, That all small fish which are usually packed whole with dry salt, shall be put in good casks of the size and materials mentioned in the second section of this Act; said fish shall be packed close in the cask and well salted: the casks shall be filled full with the fish and salt, putting no more salt with the fish than is necessary for their preservation; and the inspector shall brand all casks containing such inspected whole fish with the name of the fish, and the quality as described in the fourth section of this Act.

Smoked alewives and herrings how sorted, &c.

SEC. 7. *Be it further enacted*, That all smoked alewives or herrings shall be divided and sorted by the inspector, and denominated according to their quality, first sort, and second sort; the first sort shall consist of all the largest and best cured fish, of not less than eight inches long; second sort, of the smaller, but well cured fish, of not less than seven inches long; and in all cases the following shall be taken out as refuse; all those which are belly broken, tainted, scorched or burnt, slack salted, or not sufficiently smoked. And each box of alewives or herrings so inspected, shall be branded on the top, by the inspecting officer with the first letter of the christian name, and the surname at length, of the inspector who inspected the same; and in like manner the name of the owner thereof, with the name of the town where it was inspected, with the addition of MAINE, and also with the quality of first sort or second sort.

Boxes how to be branded.

SEC. 8. *Be it further enacted*, That no pickled fish in casks, and no smoked alewives or herrings in boxes, shall be exported from this State by water, unless the master or owner of the vessel shall produce to the Collector, or other officer authorized by the United States to clear out vessels, a certificate from the inspector, that the same has been inspected, packed and branded according to the directions of this Act; and the certificate shall express the number of barrels, half barrels and tierces, and the number of boxes thus shipped, the kind and quality of the fish they contain, with the name of the master and owner, and the name of the vessel in which such fish are received for exportation. And such master or owner of every vessel shall take and subscribe the following oath or affirmation, before the officer authorized as aforesaid :

I, A. B. do swear, or affirm, (as the case may be,) according to the best of my knowledge and belief, that the certificate hereunto annexed, contains the whole quantity of pickled and barrelled fish, and of smoked alewives and herrings on board the ———, ——— master; and that no fish, smoked alewives or herrings are shipped on board said vessel, for the ship's company, or on freight or cargo, but what are inspected and branded according to the laws of this State. So help me God: or this I do under the pains and penalties of perjury, (as the case may be.)

SEC. 9. *Be it further enacted*, That if any pickled or barrelled fish, or any smoked fish shall be put on board of any boat, vessel, or carriage of conveyance, within this State, with intent to sell or export the same, unless said fish shall have been inspected, and the casks and boxes containing the same shall have been branded agreeably to the provisions of this Act, it shall be lawful for any Justice of the Peace in the same county, upon complaint made to him, to issue his warrant to the Sheriff or his deputy, or to any Constable of the town where such boat, vessel or carriage of conveyance may be, requiring them respectively to seize and secure said fish, and carry the same to the inspector nearest the place where said boat, vessel or carriage may be; and said inspector is hereby authorized and required to open and inspect, and to pack and brand the same in the same manner as is prescribed in this Act. And it shall be lawful for said inspector to detain the said fish until the expenses and charges of seizure, inspection, packing, and all other charges arising from such seizure, shall be paid. And it shall be the duty of every person, when required, to give necessary aid to the officer having such warrant, on pain of forfeiting five dollars for his refusal, to be recovered by action of debt, or on the case, before any Court proper to try the same; and by any person who will prosecute therefor.

SEC. 10. *Be it further enacted*, That no pickled or smoked fish, which shall be brought into this State from any other

Pickled fish, in casks, and smoked herring, &c. in boxes not to be exported, unless certificate of inspection be produced to collector.

Substance of certificate.

Master or owner to make oath thereto.

Form of oath

Pickled or smoked fish, put on board vessel for exportation, not being inspected, may be seized by warrant from Justice.

Power and duties of inspectors.

Fish brought into the State, not to be sold.

unless inspected according to this act.

Penalty for violation.

How recovered.

Penalty for master of vessel receiving on board a vessel, &c. fish not inspected and branded.

Penalty for exporting smoked alewives, or herring, not inspected and branded.

Penalty for inspectors branding casks, &c. not inspected by him; or permitting others to use his brands unlawfully.

Persons in certain cases to furnish inspectors with brands.

Penalty for neglect.

Pickled fish for home consumption, how to be packed.

State or Government, shall be sold or offered for sale before the same shall have been regularly inspected according to the provisions of this Act; and each and every person who buy or sell, or offer for sale [ANY] pickled or smoked fish which shall be brought into this State from any other State or Government, before the same is regularly inspected as aforesaid, shall severally forfeit and pay five dollars for each and every hundred pounds weight, so bought or sold; to be recovered by any person who shall prosecute for the same, by action of debt, or on the case, before any Court proper to try the same.

SEC. 11. *Be it further enacted*, That if any master of a vessel or other person shall put or receive on board any vessel or other carriage of conveyance to transport the same from this State, any pickled or whole fish packed in casks which are not inspected and branded in manner by this Act prescribed, he or they, on conviction, shall forfeit and pay not less than five dollars, nor more than ten dollars for each and every hundred pounds of such uninspected fish.

SEC. 12. *Be it further enacted*, That no smoked alewives or herrings which shall not have been inspected and branded agreeably to the provisions of this Act, shall be exported from this State, under a penalty of two dollars for each box so exported; nor shall any alewives or herrings be taken from any box so inspected and branded, and others of an inferior quality be put in their place, with intent to deceive or defraud any person in the sale of the same, under a penalty of five dollars for each box so changed.

SEC. 13. *Be it further enacted*, That if the inspector shall brand any cask, the contents of which he has not inspected, packed, salted and coopered, or any boxes of smoked alewives or herrings, which he has not inspected, packed and nailed according to the true intent and meaning of this Act, or if he shall permit other persons to use his brands in violation or evasion thereof, he or they so offending, shall forfeit and pay for every cask and box so branded, the sum of twenty dollars.

SEC. 14. *Be it further enacted*, That all persons within this State who shall have fish for packing and pickling either in bulk or in casks to the amount of twenty barrels in one season, shall furnish the inspector with a branding iron, containing the first letter of the owner's christian name, and his surname at large; and the inspector shall cause the names of such owners to be fairly branded on the head of every cask of their inspected fish; and if any such owner of fish shall refuse or neglect to furnish such brand, he shall forfeit and pay for such neglect and refusal, not less than five dollars, nor more than twenty dollars; and all kinds of pickled fish which are packed in tierces, barrels or half barrels for consumption within this State, and which are not subject to

be inspected and branded as provided for exportation, shall, however, be packed with only one kind of fish in each cask, and there shall be the same weight in each cask as is provided by the fourth section of this Act; and for intermixing different kinds of fish in the same cask, or for short weight in any cask, the owners or venders shall be subjected to the same penalties and forfeitures as are provided by this Act for the like offence in the inspected pickled fish.

SEC. 15. *Be it further enacted,* That all penalties and forfeitures arising by force and virtue of this Act, except the penalties of five dollars mentioned in the ninth and tenth sections of this Act, shall be recovered by action of debt in any Court proper to try the same; one moiety thereof for the use of the town or plantation wherein the offence shall be committed, and the other moiety to him or them who shall sue for the same.

Penalties and forfeitures, how recovered.

SEC. 16. *Be it further enacted,* That the charges for certificates, inspecting and branding, shall be paid by the exporter or purchaser, in addition to the purchase or cost of the fish; and bills for the legal fees of inspection and certificates, shall in the first instance be paid by the original owner of said fish, or by the person employing the inspector; and all such owners or employers are hereby empowered to demand and recover the amount of said bills from the subsequent purchaser or exporter.

Fees for certificates, &c. to be paid by the exporter or purchaser.

SEC. 17. *Be it further enacted,* That the inspector and his deputies legally appointed and now in office shall continue to hold and enjoy their respective offices until the tenth day of April next.

Inspectors in office continued until April 10, 1821.

SEC. 18. *Be it further enacted,* That every inspector of fish appointed in this State, shall, on being qualified for such office pay to the Treasurer of the town or plantation in which he shall reside, five dollars; and it shall be the duty of such Treasurer to pay over all monies so received to the Treasurer of this State, on or before the twentieth day of January annually.

Inspectors to pay duty of 5 dollars.

SEC. 19. *Be it further enacted,* That the inspectors shall be paid for each certificate for exportation, seventeen cents; and for inspecting and branding each and every cask of fish as directed by this Act; for each tierce ten cents, for each barrel seven cents, for each half barrel four cents, for each box of smoked herrings or alewives two cents; exclusive of the labor and expense for packing and coopering; and the fees for inspecting and the expense for packing and coopering shall be paid by the seller.

Inspectors' fees.

[Approved March 22, 1821.]

CHAPTER CLI.

An Act to ascertain the quality of Pot and Pearl Ashes, and for the more effectual inspection of the same.

Governor to appoint a State inspector of pot and pearl ashes,

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That there shall be an inspector of pot and pearl ashes for the State, who shall be well skilled in the knowledge and properties of the same, to be appointed by the Governor, with the advice and consent of the Council, and to be by them removable at pleasure; and who, before he shall enter upon the duties of his office, shall give bond with sufficient sureties, to the Treasurer of the State, in the penal sum of three thousand dollars for the faithful discharge of his duty, and shall *also* be sworn faithfully to perform the same. And such inspector shall have power, when so qualified, to appoint, and shall appoint deputy inspectors in every sea port town where pot and pearl ashes are exported, and such other places as he shall judge necessary; for whom he shall be answerable, and shall take bonds from them with sufficient surety or sureties, and they shall also be sworn to the faithful discharge of their duty.

who shall give bond,

and be sworn, and appoint deputy inspectors,

who shall give bonds to him, and be under oath.

Size and quality of pot and pearl ashes casks.

SEC. 2. *Be it further enacted,* That every cask in which pot or pearl ashes shall be packed for exportation, shall be made of sound and well seasoned oak or white ash staves and heading, full bound, twenty-nine inches in length, nineteen inches diameter in the head, and of such weight in proportion to its contents, as will amount, as near as may be, to fourteen per centum tare thereon.

Manufacturer of pot and pearl ashes to brand his name, &c. on casks.

SEC. 3. *Be it further enacted,* That every manufacturer of pot and pearl ashes within this State shall brand each cask containing the same with the initial letters of his christian name, and his surname at full length, with the name of the town where the same shall be manufactured, before the same shall be removed from the manufactory, under the penalty of one dollar for each cask so removed without being previously branded as aforesaid.

Penalty for neglect.

No person to ship for exportation any pot or pearl ashes before inspection.

SEC. 4. *Be it further enacted,* That no person or persons whatsoever shall ship any pot or pearl ashes, for exportation, before he shall first have submitted the same to the view and examination of the inspector or his deputy, who shall be appointed as herein after mentioned; who shall start the same out of the casks, and carefully examine, try and inspect the same, and sort the same in three different sorts, if necessary; that the said inspector shall put each sort by itself in tight new casks, well hooped and coopered, which he shall distinguish by the words, first sort, second sort, or third sort, with the words pot or pearl ashes, as the same may be, branded in plain legible letters, together with the letters of his name, the place where such pot or pearl ashes shall be inspected, as also the word "*Maine*" at full length on each

Manner of inspecting, marking and branding.

cask : and the said inspector, or his deputy at the time of starting pot or pearl ashes for inspection, shall weigh the cask or casks and mark the weight with a marking iron on each head thereof.

Inspector shall weigh casks and mark the weight.

SEC. 5. *Be it further enacted,* That every such inspector or shall have full power and authority by virtue of this Act, and without further or other warrant, to enter on board any ship or vessel whatsoever, lying and being in the harbor where such inspector is authorized to inspect pot or pearl ashes, shipped or shipping on board any such vessel for exportation from this State: and if said inspector shall, on search, discover any cask or casks of pot or pearl ashes, not branded as before directed, the person or persons so shipping or having shipped the same, shall forfeit all and every such cask or casks of pot and pearl ashes, so shipped or shipping, and not branded in the manner herein before directed. And such inspector, or his deputy, shall and may seize and carry away and secure the same for trial, and require necessary aid for that purpose, which it shall be the duty of every person so required to give on pain of forfeiting the sum of seven dollars for his refusal or neglect. And the master or commander of any such vessel, who shall receive on board any such cask or casks of pot or pearl ashes, not branded as aforesaid, shall forfeit the sum of twenty dollars for each cask so received. And if any master of any ship or vessel, or any of his servants or seamen, shall obstruct or hinder the said inspector in making such search, as aforesaid, every person so offending shall forfeit for each offence the sum of thirty dollars.

Inspector may enter vessels, &c in search of casks not branded, &c.

if any be found, to be forfeited.

Inspector may seize the same for trial.

Penalty on master of vessel for receiving such pot and pearl ashes on board, not branded.

SEC. 6. *Be it further enacted,* That if any inspector of pot or pearl ashes, (according to the duties of this Act,) shall, on application made for the examination of any pot or pearl ashes aforesaid, unreasonably refuse, neglect or delay to proceed to such examination and inspection for the space of three hours after such application so made to him, the inspector so refusing, neglecting or delaying to make such examination or inspection, shall, for each offence forfeit the sum of three dollars.

Penalty on inspector for refusing or delaying inspection.

SEC. 7. *Be it further enacted,* That if any person shall brand any cask of pot or pearl ashes manufactured by himself, with the name of any other person than his own, or shall brand any such cask manufactured by another person with his own name; or shall counterfeit any brand belonging to, or proper to be used by the said inspector, or any of his deputies, or shall impress or brand any cask of pot or pearl ashes with any brand or brands of such inspectors, or with any counterfeited as aforesaid, he shall forfeit and pay for each offence the sum of two hundred dollars.

Penalty for false and fraudulent branding,

or counterfeiting brands.

SEC. 8. *Be it further enacted,* That if any person shall empty any cask or casks of pot or pearl ashes, inspected and branded as by this Act is required, and put in any other pot

Penalty for fraudulently shifting contents of casks.

and pearl ashes for sale or exportation, without first cutting out the said brand marks, the person or persons so offending shall for each cask, forfeit and pay the sum of two hundred dollars.

Fines and forfeitures, how recovered.

SEC. 9. *Be it further enacted*, That all fines and forfeitures mentioned in this Act, above the sum of twenty dollars, and under sixty dollars, shall and may be sued for and recovered with costs, by any person to his own use: But if the sum shall amount to sixty dollars, or more, then one half to his own use, and the other half to the use of the State, and in both cases by action of debt in the Circuit Court of Common Pleas, in the county where the offence shall be committed, with liberty of appeal as in other civil actions. But if the forfeiture shall be twenty dollars, or under, then it may be sued for by such action, for the use of the prosecutor, before a Justice of the Peace, with like liberty of appeal. And all casks of pot or pearl ashes, forfeited and seized as aforesaid, may be prosecuted to condemnation by the officer seizing the same, by libel before the Circuit Court of Common Pleas in the county where seizure shall be made, if above the value of twenty dollars, or before a Justice of the Peace, if under that sum, with liberty of appeal to the Supreme Judicial Court or Circuit Court of Common Pleas, respectively, as the case may require, and after condemnation, the same shall be sold at public vendue, by such officer; and after payment of all charges, one half of the remainder shall be by him paid into the Treasury, for the use of the State, and the other half be for the use of such officer.

Fees of inspectors and deputies.

SEC. 10. *Be it further enacted*, That the inspector of pot and pearl ashes, or his deputy, shall have and receive for inspecting the same, the sum of seven cents for every hundred weight so inspected, and also the further sum of eight cents for cooping and nailing each cask and putting the same in shipping order, to be paid by the purchaser.

Inspector not to receive from his deputies more than 7 1/2 per cent. of their fees.

SEC. 11. *Be it further enacted*, That the said inspector shall not in future, receive from any deputy he has, or shall appoint, more than seven and an half per cent. on the sum first above mentioned, and no part of the sum allowed for cooeping.

Inspector general to make annual return to secretary of State in May. Substance of each return.

SEC. 12. *Be it further enacted*, That it shall be the duty of the inspector of pot and pearl ashes annually in the month of May to make a return of the number of casks of pot and pearl ashes, specifying the number under each brand, and the weight of each specific quality inspected by him or his deputies; said returns to be made up to the first day of May of each year, and to be transmitted to the office of the Secretary of this State, in the course of the same month. And the inspector of pot and pearl ashes shall require of his deputies to make the returns to him necessary to carry into effect the foregoing provision.

His deputies to make return to him.

Inspectors, &c. now in office to

SEC. 13. *Be it further enacted*, That the Inspector Gen-

eral and his deputies, legally appointed, and now in office, shall continue to hold and enjoy their respective offices, until others shall be appointed in their stead.

[Approved March 10, 1821.]

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CHAPTER CLII.

An Act to provide for the inspection of Hops for exportation.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That there shall be an inspector of hops for this State, who shall be appointed by the Governor, with advice of Council, who shall be removable at pleasure, who shall give bond, with sufficient sureties, to the Treasurer of this State, in the penal sum of three thousand dollars, for the faithful discharge of his duty, and shall be sworn faithfully to perform the same; and such inspector shall have power to appoint deputy inspectors, who shall be removable by him at pleasure, for whose conduct he shall be answerable, and from whom he may require sufficient bonds for the faithful discharge of their duty.

Inspector of hops to be appointed by governor, &c.

Inspector to give bond,

and appoint deputies who are also to give bond.

SEC. 2. *Be it further enacted,* That it shall be the duty of the inspector or one of his deputies to examine the contents of every bag or pocket of hops, intended to be exported, in such manner as to ascertain the quality of such hops, and if found merchantable, as before prescribed, and that they are firmly packed, and have been so packed at least ten days previous to said examination; and that the bags or pockets are such as have been before prescribed; he shall distinguish the same by marking them in legible characters, with the words first sort, or second sort, or refuse, as their quality may be; he shall add thereto the date of the year of which, in his opinion, they are the growth, together with the initials of his, (the inspector's,) christian, and the whole of his surname, and the word MAINE; for which inspecting, marking, weighing and delivering an attested schedule of the same, he shall receive at the rate of ten cents for every hundred pounds weight so inspected, to be paid to him by the purchaser, exclusive of the charges of repacking, and mending the bags or pockets, when necessary, which shall be paid by the vender of the hops; and exclusive also of storage, should said hops be stored by said inspector more than thirty days after being inspected.

Duty of inspectors,

to mark bags of hops, &c.

Inspector's fees.

Quality of merchantable hops.

SEC. 3. *Be it further enacted,* That hops shall not be deemed merchantable, unless they have been well picked, are free from stems and leaves, and dried on a kiln, with charcoal fire; and the bags or pockets in which they are packed shall be made sufficiently strong to preserve the hops from damage, and of such a texture as will fairly receive the marks of the cultivator and inspector; and the bags or

pockets shall be marked with the name of the cultivator and the town in which he lives.

No hops to be shipped or exported without inspection.

SEC. 4. *Be it further enacted,* That hops shall not be shipped or exported from this State, except they are of the quality hereinafter mentioned, and have been duly inspected and marked agreeable to the provisions of this Act; and that the hops so inspected shall be in square bags or pockets; each bag to contain four hundred weight, and each pocket two hundred weight of merchantable hops, as near as may be.

Masters of vessels to produce to collector, a certificate of inspection, before clearance.

SEC. 5. *Be it further enacted,* That no hops shall be exported from this State, unless the master or owner of the vessel, in which such hops are shipped, shall produce to the Collector, or other officer authorized by the laws of the United States to clear out vessels, a certificate of the inspector or one of his deputies, for which he shall be allowed to charge twenty-five cents to be paid by the shipper, that the same has been duly inspected, marked and weighed, agreeably to the directions of this Act; which certificate shall express the number of bags, or pockets of each sort of hops, with the weight of each bag or pocket; and the master or owner of every vessel in which hops are so exported, shall, on producing such certificate, take and subscribe the following oath, viz:

Oath of master or owner.

"I do swear, that according to the best of my knowledge and belief the certificate hereunto annexed contains the whole quantity of hops on board the ———, of which ——— is master; and that there are no hops on board said vessel, for the use of the ship's company, on freight, or on cargo, but what have been inspected and marked according to the law of this State. *So help me GOD.*"

Penalties for exporting hops unless inspected and marked.

SEC. 6. *Be it further enacted,* That if any person or persons shall export or ship for exportation out of this State, any hops not inspected and marked as by this Act is directed, every such exporter or shipper, and the master of every vessel, having on board such uninspected hops, shall, on conviction respectively forfeit and pay the sums following: the owner or exporter shall pay the sum of twenty dollars; the master of every vessel having the same on board, the sum of ten dollars, for every bag or pocket exported or shipped for exportation. And it shall be lawful for the inspector or any of his deputies, on information given of any hops being put on board any vessels as aforesaid, not inspected and marked, as required by this Act, to issue a warrant directed to the Sheriff or his deputy, or to a Constable, requiring them respectively to make a seizure of any such hops, not inspected and marked as aforesaid, and to secure the same, in order for trial; and said officers are hereby respectively required and empowered to execute the same; and it shall be the duty of any person, when requested, to give the necessary aid for that purpose on pain of forfeiting five dollars for his

Inspector may seize hops on board vessels if not inspected.

refusal: *Provided, always,* That nothing in this Act contained, shall be construed to effect any hops shipped coastwise within this State, for the purpose of being inspected and marked as aforesaid, in which case a certificate from the owner shall accompany the same so shipped coastwise for the purpose aforesaid, setting forth the owner's name, the number of bags, pockets or packages and the name of the inspector, to whom they are sent for inspection.

Proviso in favor of hops shipped coastwise for inspection.

SEC. 7. *Be it further enacted,* That if an inspector of hops, on application made to him to examine any hops, shall unnecessarily neglect or delay to examine, mark and weigh them, the inspector so neglecting or delaying shall for each offence forfeit and pay the sum of five dollars.

Penalty for delay of inspection.

SEC. 8. *Be it further enacted,* That if any person shall counterfeit or alter any mark, belonging to, or proper to be used by the inspector of hops, his deputy or deputies; or shall mark any bag or pockets of hops with any letters or marks aforesaid, he shall forfeit the hops so marked and for each offence the sum of ten dollars.

Penalty for counterfeiting inspector's mark.

SEC. 9. *Be it further enacted,* That if any person shall empty any bag or pocket of hops, marked as by this Act is required, and put in any other hops, for sale or exportation, without first cutting out said marks, the person or persons so offending shall for each offence forfeit the sum of five dollars.

Penalty for shifting hops from one bag to another.

SEC. 10. *Be it further enacted,* That if the inspector of hops, or any of his deputies, shall be guilty of any fraud in inspecting hops, contrary to the true intent and meaning of this Act, or shall put their marks on any bag, pocket or package of hops, which have not been actually examined, inspected and found merchantable, he or they shall forfeit and pay twenty dollars, for each and every bag, pocket or package so falsely marked.

For fraud in inspector or his deputies.

SEC. 11. *Be it further enacted,* That if any person shall intermix, take out or shift any hops from any bag, or pocket inspected and marked as by this Act is required, or shall put in any other hops for sale or exportation, contrary to the true intention of this Act, the person or persons so offending shall forfeit and pay twenty dollars for every such offence.

For mixing, &c.

SEC. 12. *Be it further enacted,* That all penalties and forfeitures, arising in virtue of this Act, shall be recoverable by action of debt or information in any Court proper to try the same; one moiety to the use of the town wherein the offence shall be committed, the other moiety to him who shall sue for the same.

Penalties how recovered and appropriated

SEC. 13. *Be it further enacted,* That the inspector of hops shall be entitled to receive from his deputies one fifth part of all the fees said deputies may receive in the execution of this Act.

Inspector entitled to one fifth of his deputies' fees.

SEC. 14. *Be it further enacted,* That it shall be the duty of the inspector of hops, annually in the month of May, to make

Inspector to make annual return to &c.

Secretary of State, a return into the office of the Secretary of this State, of the whole number of bags marked by him, of the different qualities, and the weight of each quality respectively, inspected by him or his deputies; said returns to be made up to the first day of May of each year. And the inspector of hops shall require of his deputies to make the returns to him necessary to carry into effect this provision.

Deputies of inspector to make returns to him.

Inspectors now in office to continue, &c.

SEC. 15. *Be it further enacted*, That the Inspector General and his deputies legally appointed and now in office, shall continue to hold and enjoy their respective offices, until others shall be appointed in their stead.

[Approved February 20, 1821.]



CHAPTER CLIII.

An Act for the better making and measuring of Malt.

Malt to be dried and cleansed before sold.

Penalty for neglect.

Uncleansed malt not merchantable.

Duty of master of vessels carrying malt.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That no maltster or malt maker shall deliver, vend or pass away any malt by him made or caused to be made, before the same be well dried and cleansed by screening of it from the dust and taile which arises in the making, drying and ordering of it in his hands, on pain of forfeiting twenty cents per bushel for each bushel by him delivered, sold or passed away, not being so cleansed and dried, upon conviction thereof before any Justice of the Peace, where the forfeiture shall not exceed the sum of five dollars; or if above, before the Circuit Court of Common Pleas holden within the county: one moiety of such forfeiture to be unto the use of the poor of the town where the offence is committed, and the other moiety to him or them that shall complain or inform and sue for the same. And such Court or Justice respectively, are hereby empowered, in case such maltster shall stand to justify that his malt is well dried and cleansed as aforesaid, to nominate and appoint three or more credible, skillful persons to view and judge thereof upon their oaths; and to administer an oath to them to be indifferent and impartial therein. And no malt made of barley shall be accounted merchantable, but such as shall be well cleansed from the dust, oats, tares and cockle. And every person that shall offer and expose to sale any barley malt, for merchantable not being cleansed as aforesaid, shall forfeit and pay the sum of twenty cents a bushel, for each bushel so offered or exposed to sale, being thereof convicted in manner as is herein before provided, to be applied to the use before mentioned.

SEC. 2. *Be it further enacted*, That every master of any vessel that shall receive on board his vessel any malt to be transported to a market, shall take effectual care, and make sufficient provision for the keeping of merchantable malt,

separate and apart by itself, that it be not intermixt with what is unmerchantable, on pain of losing and forfeiting the value of all the freight to be paid for the malt so mixed; to the use of the poor of the town where such malt shall be delivered, upon conviction thereof as aforesaid: and shall be further liable to make good to the shipper or owner of all such merchantable malt mixt as aforesaid, all loss and damage that he shall sustain thereby: to be recovered by action therefor to be brought in any Court proper to try the same.

SEC. 3. *Be it further enacted,* That in the measuring of malt the strike shall be carried softly and sawing, any law, usage or custom to the contrary notwithstanding.

[Approved February 28, 1821.]

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CHAPTER CLIV.

An Act for regulating the exportation of Tobacco and the weight of Onions in bunches.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Governor by and with the advice of Council, be, and is hereby empowered to appoint, in such seaport and other exporting towns within this State, as there shall be occasion, one or more skilful and disinterested person or persons to be inspectors of tobacco that shall be exported from this State, who shall be sworn to the due and impartial execution of their trust; and their duty shall be to inspect all tobacco that shall be intended to be laden on board of any vessel for foreign exportation, or that shall be intended to be transported by land or water, to either of the United States; and every such inspector is hereby required and authorized, to open the cask containing the said commodity, intended to be exported as aforesaid, and inspect it in four equal divisions; that is to say, they shall take the casks from the tobacco, and with an iron bar, or other instrument, lift one quarter, and then go through the whole, until it shall be examined in four different parts, and see that it be properly dry, well cured, not rotten or damaged, and of the weight and packed in such casks as are here-in after mentioned; and such part as appears to be damaged, or rotten, or unfit for exportation, shall be burned; and on every cask containing the said quantity, which by such inspection, shall, according to the inspector's best judgment, appear to be well cured, and not rotten or damaged as aforesaid, he shall mark or impress with a burning iron the letters A. P. with the name of the town, where it shall be thus approved, the name of said inspector at large, and the letter I. at the end thereof denoting that the same has been inspected and approved.

SEC. 2. *Be it further enacted,* That no tobacco shall be shipped or exported from this State, but such only as shall

Mode of measuring.

Inspectors of tobacco to be appointed by the governor.

To be sworn.

Their duties and powers.

To mark casks, and how.

No tobacco to be exported unless inspected.

Size and quality of casks and half casks.

have been inspected, and found to be well cured, and fit for foreign markets and packed in straight casks; said casks shall be four feet four inches in length, and two feet seven inches diameter at the head, containing not less than nine hundred, and not more than fourteen hundred pounds weight each; or if packed in half casks to contain not less than four hundred, nor more than six hundred pounds weight in each, unless such casks of tobacco shall appear to have been inspected and marked agreeably to the laws of some other State.

Penalty for putting or receiving any tobacco on board any vessel bound out of this State, unless duly inspected, marked, &c.

SEC. 3. *Be it further enacted*, That if the owner of any tobacco, or any other person employed by him, shall presume to lade or put on board any vessel bound to any port without the State, any tobacco other than such as shall have been approved by an inspector and contained in casks not having the aforesaid marks, stamps or brands; or if any master of a ship or other vessel, or other officer or mariner shall receive on board any such, the offender or offenders shall incur the penalty of thirty dollars for each cask of tobacco, to be sued for and recovered in any Court of Record within this State proper to try the same; and all such tobacco laden or received on board as aforesaid, shall be forfeited. And it shall be lawful for any Justice of the Peace, upon information given of any tobacco, put on board any such ship or other vessel as aforesaid, hot duly marked or branded, to issue his warrant, directed to the Sheriff, his deputy, or a Constable, requiring them respectively to make seizure of any such tobacco, shipped and not marked as aforesaid, and to secure the same in order for trial; and such officers are hereby respectively directed and empowered to execute the same.

Tobacco to be forfeited, &c.

Justice may issue warrant to seize and hold it for trial.

SEC. 4. *Be it further enacted*, That if after any cask containing tobacco shall have been stamped with the inspector's marks, stamps or brands as aforesaid, any cooper or other person shall presume to shift the contents of such casks, and put therein any tobacco that hath not been duly inspected as aforesaid, such cooper or other person so offending, shall forfeit and pay the sum of fifteen dollars for every cask of tobacco to be recovered in manner as aforesaid.

Penalty for shifting contents of casks, and putting in tobacco not inspected.

Penalty on inspector for neglect or fraud in inspecting or branding.

SEC. 5. *Be it further enacted*, That in case any inspector appointed and sworn as aforesaid, shall be guilty of any neglect or fraud, in inspecting any tobacco contrary to the true intent and meaning of this Act, or shall mark with their respective brands or stamps any cask containing tobacco, which they have not actually and thoroughly inspected, and which may be intended for exportation out of this State, he or they shall forfeit and pay the sum of fifteen dollars for every such neglect, or for every cask so falsely marked, to be recovered as aforesaid.

Penalty on persons not appointed, for

SEC. 6. *Be it further enacted*, That if any person or persons, not appointed and sworn as aforesaid, shall presume to

mark or brand any casks of tobacco as above described, he shall incur the above said penalty of fifteen dollars for every cask so marked or branded, to be recovered as aforesaid.

marking or branding casks, &c.

SEC. 7. *Be it further enacted,* That each cask before any tobacco be packed therein, shall be weighed by the owner of such tobacco, who shall with a marking iron, mark on one of the heads thereof the full weight of the cask, and the initial letters of his name: and in case he shall falsely mark the same, such owner upon conviction thereof shall forfeit and pay the sum of nine dollars, for each cask so falsely marked.

Each cask to be weighed and weight marked.

Penalty for false marking.

SEC. 8. *Be it further enacted,* That the respective inspectors shall be paid for every cask of tobacco they shall inspect and prove as before directed, twenty cents, provided the number doth not exceed four, and twelve cents for each cask exceeding that number; inspector's fees to be exclusive of cooerage and to be paid by the shippers.

Inspector's fees.

SEC. 9. *Be it further enacted,* That no vessel on board which any tobacco in casks shall be shipped for exportation, shall be cleared out by the custom house officer, until the master or owner shall have produced a certificate or certificates, from an inspector or prover, appointed and sworn as aforesaid, that said articles have been by him inspected and proved as this Act directs; which certificates shall be granted free from any expense.

No vessel, having tobacco on board for exportation, to be cleared out, without certificate of inspection.

SEC. 10. *Be it further enacted,* That all penalties and forfeitures arising by force and virtue of this Act, shall be one moiety thereof to the use of this State and the other moiety to him or them who shall inform and sue for the same.

Appropriation of penalties.

SEC. 11. *Be it further enacted,* That no onions in bunches shall be shipped or exported out of this State, unless they weigh as follows, viz: rareripes (so called) two and half pounds, and onions from the seed, three and half pounds, per bunch.

Weight of onions for exportation.

SEC. 12. *Be it further enacted,* That the Selectmen of each town where such onions shall be shipped, are hereby authorized and directed to appoint some suitable person or persons to weigh the same and give certificates of the weight; which person or persons so appointed shall be sworn to the faithful performance of his or their duty, and shall receive as fees, ten cents for every hundred bunches so weighed and certified, for any quantity not exceeding five hundred bunches, and five cents for a greater quantity; said fees to be paid by the purchaser.

Selectmen to appoint weighers of onions:

to be sworn:

their duties and fees.

SEC. 13. *Be it further enacted,* That if any person or persons shall presume to expose for sale within this State, any onions in bunches, without first having them weighed as aforesaid, and having obtained a certificate of the same, according to the true intent and meaning of this Act, he shall forfeit the same; one moiety thereof to and for the use of

Penalty for offering to sell onions in bunches, unless weighed and certified.

the poor of the town where they may be exposed to sale, the other moiety to him or them who shall inform of the same; and the Selectmen of such town, or the major part of them, are hereby authorized and empowered to seize the same, and sell them at public auction, and to account with the Overseers of the poor of such towns for the net proceeds of one moiety thereof, and the other to said informant.

[Approved February 24, 1821.]

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CHAPTER CLV.

An Act regulating the exportation of Flax Seed.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That the Governor by and with the advice and consent of the Council, be and is hereby empowered to appoint, in such seaport towns within this State as there shall be occasion, one or more skilful and disinterested person or persons to be surveyors, for the surveying and proving flax seed, who shall be sworn to the due and impartial execution of their trust: and their duty shall be to inspect and survey all flax seed that shall be intended to be laden on board of any vessel for foreign exportation; and every such surveyor is hereby authorized to open the casks containing the said commodity, intended to be exported as aforesaid, and if need be, measure and shift the same into other casks so as thoroughly to examine the whole, and see that it be clear from mixture of wild or other seed or dirt, and of the measure hereafter mentioned. And every cask containing the said quantity which by such survey and examination shall according to the surveyor's best judgment appear to be cleansed as aforesaid he shall mark or imprint with a burning iron, the following mark or letters, "Insp." with the name of the town where it shall be thus approved, the name of the said surveyor at large, and the letter S. at the end thereof, denoting that the same has been surveyed and approved.

SEC. 2. *Be it further enacted,* That no flax seed shall be shipped or exported out of this State, to any foreign port or place without the United States, but such as shall have been surveyed and found to be well cleansed, and in good order and in casks, each cask containing seven bushels and one peck, or in casks containing one half the said quantity each.

SEC. 3. *Be it further enacted,* That no vessel on board of which any cask of flax seed is shipped for exportation, shall be cleared out by the Collector, until the master or owner thereof shall have produced a certificate or certificates from some person or persons duly appointed for the purpose of surveying the said articles, that the same have been surveyed as by this Act is required; which certificate or certificates shall be granted free from any expence.

How recovered and applied.

Governor to appoint surveyors of flax seed.

Their duty and power.

How they are to mark casks.

No flax seed to be exported to foreign ports, before inspected.

No vessel to be cleared, before a certificate of inspection is produced.

SEC. 4. *Be it further enacted,* That if the owner of any flax seed or other person employed by him shall presume to lade or put on board any vessel any flax seed other than such as shall have been approved by a surveyor as in this Act provided; or if any master of a ship or other vessel or other officer or mariner shall receive on board any such, the offender or offenders shall incur the penalty of twenty dollars for each bushel so shipped; to be sued for and recovered in any Court of Record within this State proper to try the same; and all such flax seed, (laded or received on board as aforesaid,) shall be forfeited. And it shall be lawful for any Justice of the Peace, upon information given of any flax seed, put on board any such ship or other vessel as aforesaid, not marked as aforesaid, to issue his warrant, directed to the Sheriff or his deputy or Constable, requiring them respectively to make seizure of any such flax seed, shipped and not marked as aforesaid, and to secure the same in order for trial; and such officers are hereby respectively empowered and required to execute the same.

Penalty on owner of flax seed for putting it on board vessel, &c. and on master for receiving it, unless inspected and approved,

Such flax seed to be forfeited.

Justice may issue his warrant for seizing such flax seed, &c.

SEC. 5. *Be it further enacted,* That if, after any cask or other vessel containing flax seed shall have been approved and stamped with the surveyor's marks, stamps, or brands, any cooper or other person shall presume to shift the contents of such cask or other vessel, and to put therein any flax seed, that has not been duly surveyed and approved as aforesaid, such cooper or other person offending therein, shall forfeit and pay the sum of thirty dollars for every cask so shifted, to be recovered in manner as aforesaid.

Penalty for shifting contents of casks.

SEC. 6. *Be it further enacted,* That in case any surveyor appointed and sworn as aforesaid, shall be guilty of any neglect or fraud in surveying any flax seed, contrary to the true intent and meaning of this Act, or shall mark with their respective brands, stamps or marks, any cask containing flax seed which they had not actually and thoroughly surveyed, and which may be intended for exportation out of this State, he or they shall forfeit and pay the sum of thirty dollars for every such neglect, or for every cask falsely marked, to be recovered as aforesaid.

Penalty on surveyor for neglect or fraud in surveying, marking, &c.

SEC. 7. *Be it further enacted,* That penalties and forfeitures arising by force and virtue of this Act, shall be one half to the use of the State and the other half to him or them who shall inform and sue for the same.

Penalties how applied.

[Approved March 8, 1821.]

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CHAPTER CLVI.

An Act to regulate the manufacture and inspection of Stone Lime and Lime Casks.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no stone lime man-

Quality of lime and size and quality of

lime casks al-
lowed to be
sold or shipped.

ufactured within this State, shall be sold or exposed to sale, or shipped on board of any vessel, in casks, but such only as is well burnt and pure and contained in good and sufficient new casks, made of sound and thoroughly seasoned staves and heading; with at least twelve good and strong hoops on each cask, well driven and secured with nails or pins and duly inspected: the staves of said casks, to be made of rift timber and not less than thirty-two inches in length, and if they be hard wood, to be not less than one half of an inch thick, on the thinnest edge, and if they be soft wood, to be not less than five eighths of an inch thick on the thinnest edge; and each of the heads to be not less than three fourths of an inch thick and well crozed in; and each hoop to be not less than one inch wide in the narrowest part; and each cask to be not less than twenty eight inches in length between the heads; and each head thereof to be not less than eighteen and one half inches in diameter within the chime; and each cask to have a good and sufficient bilge, and to contain not less than forty gallons, and to be made in a workmanlike manner to hold lime.

Each cask to be
branded, and
how.

Penalty for
selling any not
so branded.

Penalty for
not having each
cask branded
on one head at
the kiln.

Three inspec-
tors to be ap-
pointed by the
Governor at
Thomaston,
Warren and
Camden.

to be sworn,
and to give
bond to the
State treasurer.

SEC. 2. *Be it further enacted,* That each lime cask shall be branded on the outside at the bilge with the first letter of the christian name, and the first letter of the surname of the manufacturer or original vender thereof; and every such manufacturer or vender who shall sell any lime casks, other than such as are so branded, shall forfeit and pay the sum of forty cents for every cask by him sold without being thus branded.

SEC. 3. *Be it further enacted,* That all such casks of lime shall be branded, on one head thereof at the kiln where the same shall be burnt, with the first letter of the christian name, and the surname at length, of the manufacturer or owner thereof; and such manufacturer or owner shall forfeit and pay the sum of fifty cents for every cask of lime, which shall not be thus branded at the time it shall be filled at the kiln as aforesaid.

SEC. 4. *Be it further enacted,* That there shall be three inspectors of stone lime and lime casks, one for and to reside in each of the towns of Thomaston, Camden and Warren; each to be appointed by the Governor, with the advice and consent of the Council and to be by them removable at pleasure; and each of said inspectors shall, before he enters upon the duties of his office, be sworn faithfully to perform the same, and shall give bonds, with sufficient sureties to the Treasurer of the State for the faithful performance thereof, in the sums following, to wit: The inspector in and for the town of Thomaston, in the sum of two thousand dollars; the inspector in and for the town of Camden, in the sum of one thousand dollars; and the inspector in and for the town of Warren, in the sum of one thousand dollars; each of which

bonds shall be approved by the Court of Sessions in and for the county of Lincoln; and each of said inspectors, when so qualified, shall have power to appoint in and for the town in which he resides, as many deputy inspectors as he shall judge necessary, for whose faithful conduct in the discharge of the duties of their respective offices, the inspector appointing them, shall be answerable; and shall take a bond from each of them to himself in the sum of five hundred dollars; and said deputies shall severally be sworn to the faithful discharge of their duty before they shall enter upon the same. And the Selectmen of each town within this State in which stone lime is manufactured, except the towns of Thomaston, Camden, and Warren, shall appoint one or more inspectors of stone lime and lime casks, within and for such town, to be by them removable at pleasure, upon misbehavior in said office; and each inspector thus appointed by the Selectmen, shall, before he enters upon the duties of his office, be sworn faithfully to perform the same and give bonds, with sufficient sureties to the Treasurer of such town, in the sum of five hundred dollars, conditioned for the faithful performance of the duties of his office.

Each inspector to appoint deputies.

who shall be sworn.

Selectmen of other towns in the State may appoint inspectors to be sworn and give bond.

SEC. 5. *Be it further enacted,* That it shall be the duty of each of the inspectors, appointed by the Governor and Council by virtue of this Act, either by himself or his deputy; and of the several inspectors appointed by the Selectmen of towns as aforesaid, to inspect all stone lime, which shall be manufactured within the town wherein such inspector or inspectors reside, at the time the same shall be filled into casks, at the kiln where it is burnt; and to inspect the casks into which the same shall be put; and to see that the said lime and casks do, in all respects, conform to the provisions of this Act, and that the casks are well filled with such lime; and to brand each cask, when so filled, on one head thereof, with the name of the town where said lime was burnt and the first letter of the christian name, and the surname at length of the inspector or deputy inspector who inspected the same, with the word, **INSPECTED**; and if any such inspector or deputy inspector, shall so brand any lime cask, the contents of which he has not inspected, or shall brand any such cask as aforesaid which, or the contents wherein, do not in all respects conform to the true intent and meaning of this Act, or shall permit any other person or persons to use his brands in violation or evasion thereof, every such inspector or deputy inspector, so offending, shall forfeit and pay the sum of one dollar and fifty cents for every cask thus illegally branded by him or with his brands; and shall also be liable to pay all damages which any person may have sustained by reason of such neglect or misdoings; to be recovered by such person by an action of the case in any Court proper to try the same; which action, if the damages sus-

Duty of inspectors and deputies.

Penalty for neglect.

Liable also to damages to party injured.

tained be by reason of the neglect or misdoings of any deputy, may be brought either against such deputy or against the inspector who shall have appointed him.

Compensation to inspectors and deputies.

SEC. 6. *Be it further enacted,* That each inspector or deputy inspector appointed by virtue of this Act, shall be paid by the manufacturer or owner of said lime, three and an half cents for each cask of lime inspected and branded according to the provisions of this Act; and each of the inspectors appointed by the Governor and Council, as aforesaid, shall be entitled to receive from any deputy by him appointed one half cent for every cask of lime said deputy shall inspect and brand as aforesaid.

Penalty for selling, &c. any lime in other casks than such as are allowed by this act.

SEC. 7. *Be it further enacted,* That if any person shall sell or expose to sale, or ship or receive on board of any vessel, in casks, any lime other than such as shall be contained in casks made as aforesaid, and having the aforesaid marks or brands of an inspector or deputy inspector as required by this Act respectively, the offender or offenders shall incur the penalty of one dollar and fifty cents for each cask of lime so illegally sold or offered for sale, or shipped or received on board any vessel.

Penalty for shifting contents of branded casks with fraudulent design.

SEC. 8. *Be it further enacted.* That if after any cask or casks containing lime, shall have been branded as required by this Act, any person shall presume to shift the contents of said cask or casks, and put therein any other lime with a design to sell the same, such person so offending shall forfeit and pay the sum of one dollar and fifty cents for every cask of lime so shifted.

Penalties, how recovered, &c.

SEC. 9. *Be it further enacted,* That all penalties and forfeitures incurred by virtue of this Act shall be recovered by action of debt by and for the use of any person or persons who shall sue therefor, and in any Court competent to try the same

Any person having recovered judgment for penalties or damages against any inspector or deputy, may sue his bond, in name of obligee, &c.

SEC. 10. *Be it further enacted,* That when any judgment shall be recovered against any such inspector or deputy inspector for damages or penalties or forfeitures on account of any neglect or misdoings in his said office, and the execution which shall have issued thereon shall be returned unsatisfied, and the said judgment still remaining in full force, the judgment creditor shall be entitled to a certified copy of such inspector or deputy inspector's bond, and shall have a right to commence and prosecute to final judgment, and for his own benefit, an action thereon, in the name of the legal obligee in such bond, the writ being first endorsed by the party for whose benefit the suit is brought, or his agent or attorney, which endorser shall be answerable for all costs; and judgment when for the defendant, shall accordingly be rendered against the party for whose benefit said action was brought.

Form of execution on judgment in such action.

SEC. 11. *Be it further enacted,* That when judgment is rendered on any bond as aforesaid, execution shall be awarded for the sum found due to the party for whose benefit said ac-

tion was brought, and being part of the penalty forfeited. And any execution which shall issue on said judgment shall express therein the name of the party for the use and benefit of whom the same was awarded; and if the execution shall be levied on any personal or real estate of the debtor, such levy shall enure to such party for his sole use and benefit, to every intent and purpose.

When levied to enure to the use of such creditor.

SEC. 12. *Be it further enacted*, That this Act shall have effect and be in force from and after the first day of June next, when all laws now in force relating to the subject of this Act shall be repealed and cease to have effect: *Provided*, That any inspector or deputy inspector to be appointed by virtue of this Act may be appointed and qualified in pursuance of the same at any time from and after the passage thereof. And that nothing in this Act contained shall in any manner affect any contract or agreement which may have been or shall be entered into, prior to the fifteenth day of March current, by writing under seal for the sale and delivery of lime in casks containing fifty gallons each, at any place out of this State, subsequent to the said first day of June; and it shall be lawful for any person in pursuance of such contract or agreement to ship, and for the master of any vessel to receive on board lime, contained in casks of fifty gallons, after the said first day of June, the same having been first inspected and branded according to the laws in force in this State at the time of entering into such contract or agreement; and any inspector or deputy inspector, who shall be appointed by virtue of this Act, is hereby authorized and empowered to inspect and brand the same according to the laws now in force.

When and how this act is to operate.

Not to affect contracts made prior to 15th of March, 1821, as to lime to be exported, &c.

[Approved March 15, 1821.]

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CHAPTER CLVII.

An Act to regulate the Manufacture of Nails within this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Governor by and with the advice and consent of the Council, be, and he hereby is empowered to appoint one suitable person to be inspector of nails; whose duty it shall be to examine every cask of wrought nails which shall be brought to him for inspection, by opening such cask, turning out the nails contained therein, weighing them, and ascertaining the number of them necessary to make a pound, their quality, (both as respects the workmanship of them, and the iron of which they are made,) and shall then proceed and make, mark or brand on the head of such cask, the number thereof, the whole weight of the cask and nails, the weight of the cask only, or the tare, the number of nails necessary to make a pound, and also the

Governor to appoint an inspector of nails.

His duty.

quality thereof, to wit: first sort, second sort, and third sort, or refuse; and shall also thereupon stamp his name at large, and the title of his office.

Inspector to appoint his deputies.

SEC. 2. *Be it further enacted,* That the inspector to be appointed as aforesaid, he and hereby is authorized to appoint, within any town in this State, from which nails are usually exported; a deputy or deputies, who are hereby authorized and empowered to do and perform all the duties incumbent on the said inspector by law, in their respective towns; and the said inspector and his deputies shall severally give bonds to the State with sufficient sureties, in the opinion of the Governor and Council, and in such sum as they may direct, and shall also be under oath, for the faithful discharge of the duties of their office, previous to their entering on the duties thereof, and the bonds so given shall be lodged in the public treasury.

Inspector and deputies to give bond, and to be under oath.

Casks which are required to be branded.

SEC. 3. *Be it further enacted,* That this Act shall not constrain the inspector to mark or brand the head of any cask, containing any nails, thirty-five whereof shall weigh more than one pound; but beginning at thirty-five, it shall be his duty to observe five as the progressing number, in the number of nails necessary to weigh a pound, in any cask which he shall be required to inspect; always choosing and marking such progressive number as aforesaid, to which the number of nails in a pound nearest approaches.

Inspector to give certificate of number, weight, &c.

SEC. 4. *Be it further enacted,* That the inspector shall give a certificate or weight note, expressing the number of the cask, the whole weight, the weight of tare, and the number of nails in a pound, agreeable to his marks of inspection, with the quality of the nails in said casks; and that all wrought nails shall hereafter be sold by the pound or by real thousands, delivering and receiving so many pounds for a thousand as will produce ten net hundreds, agreeable to the marks of inspection; and all nail casks shall be made of seasoned timber.

Wrought nails to be sold by the pound, or by real thousands.

Casks, how to be made and hooped and size of them.

SEC. 5. *Be it further enacted,* That it shall be the duty of said inspector and his deputies respectively, to see that every cask containing such nails, shall be well made, of sufficient strength, and well lined at both heads; the cask to be secured with eight or more good hoops, and to contain not more than three hundred and fifty pounds of nails. And in case any such cask shall, (in the opinion of such inspector or deputy,) be unfit for use, it shall be by him condemned; and if any hoops be wanting to complete the number before mentioned, on any cask otherwise fit for use, he shall put on the same, at the expense of the person applying for inspection as aforesaid.

Duty of inspector as to bad casks.

Penalty for exporting from this State nails not inspected and marked, &c.

SEC. 6. *Be it further enacted,* That no person shall export from this State, by land or water, any cask, package or quantity of nails, which shall not be inspected, marked and

branded as aforesaid; as of the first or second or third sort, upon the pain of forfeiting a sum equal to the value of each cask, package or quantity so exported; to be sued for and recovered by action of debt, in any Court proper to try the same; one half to the use of the prosecutor, and the other half to the use of such town, from whence they may be exported: and the like penalty may be in like manner and to like uses prosecuted for, against, and recovered of any master of any vessel which shall receive on board for exportation; or any waggoner who shall export as aforesaid, any such nails not inspected, marked and branded as aforesaid.

How recovered.

Like penalty for master of vessel receiving such nails on board.

SEC. 7. *Be it further enacted,* That any package or cask of wrought nails, manufactured in this State, or in any other of the United States, which shall be brought into this State for sale, and shall be put on board any vessel, waggon, or carriage for transportation, or conveyance by land or water, from this State, or shall be offered for sale in any store, street or elsewhere, without being first inspected and branded, agreeable to this Act, shall be forfeited. And it shall be lawful for any Justice of Peace, on information given of any such nails not inspected and marked as aforesaid, to issue his warrant, directed to the Sheriff or his deputy, or Constable, requiring them respectively, to make seizure of all such nails, not marked, and to secure the same in order for trial; and such officers are hereby respectively empowered and required to execute the same.

Nails made in any other State and brought into this, not to be sold here, or put on board vessel for exportation from this State, until inspected and branded.

Justice may issue his warrant to seize such nails for trial.

SEC. 8. *Be it further enacted,* That if the said inspector or any of his deputies, shall, on application made for the inspection of any cask or casks of nails as aforesaid, unreasonably delay to make such inspection, he shall forfeit and pay for each offence, the sum of four dollars, to be recovered and applied as the forfeiture herein before mentioned.

Penalty for inspector's neglecting to inspect, when requested.

SEC. 9. *Be it further enacted,* That if any person shall counterfeit any brand used, or intended to be used for the purposes aforesaid, or shall brand, mark or impress any cask of nails with any such brand or counterfeit thereof; or put into any cask inspected or branded as aforesaid, any other nails than those contained therein, when the same shall have been so inspected, with intent to sell or export any such nails so put in as aforesaid, he shall for each cask, into which nails, shall be so put, forfeit and pay the sum of twenty dollars to be recovered and applied, as the foregoing forfeitures herein mentioned are directed to be recovered and applied.

Penalty for counterfeiting brand,

or putting other nails into inspected casks, with intent to sell or export.

SEC. 10. *Be it further enacted,* That cut nails and brads of all sizes, shall be packed in good, strong and sufficient casks, made of seasoned timber, and well hooped; and shall not contain more than three hundred net pounds in a cask; the nails and brads to be well made, and packed, free from waste pieces of iron, (unless refuse nails or brads,) or any fraudulent mixture increasing the weight; the manufacturer, (who

Cut nails and brads how to be packed and branded.

shall also be the owner of such nails or brads,) shall brand the initial of his christian name, and his surname at large, on the side of each cask; also the name of the town where the manufacturer resides, in plain legible letters; and shall also mark the true and just weight of the tare of said cask with a brand or marking iron, under the name of the town.

Nails or brads attempted to be sold or exported, not being inspected, may be seized, &c.

Penalty on owner, &c. for fraud in packing, &c.

Penalty for counterfeiting brand, or altering marks, &c.

Penalty on owner, master, &c. of any vessel &c. for receiving such nails on board, intended for exportation, if not branded, &c.

Penalties, how recovered, &c.

Deputy inspectors to make return to inspector once in 3 months.

Inspector annually in May to make return to Secretary of Sta e, &c.

SEC. 11. *Be it further enacted,* That if any cask, package or quantity of cut nails, or brads, not branded or marked as aforesaid, shall be offered for sale, or shall be put on board any vessel or carriage of transport, to be conveyed out of this State, the same shall be forfeited and liable to seizure; and the manufacturer and owner, as aforesaid, shall, for each and every pound of tare, more than is marked on the cask and for each and every pound of refuse scraps or waste, which shall be mixed with said nails or brads, forfeit and pay one dollar for each and every pound of extra tare or waste.

SEC. 12. *Be it further enacted,* That if any person shall counterfeit any brand, used or intended to be used for the purpose aforesaid; or shall destroy or alter any mark or impression made by another person's brand on any cask of cut nails or brads, and cause a different impression by such counterfeit brand to be marked or impressed thereon; or shall shift any cut nails or brads, from one branded cask to another, and thereby avail himself of another person's brand; every person so offending shall forfeit the sum of twenty dollars.

SEC. 13. *Be it further enacted,* That if any master, mate, owner or other person, shall receive on board any vessel or carriage of conveyance, any cask or other quantity of cut nails or brads, which are apparently intended to be transported out of this State, and are not branded and marked as provided and directed by this Act; he or they shall forfeit and pay a sum equal to the full amount of such nails.

SEC. 14. *Be it further enacted,* That all penalties and forfeitures arising by force and virtue of the eleventh, twelfth and thirteenth sections of this Act, shall be recovered and applied in the same way and manner as is provided for the recovery and application of penalties and forfeitures under the sixth section of this Act.

SEC. 15. *Be it further enacted,* That it shall be the duty of the several deputy inspectors aforesaid, once in three months, and oftener if required, to make returns to the inspector, of the number of casks by them respectively inspected, together with the quantity of nails of each kind; and the inspector of nails shall annually in the month of May, and oftener if required, make return of the number of casks, and weight of wrought and cut nails, specifying the different quantities of each by him and his deputies inspected, into the office of the Secretary of this State. And the inspector shall make up the returns before specified, to the first day of May

of each year, and send in their returns to the Secretary's office in the course of the same month.

SEC. 16. *Be it further enacted,* That the Inspector General and his deputies legally appointed and now in office, shall continue to hold and enjoy their respective offices, until others shall be appointed in their stead.

Present inspectors and deputies to remain in office.

[Approved February 28, 1821.]

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CHAPTER CLVIII.

An Act for the admeasurement of Boards, and regulating the sale on Shingles, Clapboards, Hoops and Staves, and for other purposes.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That there shall be one or more suitable persons elected in every town in this State, at their annual meeting in the month of March or April, to be surveyors and measurers of boards, plank, timber and slitwork, and surveyors of shingles, clapboards, staves and hoops, who shall be sworn to the faithful performance of the trust reposed in them, and in each maritime town in this State from whence staves or hoops are usually exported beyond sea, there shall be two or more suitable persons chosen by such towns, at their annual meeting in March or April, to be viewers and cullers of staves and hoops, who shall be under oath faithfully to discharge their office; and for their encouragement to accept this trust, they shall be allowed for their time and service as provided in the eleventh section of this Act; and all boards, plank, timber or slitwork offered for sale, shall previous thereto be surveyed, and also measured, by one of the said surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking, who shall also mark anew all such to the just contents thereof, making reasonable allowance [*for*] rots, knots and splits.

Towns to choose surveyors of boards, timber, &c. in March or April;

who shall be sworn.

Maritime towns to choose also viewers and cullers of staves and hoops, to be sworn.

Boards, &c. to be surveyed and measured previous to sale.

SEC. 2. *Be it further enacted,* That no pine boards shall be shipped for exportation to foreign markets, but such as are square edged, and not less than seven eighths of an inch in thickness, and not less than ten feet in length, on pain of being forfeited to the use of the town where they shall be shipped: *Provided,* That a proper allowance shall be made for the drying and shrinking of pine boards, and that such as shall be three fourths of an inch thick after being fully seasoned, or in the same proportion as to thickness, being partly seasoned, shall be accounted merchantable, and may be sold here as such, or shipped or exported to any market.

Quality of boards allowed to be shipped for foreign market.

Allowance to be made for drying and shrinking of pine boards.

SEC. 3. *Be it further enacted,* That no shingles, clapboards, staves or hoops shall be offered for sale in any town in this State, that shall be under the following dimensions, viz. all shingles shall be split crossways the grain, and be eighteen

Dimensions of shingles, &c.

Size of bundles
of shingles.

Shingles to be
surveyed be-
fore sent from
the town
where made.

Forfeiture if
not.

Dimensions of
staves.

Dimensions of
clapboards.

inches long, unless those made for home use; pine shingles shall be free from sap, and all shingles shall be free from shakes and worm holes, and shall be half an inch thick at the butt end, when green, and full three eighths of an inch, when thoroughly seasoned, if for exportation to a foreign market; and not less than one third of an inch thick at the butt, when fully seasoned, if for home use, and four inches wide on an average, and none less than three inches wide, and shall hold their width three fourths of the way to the thin end, and be well shaved; and each bundle shall contain two hundred and fifty shingles; or if bound in square bundles, shall contain twenty-five courses, and measure twenty-two inches and a half at the lay: and in case there shall be more than five shingles in any one bundle that are under the above length, breadth or thickness, or five short in the tale of any one bundle of two hundred and fifty, the bundle which is so deficient, or in which such shingles are contained, shall be forfeited, and the shingles in each bundle which are not merchantable, shall be burnt and the residue sold, and the money arising from the sale shall be paid into the hands of the town Treasurer for the benefit of the poor of such town where the shingles are condemned, first deducting therefrom the charge of culling and surveying. And before any shingles are sent from the town where they are made, or at the place of first sale, before their delivery, they shall be viewed, surveyed and measured by a sworn surveyor, and the town brand set upon the hoop of the bundle; and all shingles offered for sale without being surveyed and marked as aforesaid, shall be forfeited and disposed of as before provided. And all white oak butt staves, shall be at least five feet in length, five inches wide, and one inch and a quarter thick on the heart, or thinnest edge, and every part thereof. And all white oak pipe staves, shall be at least four feet and eight inches in length, four inches broad in the narrowest part, and not less than three quarters of an inch thick on the heart or thinnest edge. And all white oak hogshead staves shall be at least forty-two inches long, and not less than half an inch thick on the heart or thinnest edge. And all white oak barrel staves, for a foreign market, shall be thirty-two inches long; and for home use shall be thirty inches long; and all shall be half an inch thick on the heart or thinnest edge. And all white oak hogshead and barrel staves shall be at least, one with another, four inches in breadth and none less than three inches in breadth in the narrowest part; and those of the breadth last mentioned shall be clear of sap. And all red oak hogshead and barrel staves, shall be of the same length, width and thickness with the white oak hogshead and barrel staves above mentioned: and all staves shall be well and proportionably split. And all pine clapboards that shall be exposed to sale, shall be made of good sound

timber clear of sap, and all clapboards shall be free from shakes and worm holes, and of the following dimensions, viz. full five eighths of an inch on the back or thickest part, five inches wide, and four feet six inches long, and they shall be straight and well shaved or sawed. And all hogshead hoops that shall be exposed to sale, or exported, shall be from ten to thirteen feet in length, and shall be made of white oak or walnut, and of good and sufficient substance, well shaved; those made of oak shall be not less than one inch broad, at the least end, and those made of walnut shall be not less than three quarters of an inch broad at the least end; each bundle shall consist of thirty hoops; and all hoops of ten, twelve and thirteen feet respectively, shall be made up in distinct bundles by themselves; and if any hoops are packed of less dimensions than those prescribed by this law, or if any bundle shall contain less than thirty hoops, such bundle shall be forfeited and sold for the benefit of the poor of the town where it is offered for sale.

Dimensions of hoops.

SEC. 4. *Be it further enacted*, That all staves that shall be exported from this State beyond sea, shall be first culled, and all hoops first viewed and surveyed by one of the officers aforesaid, and a certificate given by the culler or surveyor, to the master or commander of the ship or vessel on board which they are laden, of the quantity by him so culled or surveyed; and the bands with which the bundles of hoops are bound, shall be sealed with the brand of the town from whence they are exported; and that all shingles and clapboards that shall be exported beyond sea shall likewise be certified by one of the surveyors already required by law to be chosen in each maritime town within this State, to have been by him surveyed, viewed and approved, and the number or quantity thereof; and any sellers of boards, staves, hoops, clapboards or shingles, that shall deliver any of the said articles before they are culled or surveyed, shall forfeit the sum of two dollars per thousand; and any person purchasing any of the articles before mentioned, and who shall receive them before they are culled or surveyed, shall forfeit and pay the sum of two dollars per thousand, one half to the informer who shall sue for the same, in any Court in this State proper to try the same, or before any magistrate within this State in case the forfeiture does not exceed seven dollars; the other half to the poor of the town where the offence is committed.

Staves to be culled and hoops surveyed and shingles and clapboards certified before exportation.

Penalty for violation, &c.

How recovered and distributed.

SEC. 5. *Be it further enacted*, That the master or owner of any vessel having any staves, hoops, boards, clapboards or shingles on board, for their cargo, and which shall be shipped for exportation to a foreign market shall, before such vessel shall be cleared at the custom house, produce to the collector a certificate of such staves, hoops, clapboards, boards and shingles, having been culled or surveyed, and shall likewise

Certificate of survey, &c. to be delivered collector, under oath, before vessel is cleared.

make oath before the Collector, (who is hereby empowered to administer the same,) or before any Justice of the Peace who shall give a certificate of the said oath, which shall by the master or owner be transmitted to the Collector, that the boards, staves, hoops, clapboards, and shingles, on board his vessel, are bona fide the same boards, staves, hoops, clapboards and shingles, certified to have been culled or surveyed, and that he has no other on board, and that he will not take any others on board.

Penalty for shipping boards, staves, &c. before surveyed, &c.

SEC. 6. *Be it further enacted*, That if any person shall presume to ship off any boards, staves, hoops, clapboards or shingles, unless the same shall first have been culled or surveyed, and marked by a sworn culler or surveyor as aforesaid, he shall forfeit and pay the sum of two dollars per thousand to be reckoned by feet or tale, according as the articles are usually sold, to be disposed of, one half to the poor of the town where the offence is committed, and the other half to the surveyor, or any other person or persons who shall sue for the same, which he or they are hereby enabled to do, by action, bill, plaint or information, in any Court proper to try the same, or before any Justice of the Peace if the forfeiture does not exceed seven dollars.

Additional penalty for owner or master of vessel violating this act.

SEC. 7. *Be it further enacted*, That in addition to the penalty of two dollars per thousand, as mentioned in this Act for the shipping of lumber otherwise than is herein prescribed, (to be reckoned by feet or tale according as the articles are usually sold,) whenever it shall appear that any of the kinds of lumber mentioned in this Act have been exported in any vessel whatever out of this State, to any port or place not within the same, unless the said lumber has been first culled or surveyed agreeable to this Act; the master or owner of such vessel, shall, for the first offence, forfeit and pay the sum of two hundred dollars; and for the second offence, the vessel so carrying the said lumber as aforesaid, being afterwards found in any part of this State, shall be forfeited, to be recovered and applied in like manner as is provided by this Act, for recovering and applying the penalty of two dollars per thousand as aforesaid.

This act to extend to exportation to another State, as well as to parts beyond sea.

SEC. 8. *Be it further enacted*, That wherever the restriction upon the shipping of any kind of lumber is mentioned in any of the clauses of this Act, to or for any foreign market, or beyond sea, the same shall be considered and understood to extend to any port or place not within this State, and that previous to any Collector's clearing out any vessel with lumber to any port or place not within this State, the like certificate of such staves, hoops, clapboards and shingles having been culled or surveyed, shall be produced, and the same oath administered, as is required to be produced and administered by this Act for the exportation of lumber to a foreign market.

SEC. 9. *Be it further enacted*, That if any person or per-

sons who shall be duly chosen to serve as a surveyor of boards, clapboards or shingles, or as a culler of staves or hoops, shall refuse or neglect to take the oath for the faithful discharge of the office, or to serve therein, every such person or persons shall pay the sum of three dollars, to the use of the poor of the town choosing such person or persons, and every such town shall proceed to the choice of other or others in the room of any person so refusing or neglecting, and so *toties quoties*.

Penalty for surveyor, &c. refusing to be sworn.

SEC. 10. *Be it further enacted*, That in case any culler or surveyor, shall connive at, or allow of the breach of this Act, or shall be guilty of any fraud or deceit in surveying or culling of boards, staves, hoops, clapboards, or shingles, he shall forfeit and pay the sum of thirty dollars for each offence; and in case of his refusal to attend the aforesaid service, when he shall be thereto requested, he shall forfeit and pay the sum of three dollars; the forfeitures and penalties in such cases to be recovered and disposed of as aforesaid.

Penalty for surveyor or culler, &c. acting fraudulently in discharge of his duty.

SEC. 11. *Be it further enacted*, That the following fees shall be allowed to the officers aforesaid, viz. the buyer shall pay to the surveyor of boards, plank, timber and slitwork, eight cents per thousand feet for viewing only, and eight cents per thousand feet more for measuring and marking, and so in proportion for a lesser quantity. And the surveyor of shingles and clapboards shall be allowed by the buyer eight cents per thousand for surveying and telling, and the viewers and cullers of staves and hoops shall be allowed twenty-five cents per thousand for barrel staves, thirty-three cents per thousand for hogshead and butt staves, as well refuse as merchantable; the merchantable to be paid for by the buyer, the refuse by the seller, and the culler shall be allowed forty cents per thousand for hoops.

Fees allowed to surveyors, cullers, &c.

[Approved March 16, 1821.]

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CHAPTER CLXIX.

An Act relating to Hogshead Shooks.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That all white oak hogshead shoos shall be made of staves of at least forty-one inches in length, and not less than half an inch thick, on the thinnest edge, and the head to be twenty-nine inches across the same, and shall be three fourths of an inch thick when worked; and the staves and heading to be sound, and clear of sap, knots, and rents. All shoos of red oak, and other wood, shall be of the same dimensions and thickness as the white oak shoos, with heads of the same wood as the staves, or with good sound white pine heads not less than seven eighths

Size and quality of hogshead shoos.

of an inch thick ; the materials to be well seasoned, and the shooks and heading to be made in a good and workmanlike manner ; and in all cases each shook shall contain staves sufficient for a cask to contain at least one hundred gallons.

Shooks to be branded before sale, and how.

SEC. 2. *Be it further enacted,* That all new shooks before being sold, shall be branded, with the first letter of the owner's or maker's christian name, and with his surname at large ; and if any person shall brand any shook with any other than his own, or his employer's name, he shall for each shook so branded forfeit one dollar.

Penalty for counterfeiting brand.

Selectmen to appoint inspectors of shooks ;

SEC. 3. *Be it further enacted,* That in each town where shooks are manufactured, or shipped, the Selectmen of such towns shall appoint one or more persons, not exceeding three in any one town, to be inspectors of shooks, who shall severally be sworn to the faithful performance of their duty, and shall give bonds with sufficient sureties in the sum of five hundred dollars, conditioned for the true and faithful performance of his trust, to the Treasurer of the town where he is appointed, and the Selectmen, shall be judges of the sufficiency of the sureties ; and any person who shall sustain any injury, by the malfeasance, or neglect of any inspector, shall be entitled to a copy of such bond, and to bring an action thereon, in the name of such Treasurer, or his successor in that office, to his own benefit, and judgment shall be rendered thereon and execution issue for such sum in damages as such person shall be entitled to recover, against such inspector and his sureties ; which action may be brought before any Court of competent jurisdiction. It shall be the duty of the aforesaid inspectors to examine all shooks that may be offered for sale, or made in the towns where they severally reside, and shall stamp or brand all such shooks which shall be good and well made according to the provision of this Act, with the first letter of his christian name and his surname at large, with the letters Ins. and the name of the town for which he is appointed. And such inspector in order fully to examine and satisfy himself of the quality of any shooks, is authorized to remove the hoops, or binders if he shall deem it necessary, but to be by him replaced if found good and merchantable.

who shall be sworn and give bond.

Persons injured may sue on such bond ; and how.

Duty of such inspectors.

SEC. 4. *Be it further enacted,* That if any person shall alter, or erase the mark of any inspector, or shall mark or brand any shook with the name of any inspector, he shall forfeit for each offence, two dollars, and if any person shall put on board any vessel for exportation, any shooks which shall not have been inspected and marked as is herein provided, he shall forfeit and pay one dollar for each shook, to be paid by the owner or owners of such shooks.

Penalty for altering or erasing brands or putting on board vessel any shooks not inspected and marked.

Inspector's fees.

SEC. 5. *Be it further enacted,* That the fees to be paid to the inspector, shall be two cents for each shook, to be paid by the purchaser ; and all fines and forfeitures accru-

Fines, how recovered.

ing under this Act may be recovered to the use of any person who shall sue therefor, in an action of debt, before any Court proper to try the same: *Provided*, That this Act shall be in force from and after the first day of November next, and not before.

[Approved March 20, 1821.]

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CHAPTER CLX.

An Act to prevent fraud in Fire wood, Bark or Coal, exposed to sale.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That all cord wood exposed to sale, shall be four feet long, including half of the scarf; and the cord being well and close-laid together, shall measure eight feet in length, four feet in width, and four feet in height.

Dimensions of cord wood.

SEC. 2. *Be it further enacted*, That in each town in this State, where the inhabitants, shall in town meeting legally assembled, judge and vote the same to be necessary; and wherein fire wood or bark is usually sold, the Selectmen shall annually, or as occasion may require, appoint one or more suitable persons, and conveniently situated in the town, to be measurers of wood and bark there exposed or brought in for sale, and shall give public notice thereof; which measurer or measurers shall be sworn to the faithful and diligent discharge of their office; and shall receive such fees or allowance for their service as the Selectmen shall appoint, to be paid by the driver of the wood or bark, and repaid by the buyer, where brought in by land, and by the wharfinger where brought in by water, and the measurer shall be entitled to his action therefor accordingly.

Selectmen to appoint measurers of wood and bark, where towns vote it necessary.

Measurers to be sworn.

Selectmen to appoint their fees.

SEC. 3. *Be it further enacted*, That if any fire wood or bark brought by land into any town for sale, wherein such measurers shall be so appointed, shall be offered for sale before the same shall be measured by such measurer, and a ticket signed by him and delivered to the driver, certifying the quantity of wood the load contains, the name of the driver and the town in which he resides, such wood or bark shall be forfeited; two thirds to the use of the poor of the town, where offered for sale, and the other third part thereof to the measurer or any other person who shall prosecute for the same.

Wood or bark if offered for sale before the same is measured and a ticket given, to be forfeited.

Appropriation of penalty.

SEC. 4. *Be it further enacted*, That all cord wood brought in by water into any town for sale, shall be measured by a measurer duly appointed and sworn as aforesaid; and in order thereto, the wood so brought in, shall be corded and piled by itself upon the wharf or land whereon the same shall be landed, in ranges, making up in height what shall be wanting in length; at which time it shall be so measured, and a

Cord wood brought by water to be measured and a ticket given, after being piled on the wharf.

ticket given to the purchaser, who shall be obliged to pay the stated fees or allowance for such service as appointed by the Selectmen.

No fire wood to be carried from the wharf before it is measured, except, &c.

SEC. 5. *Be it further enacted,* That if any wharfinger or carter shall cart or carry any fire wood from any wharf or landing place in any town, (except for the use and consumption of such wharfinger or carter,) before the same shall have been measured by some measurer appointed as aforesaid, he shall forfeit and pay one dollar for every load of wood so carried off; one moiety thereof to the use of the poor of the town, where the offence shall be committed, and the other moiety to any person who shall prosecute for the same.

Penalty and appropriation thereof.

Persons carting wood from wharf to be furnished with a ticket.

SEC. 6. *Be it further enacted,* That every wharfinger, carter or driver, that shall cart or carry any fire wood from any wharf or landing place in any town, shall be furnished by the owner or seller of such wood, with a ticket, certifying the quantity the load contains and the name of the driver. And if any fire wood shall be carted or carried as aforesaid, without such ticket accompanying the same; or if any driver shall refuse to produce and shew such ticket, on demand, to any measurer, duly sworn as aforesaid, or his consent to have the same measured; or if such ticket shall certify a greater quantity of wood than the load contains, in the opinion of the measurer aforesaid, after measuring the same, such wood shall be forfeited and seized; two thirds to the use of the poor of the town, where offered for sale, and the other one third to the measurer or whoever shall prosecute for the same; to be recovered as the other forfeitures in this Act are directed to be recovered: *Provided nevertheless,* That nothing herein contained shall be construed to extend to any person or persons, who shall transport or cart or cause to be transported or carted from any wharf or landing place, to his or their own dwelling houses or stores, any cord wood which he or they shall have purchased on such wharf or landing place, or shall have landed thereon upon his or their own account.

Ticket to be shewn to a wood-measurer, on demand.

Wood to be forfeited if not truly certified.

Appropriation of forfeiture.

Proviso in favor of those who cart their own wood from the wharf or landing to their dwellings.

Dimensions of charcoal baskets.

SEC. 7. *Be it further enacted,* That all baskets used in measuring charcoal brought into any town for sale, shall contain two bushels, and be of the following dimensions, to wit: nineteen inches in breadth in every part thereof, and seventeen inches and a half deep, measuring from the top of the basket to the highest part of the bottom; and that the basket be well heaped, and also be sealed by the sealer of the town where the person so using the same, shall usually inhabit or reside; and every person who shall measure the charcoal offered for sale in any basket of less dimensions, or not sealed as aforesaid, shall forfeit and pay for each offence, fifty cents, to the uses mentioned in the fifth section of this Act; and such basket shall be destroyed.

To be sealed.

Penalty for measuring coal in baskets too small or unsealed.

SEC. 8. *Be it further enacted,* That the Selectmen of any

town, where coal is usually sold, shall have power to appoint Selectmen may appoint some person to seize such baskets. as occasion may require, some suitable person to seize and secure all baskets improved for measuring coal, that shall not be of the dimensions aforesaid, and sealed as aforesaid, and to prosecute such person or persons as shall be guilty of a breach of this Act.

SEC. 9. *Be it further enacted,* That all the forfeitures Forfeitures, how recovered. aforesaid, may be recovered, with costs of suit, by action of debt before any Court proper to try the same.

[Approved March 8, 1821.]

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CHAPTER CLXI.

An Act to prevent the exportation of unmanufactured Calf Skins, and to encourage the manufacture of Leather Boots and Shoes.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no unmanufactured calf skins shall be exported from this State by land or water; and if the owner or owners of any green or unmanufactured calf skins, or other person or persons employed by him or them, shall lade, or put on board of any vessel or float, bound out of this State, any green or unmanufactured calf skins: or if any master of any ship or vessel, or other officer or mariner shall receive on board any unmanufactured calf skins as aforesaid, the person or persons so offending, shall incur the penalty of two dollars for each and every unmanufactured calf skin, so shipped or attempted to be shipped; to be sued for, and recovered in any Court within this State, proper to try the same, to any person who will prosecute therefor. Calf skins unmanufactured, not to be exported, under penalty of, &c.

SEC. 2. *Be it further enacted,* That each manufacturer of leather, or of boots, half boots, shoes, pumps, sandals, slippers, or golo shoes, shall have the exclusive right of stamping said articles, by him or her manufactured, with the initial letter of his or her christian name, and his or her surname at large; and such stamping shall be considered as a warranty, that the article stamped, is merchantable, being made of good materials and well manufactured. Leather boots, shoes, &c. may be stamped by the maker, which shall be a warranty of the goodness of such articles.

SEC. 3. *Be it further enacted,* That any person who shall fraudulently stamp, or aid and abet in fraudulently stamping, either of the articles aforesaid, with the name or stamp of any other person, on due conviction thereof, shall be punished as guilty of a fraud, either by fine not exceeding twenty dollars, or by imprisonment, not exceeding six months, or by both these punishments, at the discretion of the Court having cognizance thereof. Penalty for counterfeiting the stamp.

[Approved February 19, 1821.]

CHAPTER CLXII.

An Act to provide for the proof of Fire Arms.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the Governor, by and with the consent of the Council, be, and he hereby is empowered to appoint suitable persons, to be provers of the barrels of all new, or unused fire arms; and it shall be the duty of each person so appointed, to prove and try the strength of the barrels of all fire arms which shall be offered him for that purpose, in such manner as to satisfy himself of the strength of the same; and shall in a permanent manner, mark and number every barrel by him so proved, and make, and deliver to the person applying to have the same proved, a certificate for each barrel proved, and found good in the form following:

Governor to appoint provers of gun barrels.

Barrels to be marked and certificate given.

I certify that on this day of A. D. 18 I proved for , a musket, pistol, or rifle barrel, (as the case may be,) and which is numbered and marked as in the margin, and that the same is good and strong.

A. B. Prover of fire arms.

SEC. 2. *Be it further enacted,* That each prover shall be entitled to receive from the person applying to have such barrel proved, twenty-five cents, in addition to the expense of the powder necessary for that purpose for each barrel so proved; whether the same shall stand the proof and be marked or not.

Prover's fees.

SEC. 3. *Be it further enacted,* That if any person shall sell or offer for sale within this State, any new, or unused musket, rifle or pistol barrel, without having the same first proved, marked and certified according to the provisions of this Act, he shall forfeit for each barrel so sold, the sum of ten dollars, to be recovered by an action of debt before any Court proper to try the same; to the use of any person who shall sue for and recover the same, or by indictment to the use of the State.

Penalty for selling guns or pistols, not proved and marked.

How recovered.

SEC. 4. *Be it further enacted,* That if any person shall falsely alter the stamp or mark or the certificate of any prover of fire arms, appointed as aforesaid, and be convicted thereof before any Court proper to try the same, he shall forfeit and pay a fine of not more than one hundred dollars, nor less than twenty dollars, according to the nature and aggravation of the offence, for the use of the State.

Penalty for altering marks or certificates.

[Approved March 10, 1821.]

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CHAPTER CLXIII.

An Act regulating the packing and selling of Paper within this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That all paper, excepting

Paper made or offered for sale

paper of foreign manufacture, press paper, bonnet paper and such paper as is usually sold by weight, which shall be made or offered for sale within this State, shall be packed in reams, each ream containing twenty quires, and each quire twenty-four sheets; and on the centre of the face of each ream, shall be pasted a piece of substantial white paper, at least four inches square, having the name or names of the manufacturer or manufacturers, and his or their place of residence, and also the words "ONE REAM," legibly stamped thereon: *Provided however,* That printing paper may be packed in parcels of two reams each, and on the centre of the face of each parcel so packed, shall be pasted a piece of substantial white paper, at least four inches square having the name or names of the manufacturer or manufacturers, and his or their places of residence, and also the words "Two REAMS," legibly stamped thereupon.

to be packed in reams, &c.

bearing name of maker, place of abode, &c.

Provide as to printing paper.

SEC. 2. *Be it further enacted,* That any and every person so making or offering for sale, or selling paper except as aforesaid, not packed and stamped as aforesaid, or who shall transport, or cause to be transported out of this State, or shall put on board any vessel, or other carriage of conveyance, with intention to transport the same out of this State, any paper except as aforesaid, not packed and stamped as aforesaid, shall, for each offence, forfeit and pay the sum of four dollars for each ream, package or parcel so offered for sale, or sold, or which shall be transported out of this State, or which shall be put on board of any vessel or other carriage of conveyance, with intention to transport the same out of this State.

Penalty for selling or disposing in any way of paper not so packed and marked.

SEC. 3. *Be it further enacted,* That the penalties in this Act shall be recovered in an action of debt, in any Court having jurisdiction to try the same; one moiety thereof to the use of the county in which such offence shall be committed, the other moiety thereof to the use of the person suing for the same; and all such paper not packed or not stamped as aforesaid, shall also at all times be liable to be seized to the use of any person, who may seize the same, provided the person, so seizing, shall, within seven days after the seizure, commence his action as aforesaid, and shall prosecute the same to the recovery of the penalty aforesaid.

Penalties, how recovered and appropriated.

[Approved February 19, 1821.]

CHAPTER CLXIV.

An Act to organize, govern, and discipline the Militia of this State.

Laws of the United States, relating to the Militia, now in force.

Preamble.
United States
militia law,
May 3, 1792.

WHEREAS, Congress on the eighth day of May, in the year of our Lord one thousand seven hundred and ninety-two, passed the following law, entitled "An Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States."

Persons to be
enrolled.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, of the United States of America in Congress assembled, That each and every free, able bodied, white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years, (except as is herein after excepted,) shall severally and respectively be enrolled in the Militia, by the Captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this Act. And it shall at all times hereafter be the duty of every such Captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, (except as before excepted,) shall come to reside within his bounds, and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot pouch, and powder horn, twenty balls, suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided, when called out to exercise, or into service, except that when called out on company days, to exercise only, he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword or hanger, and esponton; and that from and after five years from the passing of this Act, all muskets for arming the militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements required as aforesaid, shall hold the same exempt from all suits, distresses, execution of sales for debt, or for the payment of taxes.

Duty of cap-
tains, &c. as to
enrolling.

Notice of en-
rolment.

Arms and
equipments.

Arms, &c. ex-
empted from
attachment.

Exempts.

SEC. 2. *And be it further enacted,* That the Vice President of the United States, the officers, Judicial and Executive of the Government of the United States, the members of both Houses of Congress, and their respective officers; all Custom

House Officers, with their Clerks; all Post Officers and Stage Drivers, who are employed in the care and conveyance of the Mail of the Post Office of the United States; all Ferry-men, employed at any ferry, on the post road; all inspectors of Exports; all Pilots; all Mariners, actually employed in the sea service of any citizen or merchant, within the United States; and all persons who now are, or may hereafter be exempted by the laws of the respective States, shall be, and are hereby exempted from military duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

SEC. 3. *And be it further enacted*, That within one year after the passing of this Act, the Militia of the respective States shall be arranged into Divisions, Brigades, Regiments, Battalions and Companies, as the Legislature of each State shall direct; and each division, brigade, and regiment, shall be numbered at the formation thereof; and a record made of such numbers, in the Adjutant General's office, in the State; and when in the field, or in service in the State, each division, brigade and regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number, highest in rank. That if the same be convenient, each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty-four privates. That the said Militia shall be officered by the respective States, as follows: To each division, one Major General, and two Aids-de-Camp, with the rank of Major; to each brigade, one Brigadier General, with one Brigade Inspector, to serve also as Brigadier Major, with the rank of a Major; to each regiment, one Lieutenant Colonel Commandant; and to each battalion, one Major; to each company, one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Drummer and Fifer, or Bugler. That there shall be a Regimental Staff, to consist of one Adjutant, and one Quarter Master, to rank as Lieutenants; one Pay Master, one Surgeon, and one Surgeon's mate; one Sergeant Major, one Drum Major, and one Fife Major.

SEC. 4. *And be it further enacted*, That out of the Militia enrolled as is herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse; there shall be to each company of artillery, one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombardiers, one Drummer and one Fifer. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one

Arrangement
of the militia.

How officered.

[See laws of
Congress, April
20, 1816, Sec. 1,
altering this
section.]

Grenadiers,
light infantry
and riflemen.

Officers of ar-
tillery, and

cavalry.

Captain, two Lieutenants, one Cornet, four Sergeants, four Corporals, one Saddler, one Farrier and one Trumpeter. The commissioned officers to furnish themselves with good horses, of at least fourteen hands and a half high, and to be armed with a sword and a pair of pistols, the holsters of which to be covered with bear skin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and a half high, a good saddle, bridle, mailpillion and valise, holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre and cartouch box, to contain twelve cartridges for pistols. That each company of artillery, and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the Commander in Chief of the State, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the color and fashion to be determined by the Brigadier commanding the brigade to which they belong.

How to be furnished with horses, &c.

Artillery and cavalry how raised.

Uniform.

Colours, drums, bugles, &c. how furnished.

Adjutant General:

his duty.

Returns to be made to adjutant general.

Rank of officers.

SEC. 5. *And be it further enacted,* That each battalion and regiment shall be provided with the State and regimental colours, by the field officers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the Legislature of the respective States shall direct.

SEC. 6. *And be it further enacted,* That there shall be an Adjutant General appointed in each State, whose duty it shall be to distribute orders from the Commander in Chief of the State to the several corps; to attend all public reviews, when the Commander in Chief of the State shall review the Militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline, established by this Act, to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the States, returns of all the Militia under their command, reporting the annual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing that relates to the general advancement of good order and discipline; all which the several officers of the divisions, brigades, regiments and battalions, are hereby required to make, in the usual manner, so that the said Adjutant General may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same annually before the Commander in Chief of the State.

SEC. 7. *And be it further enacted,* That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by

them before the commanding officer of the brigade, regiment, battalion, company or detachment.

SEC. 8. *And be it further enacted,* That if any person, Disabled officers and soldiers. whether officer or soldier, belonging to the Militia of any State, and called into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of, and provided for, at the public expense.

SEC. 9. *And be it further enacted,* That it shall be the duty Brigade inspector's duty. of the Brigade Inspector, to attend the regimental and battalion meetings of the Militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercises and manœuvres, and introduce the system of military discipline before described, throughout the brigade, agreeably to law, and such orders as they shall, from time to time, receive from the Commander in Chief of the State; to make returns to the Adjutant General of the State, at least once in every year, of the Militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition, of the several corps, and every other thing which, in his judgment, may relate to the government and the general advancement of good order and military discipline; and the Adjutant General shall make a return of Adjutant general to make returns to Governor and President. all the Militia of the State to the Commander in Chief of the said State, and a duplicate of the same to the President of the United States. And whereas sundry corps of artillery, cavalry and infantry, now exist in several of the said States, which, by the laws, customs or usages thereof, have not been incorporated with, or subject to, the general regulations of the Militia :

SEC. 10. *And be it further enacted,* That such corps retain Privileges to certain corps confirmed. their accustomed privileges, subject nevertheless to all other duties required by this Act, in like manner with the other Militia.

And, whereas, Congress, on the second day of March, in the year of our Lord one thousand eight hundred and three, Additional act of Congress, March 2, 1803. passed the following additional law, entitled,

"An Act in addition to an Act entitled, an Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall be the duty of the Adjutant General of the Militia in each State, to make return of the Militia in each to which he belongs, with their arms, accoutrements and ammunition, agreeably to the directions of the Act, to which this is in addition, to the President of the United States annually, on or before the first Monday in January in each year; and it shall be the duty of the Secretary of War, from time to time, to give such directions to the Adjutant Generals of the Mili- Adjutant general to make annual returns to President U. S.

tia, as shall in his opinion be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before Congress on or before the first Monday of February annually.

Duty of persons enrolled.

SEC. 2. *And be it further enacted,* That every citizen duly enrolled in the Militia, shall be constantly provided with arms, accoutrements and ammunition, agreeably to the direction of the said Act, from and after he shall be duly notified of his enrolment; and any notice or warning to the citizens so enrolled to attend a company, battalion or regimental muster or training, which shall be according to the laws of the State in which it is given for that purpose, shall be deemed a legal notice of his enrolment.

Legal notice of enrolment.

Quarter master general, brigade quarter master, and chaplain to regiment.

SEC. 3. *And be it further enacted,* That in addition to the officers provided by the said Act, there shall be to the Militia of each State, one Quarter Master General; to each brigade one Quarter Master of Brigade; and to each regiment, one Chaplain.

Additional law of United States, April 18, 1814.

And whereas, Congress, on the 18th day of April, in the year of our Lord one thousand eight hundred and fourteen, passed the following laws, entitled an Act in further addition to an Act, entitled,

“An Act more effectually to provide for the national defence, by establishing an uniform Militia through the United States.”

Division inspector, division quarter master, brigade aid-de-camp;

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the officers of Militia provided for by the Act entitled an Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States, approved May the eighth, one thousand seven hundred and ninety-two, and by an Act in addition to said recited Act, approved March the second, one thousand eight hundred and three, there shall be to each division, one Division Inspector, with the rank of Lieutenant Colonel, and one Division Quarter Master, with the rank of Major; to each brigade one Aid-de-Camp, with rank of Captain, and the Quarter Masters of Brigades heretofore provided for by law, shall have the rank of Captain.

their duties.

And it shall be incumbent on the said officers to do and perform all the duties which by law and military principles are attached to their offices respectively;

Act of Congress, April 20, 1816.

And whereas Congress on the twentieth day of April in the year of our Lord one thousand eight hundred and sixteen, passed the following law, entitled,

“An Act concerning the Field Officers of the Militia.”

One colonel, lieutenant colonel, and major to each regiment.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the first day of May next, instead of one Lieutenant Colonel Commandant to each regiment, and one Major to each battalion of the Militia, as is provided by the Act, en-

titled "An Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States, approved May the eighth, one thousand seven hundred and ninety-two, there shall be one Colonel, one Lieutenant Colonel, and one Major to each regiment of Militia, consisting of two battalions; where there shall be only one battalion, it shall be commanded by a Major: *Provided*, That nothing contained herein shall be construed to annul any commission in the Militia which may be in force as granted by the authority of any State or Territory, in pursuance of the Act herein recited, and bearing date prior to the said first day of May next."

And whereas, Congress on the twelfth day of May, in the year of our Lord one thousand eight hundred and twenty, passed the following additional law, entitled,

"An Act to establish an uniform mode of discipline and field exercise for the Militia of the United States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the system of discipline and field exercise which is and shall be ordered to be observed by the regular army of the United States in the different corps of infantry, artillery and riflemen, shall also be observed by the Militia in the exercises and discipline of the said corps respectively throughout the United States.

Act of Congress, May 12, 1830.

Discipline, system of established.

SEC. 2. *And be it further enacted*, That so much of the Act of Congress approved the eighth day of May one thousand seven hundred and ninety-two, as approves and establishes the rules and discipline of the Baron de Steuben, and requires them to be observed by the Militia throughout the United States, be, and the same is hereby repealed.

Repeal of part of act of Congress of May 8, 1792.

MILITIA LAW.

SEC. 1. **BE** *it enacted by the Senate and House of Representatives, in Legislature assembled*, That, in addition to the exemptions made by the foregoing laws of the United States, the Justices of the Supreme Judicial Court; all regularly ordained Ministers of the Gospel, of every denomination, while they shall ordinarily officiate as such, and continue in regular standing; all officers, who have heretofore held, or may hereafter hold commissions in the Militia of this State for the term of five years, or shall have been superseded, or whose corps or company shall have been disbanded, and who have been honorably discharged; and every person of the religious denominations of Quakers and Shakers who shall on or before the first Monday of April annually, produce a certificate to the commanding officer of the company within whose bounds such Quaker or Shaker resides; which certificate, signed by two or more of the elders or overseers, (as the case may be,) and countersigned by the Clerk of the society with which such

Militia law of the State.

Exempts, absolute.

Quaker or Shaker meets for religious worship, shall be in substance as follows :

" We, the subscribers, of the Society of the people called in the town of in the county of do hereby certify that is a member of our Society, and that he frequently and usually attends with said Society, for religious worship, and conforms to the usages of the same, and we believe is conscientiously scrupulous of bearing arms.

E. F. Clerk.

A. B. } Elders or Overseers."
C. D. } [as the case may be.]

Notwithstanding their being above the age of eighteen and under the age of forty-five years, be, and they are hereby exempted from the performance of military duty; but no other able bodied white male citizen between those ages shall be exempted from military duty except such as are hereinafter excepted.

SEC. 2. *Be it further enacted*, That each of the persons, hereinafter mentioned, may be exempted from the performance of military duty, notwithstanding their being of the age of eighteen years and under the age of forty-five years, viz : All officers, who have held or may hereafter hold commissions in the Army or Navy of the United States, or in the Militia of any of the United States; and all officers, who have held or may hereafter hold commissions in the Militia of this State for a term less than five years, and have been discharged otherwise than in pursuance of any sentence of a Court Martial; and all Staff-officers, who shall have ceased to act as such, in consequence of the resignation, promotion or removal of the officers, who appointed them; and such Engine men between thirty and forty-five years of age as shall annually produce to the commanding officer of the company within whose bounds they reside, certificates from the Selectmen of their respective towns, that they have been legally appointed and are bound to perform the duties of Engine men, and that there are not more than ten appointed to any one engine: *Provided*, That each person so exempted shall pay to the Treasurer of the town or plantation, within which such exempt resides, two dollars annually, and produce his receipt therefor to the commanding officer of the company within the bounds of which he resides, on or before the first Monday of April, in each year: *Provided also*, Nothing contained in this section shall be construed to prevent the conditional exempts, therein named, from being called forth to execute the laws of the United States, or of this State, to suppress insurrection and repel invasion.

SEC. 3. *Be it further enacted*, That all persons liable by law to the performance of military duty, who are or may be between the ages of forty and forty-five years, be, and they hereby are exempted from all military duty, except that of being detached or called forth to execute the laws of the

Exempts conditional.

Proviso. for payment of two dollars annually.

Conditional exempts may be called forth in certain cases.

Exempts partial, between 40 and 45 years of age.

United States, or of this State, to suppress insurrections and repel invasions, and of keeping themselves constantly furnished with the arms and equipments required by the laws of the United States, and the duty of carrying or sending them on the first Tuesday of May annually, to the place of inspection or view of arms of the company within the bounds of which they may reside, and in which they may be enrolled; and the duty of attending the election of company officers.

SEC. 4. *Be it further enacted,* That the said Treasurers shall severally keep a fair account of all monies by them received by virtue of this Act, subject at all times to the inspection of any of the commanding officers of the company or companies in the towns or plantations, to which they belong; and shall annually, on or before the second Wednesday of January, transmit to the Treasurer of the State, a fair account of all monies so by them received; and shall within thirty days thereafter pay the amount thereof into the treasury of this State, and the same shall there constitute a fund to be appropriated and disposed of as the Legislature shall, from time to time direct, for the sole purpose of arming, equipping and uniforming the militia.

Treasurers of towns to keep account of monies received of conditional exemptions and pay over to State treasurer.

SEC. 5. *Be it further enacted,* That all students of any College, Theological Seminary, or Academy, shall be enrolled and held to do duty only in the towns and plantations, wherein their residence is established according law.

Students of colleges, &c. to be enrolled in the towns where their residence is by law established.

SEC. 6. *Be it further enacted,* That the Governor be, and he hereby is authorized and empowered, by and with the advice of the Council, to organize and arrange the militia of this State, conformably to the laws of the United States, and to make such alterations therein, as from time to time, may be deemed necessary. And that all applications or petitions for raising companies at large, and for alterations in the arrangement of the militia, shall be made to the Governor, and he by and with the advice and consent of the Council, is hereby authorized to grant such petitions or applications as to him may appear proper: *Provided,* The present organization and arrangement of the militia shall continue until the Governor, with advice of the Council, shall otherwise order.

Governor and council to arrange and organize the militia.

and to authorize raising companies at large.

SEC. 7. *Be it further enacted,* That the commissioned officers of the militia, named in the aforesaid laws of the United States, shall be chosen and appointed in manner following:

Commissioned officers how chosen and appointed.

The Major Generals

The Adjutant General and Quarter Master General

{ To be chosen by the Senate and House of Representatives, each having a negative on the other, and to be commissioned by the Governor.
 { To be appointed by the Governor or with the advice of Council, with the rank of Brigadier General.

<i>The Division Inspectors</i>	}	To be appointed by the Major Generals of their respective Divisions, with the rank of Lieut. Colonel.
<i>The Aids-de Camp of the Major Generals</i>		To be appointed by their respective Major Generals, with the rank of Major.
<i>The Division Quarter Masters</i>		To be appointed by the Major Generals of their respective Divisions, with the rank of Major.
<i>The Brigadier Generals</i>		To be chosen by the written votes of the field officers of their respective brigades.
<i>The Brigade Majors</i>		To be appointed by their respective Brigadier Generals, with the rank of Major.
<i>The Aids-de-Camp and Quarter Masters of brigades</i>		To be appointed by the Brigadier Generals of their respective brigades, with the rank of Captain.
<i>The field officers of regiments and battalions</i>		To be chosen by the written votes of the Captains and subalterns of their respective regiments and battalions.
<i>The Captains and Subalterns of companies</i>		To be chosen by the written votes of the members of their respective companies.
<i>The Adjutants, the Quarter Masters and the Pay Masters of regiments</i>		To be appointed by the Colonels of their respective regiments, with the rank of Lieutenant.
<i>The Chaplains, the Surgeons, and the Surgeons' Mates of regiments</i>		To be appointed by the Colonels of their respective regiments.

And the aforesaid officers shall be commissioned by the Governor.

Non-commissioned officers, how appointed.

SEC. 8. *Be it further enacted*, That the non-commissioned officers, named in the aforesaid laws of the United States, shall be appointed in the manner following :

<i>The non-commissioned officers of companies</i>	}	To be appointed by the Captains of their respective companies, who shall forthwith make return thereof to the Commanding officers of their respective regiments or battalions and they shall grant them warrants accordingly.
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Governor's aids.

SEC. 9. *Be it further enacted*, That in addition to the commissioned and non-commissioned officers above enumerated, the following officers and non-commissioned officers shall be appointed in the manner following :

Aids-de-Camp to the Commander in Chief, not to exceed four in number

To be appointed and commissioned by the Governor, with the rank of Lieutenant Colonel.

A Judge Advocate for each Division

To be nominated by the Major General of each Division, and if approved by the Governor, to be commissioned by him, with the rank of Major.

Judge Advocate.

An Adjutant and a Quarter Master to each battalion of artillery and cavalry

To be appointed by the Commanding officers of their respective battalions, and to be commissioned by the Governor, with the rank of Lieutenant.

Adjutant and quarter master of artillery and cavalry.

A Quarter Master Sergeant, and a Sergeant Major to each regiment, and a Drum and Fife Major, Master, Deputy Master and Musicians of the regimental bands

To be appointed by the Colonels of their respective regiments, who shall grant them warrants accordingly.

Non-commissioned regimental staff officers.

A Quarter Master Sergeant to each battalion of Artillery and Cavalry

To be appointed by the Commanding officers of their respective battalions, who shall grant them warrants accordingly.

Battalion do. in artillery and cavalry.

SEC. 10. *Be it further enacted,* That each Major General, be and he hereby is authorized, and it shall be his duty from time to time to give all such orders, as may be necessary, for filling by election any vacancy or vacancies of Brigadier General, Field Officer, Captain or Subaltern which does now or may hereafter exist, within his division. And previous to any such election, the electors shall have ten 'days' notice thereof at least; and all returns of elections, or of neglects or refusals to elect, shall be made to the Commander in Chief, by the Major Generals in whose divisions such elections shall have been ordered; and in case of neglect or refusal by the electors to elect any officer, when duly notified and ordered thereto, the Governor with the advice of Council shall appoint some suitable person to fill such vacancy. And all commissions shall be transmitted to the Major Generals and be regularly passed down to the persons entitled to receive them. And every person, who shall be elected to any office as aforesaid, and shall not within ten days, after he shall have been notified of his election, by the officer who presided thereat, (excepting in case of the choice of Major General, who shall be allowed thirty days after he shall be notified by the Secretary of this State,) signify his acceptance thereof, shall be considered as declining to serve, and orders shall be forthwith issued for a new choice. And the commission of every officer shall designate the division, brigade, regiment or battalion, and the corps in which

Major general to give orders for elections of officers.

Electors to have 10 days' notice.

Returns to be made to Governor.

Governor to appoint when electors neglect.

Commissions to be sent to major general and passed down.

Officers elected allowed ten days to accept or decline; excepting major generals, who are allowed 30 days after notice of choice.

he shall be commissioned, and all officers shall take rank from the day of their elections or appointments respectively, which shall be designated in their commissions. And whenever an officer is transferred from one corps or station to another in the same grade, the day of the date of his original appointment or election shall be expressed in his new commission, and that day be considered the date of his commission. And when an officer shall, by fire or other casualty, lose his commission, upon his making an affidavit thereof, before any Judge or Justice of any Court of Record, in the county where he resides, on such affidavit being produced at the Adjutant General's office, he shall be entitled to receive a new commission of the same tenor and date as the one so lost as aforesaid. And all officers when on duty shall take rank by the dates of their commissions as above defined. And when two or more officers of the same grade are on duty together, and their commissions bear an equal date, and former pretensions of some commission do not decide, then their relative rank with each other shall be determined by lot, to be drawn by them before the Commanding officer present, and when on court martial before the president thereof.

Officers transferred, how to rank.

Loss of commission, how supplied.

Rank of officers on duty, by date of commissions:

when of equal grade and date, how settled.

Commissioned officer's oath of office.

Oath before whom.

Certificate of oath.

Clerk of company.

Oath of clerk.

SEC. 11. *Be it further enacted,* That every officer, duly commissioned in pursuance of the provisions of this Act, shall, before he enters upon the discharge of the duties of his office, take and subscribe the oaths required by the Constitution, before some Justice of the Peace, or before some superior Field, or General officer, or Staff officer of the rank of Field officer, who has previously taken and subscribed them himself. And on the back of every military commission the following form of certificate of qualification shall be printed.

“STATE OF MAINE.

This may certify, that _____, commissioned as within, on this _____ day of _____, A. D. 18—, personally appeared and took and subscribed the oaths required by the Constitution of this State, to qualify him to discharge the duties of his office. _____ Before me, _____.”

SEC. 12. *Be it further enacted,* That to every company there shall be a clerk, who shall be one of the sergeants, and he shall be appointed by the Captain or Commanding officer of the company, and on the back of his warrant as sergeant, the Captain or Commanding officer of the company, shall in writing certify, that he does thereby appoint him to be clerk of the company. And before such clerk enters upon the duties of his clerkship, he shall be sworn to the faithful discharge of his duty, by taking the following oath before the Captain, or Commanding officer of the company to which he belongs, who is hereby authorized to administer the same, viz.

“ I, A. B. do solemnly swear, that I will faithfully and im-

partially perform all the duties incumbent on me, as Clerk of the company to which I belong according to the best of my abilities and understanding. *So help me GOD.*"

And the Captain or Commanding officer of the company shall at the time of his administering said oath, certify on the back of the warrant of the sergeant appointed to be clerk that he was duly qualified, by taking the oath required by law. And it shall be the duty of the clerk to keep a fair and exact roll of the company, together with the state of the arms and equipments, belonging to each man, which roll he shall annually revise, in the month of May, and correct the same, from time to time, as the state of, and alterations in, the company may require; to register all orders and proceedings of the company, in the orderly book; to keep exact details of all drafts and detachments; to assist the Commanding officer of the company, in the enrolment thereof; and also in enrolling of all such persons without partiality or favor, liable to any military duty, coming to live within his company bounds, as he may from time to time be informed thereof; to distribute all company orders and notifications, which he may be required to do; to examine the equipments of the men, when ordered; to note all delinquencies, to sue for and recover all fines and forfeitures which are required by this Act, to be sued for and recovered by him; to keep accounts in the orderly book of all fines and forfeitures, and all other monies, collected by him, with the persons' names, of whom they were collected, and of the times when, and for what offence, neglect, default, or deficiency; which book shall not be alienated from the company, and shall always be open for the inspection of any officer of the company.

Captain to administer oath to clerk.

Duties of clerk.

SEC. 13. *Be it further enacted,* That the officers of the Militia, (chaplains excepted,) while on duty, shall wear a uniform dress, to consist of a blue cloth coat, with gilt buttons with a star raised thereon, and other articles of dress of such color and fashion, and with such equipments as shall be prescribed by the Commander in Chief; except where the same is regulated by the laws of the United States.

Uniform of officers of the militia.

SEC. 14. *Be it further enacted,* That every officer, non-commissioned officer, and private, shall hold his uniform exempted from all suits, distresses, executions or sales for debt, or the payment of taxes. And no officer, non-commissioned officer, nor private shall be arrested on any civil process, during his going unto, returning from, or his performance of military duty; nor during his going unto, remaining at, or returning from any place, at which he may be ordered to meet for the election of any officer or officers. And no officer shall be arrested on any civil process while going unto, serving upon, or returning from any court martial, court of inquiry, or board of officers, upon which it may be the duty of such officer to attend.

Uniform of officers and privates exempted from attachment, &c. Officers and privates exempted from arrest while on military duty, &c.

Officers, pri-
vates, &c. to
be constantly
armed and
equipped.

SEC. 15. *Be it further enacted,* That every officer, non-commissioned officer and private of infantry, light infantry, cavalry, artillery, grenadiers and riflemen, shall constantly keep himself furnished and provided with arms and equipments required by the laws of the United States before recited, except such private as shall not be able so to provide himself. And no private shall be considered unable to provide himself with the arms and equipments required as aforesaid, unless he shall produce, after the first day of April and before the first Tuesday of May annually, to the Commanding officer of the company to which he belongs, a certificate of such inability, from the Overseers of the poor of the town or district where he resides. And the Commanding officer of the company to which such private belongs, shall forthwith lay such certificate before the Selectmen of the town or district where such private resides. And it shall be the duty of such Selectmen, forthwith, at the expense of their respective towns or districts, to provide for every such private, the arms and equipments required as aforesaid, and they shall deposit the same in some safe and convenient place, and shall permit the Commanding officer of the company, to which such private, unable to provide himself, as aforesaid, belongs, to deliver such arms and equipments to such private, whenever his company shall be ordered out for any military duty. And the said Commanding officer shall be responsible for the safe return of such arms and equipments to the place of deposit.

Selectmen to
provide arms
and equip-
ments, in case
of inability of
privates to fur-
nish them-
selves.

Commanding
officers to be
responsible for
safe keeping of
arms, &c. so
provided.

Vacancies of
superior offi-
cers how pro-
vided for.

SEC. 16. *Be it further enacted,* That whenever the office of Major General, Brigadier General, Colonel, Major Commandant, or of Captain, shall be vacant, the officer next in grade and in commission, in the division, brigade, regiment, battalion, or company, shall exercise the command, and perform the duties thereof, until the vacancy shall be supplied. And in case of the sickness, absence, or other inability of the clerk of any company, the Commanding officer thereof is hereby authorized to appoint a clerk pro tempore, who shall be duly sworn before he enters on the duties of the office; and shall for the time expressed in his appointment or till specially discharged, have all the powers, and be subject to all the duties, and be liable to all the penalties of the clerk, in whose place he is put. And whenever a company shall have neither officers nor non-commissioned officers, the Commanding officer of the regiment or battalion, to which such company belongs, shall appoint suitable persons within said company to be non-commissioned officers of the same, and grant them warrants accordingly, one of which non-commissioned officers he shall appoint clerk, and shall endorse the warrant of the non-commissioned officer, appointed clerk, and administer the oath to him, as required by the Commanding officers of companies, in the twelfth section of this Act, and

Vacancies of
company offi-
cers how pro-
vided for.

the senior non-commissioned officer of a company, while there are no commissioned officers in office, shall command the same; and all the authorities and powers of Commanding officer shall be vested in him, until some commissioned officer shall be chosen or appointed and has qualified himself: *Provided however*, That when a company, destitute of commissioned officers, shall parade with other troops, the Commanding officer present shall assign some commissioned officer or officers to such destitute company, to command the same while on parade.

Company paraded without commissioned officers, how provided.

SEC. 17. *Be it further enacted*, That each brigade, where there are now, or may hereafter be, two companies of artillery, they shall form a battalion, and be entitled to a Major, an Adjutant, and a Quarter Master; that in each brigade, where there are now, or shall hereafter be, three companies of artillery, they shall still form one battalion; and that in each brigade, where there are now, or may hereafter be, four companies of artillery, they shall form a regiment of two battalions, and be entitled to a Colonel, Lieutenant Colonel, and Major. And each company of artillery shall be provided by the Quarter Master General with two good brass field pieces, of such calibre as the Commander in Chief may direct, with carriages and apparatus complete; an ammunition cart, forty round shot, and forty rounds of cannister shot; also tumbrils, harness, implements, laboratory, and ordnance stores, which may from time to time be necessary for their complete equipment for the field. And the Commander in Chief shall order to be issued, to each company of artillery, annually, a quantity of powder not exceeding forty pounds, which shall be expended on days of inspection or review, and in experimental gunnery. And the Commanding officer of every company of artillery shall be accountable for the careful preservation of the pieces, and all the apparatus aforesaid appertaining to their equipment, and for the proper expenditure of the ammunition supplied by the Government. And the Commanding officer of every company of artillery shall lay before the committee on accounts for allowance, his accounts of money actually expended in providing horses to draw the field pieces and tumbril of his company: *Provided however*, No allowance shall be made, unless such company is ordered to appear at a battalion, regimental, brigade, or division inspection, or review, or unless such company is ordered on duty by the Commander in Chief. And each Commanding officer of a company of artillery is hereby authorized to enlist three drivers, who, when enlisted, shall be exempted from other military duty, except that of keeping the harnesses and apparatus of the carriages, belonging to the company, in good order.

Artillery, how arranged and equipped.

Field pieces, how provided.

Ammunition, &c. to be furnished by quarter master general.

Proviso.

Drivers to be enlisted.

SEC. 18. *Be it further enacted*, That where there are now, or may hereafter be, two companies of cavalry in a brigade, they shall form a battalion, and be entitled to a

Cavalry, how arranged and equipped.

Major, on Adjutant and a Quarter Master. And in those brigades, where there are now, or may hereafter be, three companies of cavalry, they shall still form a battalion; and in each brigade, where there are now, or may hereafter be, four companies of cavalry, they shall form a regiment of two battalions, and be entitled to a Colonel, Lieutenant Colonel and Major. And if any non-commissioned officer or private of any company of cavalry shall be destitute of a suitable horse and furniture for more than two months, at one time, it shall be the duty of the Commanding officer of the company immediately to apply to the Brigadier General of the brigade, who may discharge such non-commissioned officer or private from such company, and cause him to be enrolled in the standing company within whose bounds he resides, and if he be a non-commissioned officer, he shall be considered as reduced to the ranks. And when any draft or detachment shall be made from any company of cavalry for actual service, the men drafted or detached shall march with their own horses, and before they march, if there be time, the horses shall be appraised by three impartial men, to be appointed by the Commanding officer of the brigade, to which the company belongs, from which the draft or detachment is ordered.

Men drafted from cavalry to have their horses appraised.

Cavalry, artillery, &c. not to be raised by reducing standing companies below 48 privates.

SEC. 19. *Be it further enacted,* That no company of cavalry, artillery, light infantry, grenadiers, or riflemen, shall be raised at large when any of the standing companies shall thereby be reduced to a less number than forty-eight effective privates; and if any officer of cavalry, artillery, light infantry, grenadiers, or riflemen, shall enlist any men, belonging to a standing company, or residing within the bounds thereof, for the purpose of forming or recruiting his company, when by means thereof such standing company would be reduced to a less number than forty-eight effective privates borne on the company roll, exclusive of those between the ages of forty and forty-five years, such enlistment shall be void. And if any company, raised at large, shall at any time be destitute of commissioned officers, and shall neglect to fill the vacancies for two months, after being ordered to choose officers to fill them, or if any such company shall be reduced to a less number than twenty privates, and remain so for three months, then in either case as aforesaid, such company shall be disbanded, and the men which belonged to such delinquent company shall be enrolled in the standing company within the bounds of which they respectively reside. And all companies, raised at large, and not annexed to any particular regiment, shall be subject to the orders of the Commanding officer of the brigade in which they have been raised; and shall make their elections of officers in the same manner as other companies, but shall make their returns of elections to the Commanding officer of the brigade.

Companies, raised at large, may be disbanded in certain cases.

And at all parades of regiments, the companies commanded by the two senior Captains shall act as light infantry companies, except where companies of light infantry, grenadiers, or riflemen, have been or may be hereafter raised and annexed to the regiment.

SEC. 20. *Be it further enacted,* That each Colonel or Commanding officer of a regiment be, and he hereby is authorized, to raise, by voluntary enlistment, within his own regiment, or any adjoining regiment, with the written consent of the Commanding officer of such regiment, and organize and establish within his regiment a band of music not to exceed twenty musicians, including one master and one deputy master, and the Colonel or Commanding officer shall grant the musicians, deputy master and master of such band, warrants as such.

Regimental
bands of music
to be raised.

How organized.

And each band shall be under the direction of the Commanding officer of the regiment in which it is organized.

And it shall be the duty of the master and deputy master, to teach, lead and command such band, and to issue all such orders as they may be, by their Colonel or Commanding officer, authorized to do for these purposes.

Duties, &c.

And each master, deputy master and musician shall constantly keep himself provided with the uniform of the band to which he belongs, which uniform is to be prescribed in the same manner as the uniform of the regiment to which the band belongs—and shall also keep himself constantly provided with such instrument or instruments, as may be directed by the Commanding officer of the regiment.

And the bands belonging to the regiments, shall also be under the Brigadier General or the Commanding officer of the brigade, (the senior master present, having the direction of said bands,) wherever the said regiments shall meet in brigade.

And if any master, deputy master or musician shall be guilty of any neglect of duty, disobedience of orders, disorderly or other unmilitary conduct, he shall forfeit not less than five nor more than twenty dollars, for each offence, one half thereof to the use of the officer, suing therefor, and the other half to the Colonel of the regiment, to which the offender may belong, for the purchase and repair of musical instruments for said band, to be sued for by the Adjutant of the regiment; or by the Brigade Major of the brigade, if assembled in brigade; in an action on the case before any Justice of the Peace in the county where the offender resides, and no appeal shall be allowed to either party; and such master, deputy master or musician, shall moreover be liable to be removed from the band at the discretion of the Colonel or Commanding officer of the regiment, within which such band is organized, and shall forthwith be enrolled as a private in the standing company, within the bounds of which he resides.

Musicians, how
punished for
neglect, dis-
obedience, &c.

And each master, deputy master and musician of a band,

Musicians ex-
empted from

other military duty.

shall be exempted from all military duty while belonging to the band, excepting such as shall be required of him by the Colonel or Commanding officer of the regiment, or by the Brigadier General or Commanding officer of the brigade when the regiments are assembled in brigade.

Companies to be paraded for inspection on the first Tuesday of May; and on two other days in the year for training.

SEC. 21. *Be it further enacted,* That every Commanding officer of a company shall parade his company on the first Tuesday of May annually, at one of the clock in the afternoon, for the purpose of inspecting, examining, and taking an exact account of all the equipments of his men, and for noting all delinquencies of appearance, and deficiencies of equipment, and for correcting his company roll, in order, that a thorough inspection of each company in the State may be made. And it shall be the duty of every Commanding officer of a company, to parade his company by his own order, on two several days in the year for training, in addition to the company inspection aforesaid; and on the three several days of training and inspection, to use his best exertions, in instructing and perfecting his men, in their company exercise and evolutions. And whenever the Commanding officer of a company, shall order out his company for inspection or training, or for any battalion, regimental, brigade, or division inspection, or review, he shall issue his orders to some one or more of the non-commissioned officers or privates of his company, requiring him or them, to notify the men belonging to his company to appear at the time and place appointed; and it shall be the duty of the non-commissioned officer or officers, private or privates, so ordered as aforesaid, to give notice of the time and place appointed for the parade of said company, to each and every man he or they shall have been ordered to notify, either verbally or by delivering to each man in person, or by leaving at his usual place of abode, a written or printed order. And no notice shall be legal, for any company inspection or training, or for any battalion, regimental, brigade, or division inspection, or review, unless the same shall be given four days at least previous to the time appointed therefor. *Provided always,* That in case of invasion, insurrection, or other emergency, any notice, however short, shall be legal and binding. And in all cases the testimony of the clerk or any other non-commissioned officer or private, who shall have received orders to notify the whole or any part of the men, of any company to appear at a time and place appointed, for any military duty, shall be conclusive to prove, that due notice was given to the party prosecuted, unless such testimony be invalidated by other evidence. And whenever any company shall be paraded, the Commanding officer of such company is hereby authorized verbally to notify the men so paraded, to appear on some future day, not exceeding thirty days from the time of such notification, and such notice shall be legal as it respects the

Made of notifying men to appear.

Legal notice.

Proof of notice.

Verbal notice.

men present: *Provided*, That no soldier shall be compelled to perform more than four days military duty in one year, except in time of war or public danger, and for choice of officers.

No soldier to be compelled to do military duty more than 4 days in a year.

SEC. 22. *Be it further enacted*, That every Commanding officer, when on duty, is hereby authorized to ascertain and fix necessary limits and bounds to his parade, (no road in which people usually travel to be included,) within which no spectator shall have a right to enter, without liberty from such Commanding officer; and in case any person shall intrude within the limits of the parade after being once forbidden, he shall be subject to be confined under guard during the time of the parade, or a shorter time, at the discretion of the Commanding officer.

Commanding officers to fix limits to their parade.

SEC. 23. *Be it further enacted*, That in all cases of doubt respecting the age of any person intended to be enrolled, the party questioned as to his age shall prove the same to the satisfaction of the enrolling officer; and if any person liable to military duty, upon application to him personally by the Commanding officer of the company, within the bounds of which such person resides, or upon application by any person acting under such Commanding officer, shall either refuse to give his name, or not give his name truly, every such person so offending, shall forfeit twelve dollars, to be sued for by the Clerk of the company in an action on the case before any Justice of the Peace of the county where such offender resides.

Age, how proved.

Penalty for refusing to give name, or false one, on inquiry.

SEC. 24. *Be it further enacted*, That when any non-commissioned officer or private in any company, shall receive orders from the Commanding officer of such company, to notify and warn such company, or any part thereof, to meet for the purpose of choosing any officer or officers, it shall be the duty of such non-commissioned officer or private, to give every person he is so ordered to warn, verbal notice, or to leave him a written or printed notification at his usual place of abode, specifying the time, place, and purpose of said meeting; and no election of a company officer shall be valid in future, unless a majority of the voters of the company are present at the election.

Mode of notifying for choice of officers.

SEC. 25. *Be it further enacted*, That each and every Captain or Commanding officer of any company is hereby empowered to enlist, as musicians for his company, and within the bounds of the same not exceeding two drummers and two fifers, or one fifer and one bugler, for and during the term of seven years, unless sooner discharged by removal to such distance from the said company, as to render it inconvenient for said musician to perform the duties required of him, or by reason of some other good and legal excuse. And any such musician, so enlisted, who after having been duly notified and warned shall refuse to perform his duty as musician at all legal meetings of said company, shall forfeit and pay for

Company musicians may be enlisted.

Penalty for neglect of duty, &c.

every such offence, the same sum as would be forfeited by any non-commissioned officer or private for non-appearance at any of said meetings; and in case of removal or discharge of any such musician, the said Captain or Commanding officer may from time to time enlist other musicians to fill such vacancy or vacancies.

Towns, &c.
to be provided
with ammunition :

SEC. 26. *Be it further enacted,* That every town and plantation within this State, shall provide and deposit, and constantly keep provided and deposited in some suitable and convenient place within said town or plantation, thirty-two pounds of good gunpowder; one hundred pounds of musket balls, each of the eighteenth part of a pound; one hundred twenty-eight flints, suitable for muskets; three copper, iron, or tin camp kettles, for every sixty-four soldiers enrolled within said town or plantation, except artillerists; and the same proportion of the aforesaid articles for a greater or a less number of soldiers enrolled as aforesaid. And every town or plantation, which shall neglect to keep itself constantly provided with the articles aforesaid, and in the proportions aforesaid, shall forfeit and pay to the use of the State, a sum not exceeding five hundred dollars, nor less than twenty dollars, according to the nature and degree of the neglect, to be recovered by indictment or information in any Court of competent jurisdiction. And it shall be the duty of each Quarter Master of regiments of infantry to cause every town or plantation within the bounds of his regiment, to be prosecuted or presented, which town or plantation he shall find upon his inspection to be deficient, either in the quality or quantity of military stores, required to be provided as aforesaid, or which he shall find to have neglected to make the provisions, or any part thereof required as aforesaid.

penalty for
neglect.

Quarter mas-
ters of infantry
to prosecute
delinquent
towns.

Quarter mas-
ters of regi-
ments to in-
spect town
military stores
in October,

and make re-
turn to brigade
quarter master
by first of No-
vember.

Brigade quar-
ter master to
make return to
division quar-
ter master by
first December,
and he to make
abstract of brig-
ade returns and
transmit copy

SEC. 27. *Be it further enacted,* That it shall be the duty of the Quarter Master of each regiment of infantry in the month of October annually, personally to examine, view and inspect the military stores, to be provided by every town and plantation as aforesaid, of each town and plantation within the bounds of his regiment, and to make out a return of all the articles of stores, with their quality and condition, in which he shall note all defects and deficiencies and shall transmit an attested copy thereof to the Quarter Master of the brigade, on or before the first day of November in the same year, and where in any town or plantation there are now, or may hereafter be companies belonging to more than one regiment, the Quarter Master of the senior regiment shall perform the duties aforesaid. And the Brigade Quarter Master shall form an abstract of all such returns and transmit an attested copy thereof to the Division Quarter Master, on or before the first day of December in the same year. And the Division Quarter Master shall form an abstract of all such brigade returns, and transmit an attested copy there-

of to the acting Quarter Master General of the State on or before the first day of January annually. And the Quarter Master General shall form an abstract of such division returns. And each said officer shall record the abstract, so by him made, in a book to be kept for that purpose, which book shall never be alienated from the corps, to which such officers respectively belong, and shall at all times be open for the inspection of the Commanding officers of said corps, and of the Selectmen of the towns and of the Assessors of plantations, in which such military stores were deposited.

SEC. 28. *Be it further enacted,* That it shall be the duty of the several Adjutants of regiments, and of battalions, annually to form a correct abstract of the returns of the several companies, composing his regiment or battalion, containing the names of the Commanding officers of the several companies, the number of non-commissioned officers, musicians, and privates, respectively belonging thereto, with their arms and equipments, and transmit the same, signed by the Commanding officer of his regiment or battalion and countersigned by himself, to the Brigade Inspector of his brigade on or before the first day of July in the same year; and it shall be the duty of the several Brigade Inspectors to make out correct returns from the Adjutants' returns and to transmit the same, signed by the Commanding officers of brigades and countersigned by themselves, to their Division Inspectors on or before the first day of August in the same year; and it shall be the duty of the several Division Inspectors to form similar returns from said brigade returns and to transmit the same, signed by the Commanding officers of divisions and countersigned by themselves, to the office of the Adjutant General on or before the first day of October in the same year. And it shall be the duty of the Adjutant General to form, sign and transmit one correct return of all such division returns to the Commander in Chief, and one to the President of the United States on or before the first day of January annually. And it shall be the duty of the several Commanding officers of regiments, brigades and divisions, to cause such abstracts and returns to be made and transmitted within the several times aforesaid, in all cases of absence or inability of the several Staff officers aforesaid or of vacancy in their offices. And it shall be the duty of each such Staff officer to record the returns by him made, in a book, to be kept for that purpose and which shall not be alienated from the corps, to which such officers respectively belong. And it shall be the duty of the Adjutant General to furnish such officers with proper books, and from time to time, with blanks, containing proper forms of the abstracts and returns aforesaid.

to quarter master general by 1st January. Quarter master general to form an abstract of division returns.

Adjutants of regiments, &c. to make abstracts of company returns, &c. and transmit them to brigade inspector, who will make and transmit abstracts to division inspector.

Division inspector to transmit abstracts to adjutant general by 1st of October.

Orderly books to be kept by staff officers.

SEC. 29. *Be it further enacted,* That the Selectmen of every town, and Assessors of plantations shall supply, at the

Selectmen of towns, &c. to supply powder for infantry.

their accounts for supplies to the Legislature for allowance. And whenever the Selectmen of any town or Assessors of any plantation from which a detachment or part thereof as aforesaid shall march, and being notified by the Commanding officer of such detachment or part thereof, belonging to such town or plantation, and shall neglect or refuse to furnish the necessary supplies, camp equipage, and camp utensils, the town or plantation to which the Selectmen or Assessors, neglecting or refusing as aforesaid, belong, shall forfeit not less than two hundred nor more than five hundred dollars, to be sued for and recovered by any person, who may prosecute for the same, in an action on the case, in any Court of competent jurisdiction, one moiety to the prosecutor, and the other to the use of the State. And the officer to whom, or by whose order any camp equipage or camp utensils, shall be delivered, shall be accountable for the same, unless injured or lost by some accident not in his power to prevent.

Penalty for neglect and refusal in such cases.

All the militia to be paraded for review, &c. once in a year.

Manner of notifying, &c.

SEC. 31. *Be it further enacted*, That all the troops of each division shall be paraded once in each year for review, inspection and discipline, either in brigades, regiments, or battalions of regiments, (regard being had to the scattered or compact situation of the troops,) at such times as the Commanding officer of the divisions may order. And when a brigade review or inspection is ordered, the Commanding officer of the brigade shall appoint the place, and give notice thereof to the Commanding officer of the division; when a regimental review or inspection is ordered, the Commanding officer of the regiment shall appoint the place, and give notice thereof to the Commanding officer of the brigade; and when a review or inspection of a regimental battalion is ordered, the Commanding officer of the regiment shall appoint the place, and give notice thereof to the Commanding officer of the brigade. And the places to be appointed for reviews or inspections as aforesaid, shall always be as central as, in the judgment of the officer pointing out the same, he may conveniently admit. And the artillery, cavalry, and infantry, shall be reviewed and inspected once in each year, either by themselves, or with the brigades, regiments, or battalions, as the Commanding officer of the division may order and direct. That no person appointed as a commissioned officer or private, shall be obliged to travel more than fifteen miles to attend a review.

SEC. 32. *Be it further enacted*, That no officer or private shall be helden to attend any duty on any day, or at any place, specially prescribed by law, in which such officer or private resides, shall appoint a representative to the Legislature.

expense of such town or plantation, or cause the Commanding officer of each company within said town or plantation to be supplied with one quarter of a pound of good powder made into suitable blank cartridges, for each non-commissioned officer and private borne on the company roll of such Commanding officer, exclusive of those between forty and forty-five years of age, whenever such Commanding officer's company is ordered to parade for review: *Provided*, Such Commanding officer makes a written application therefor, four days previous to such review, stating therein the number of men to be supplied; and each Commanding officer of such company shall return or account with said Selectmen for all powder he may have received over and above one quarter of a pound for each man actually on parade at the muster for which such powder was drawn.

Persons detached refusing to march, &c. penalty for.

SEC. 30. *Be it further enacted*, That whenever in case of threatened or actual invasion, insurrection, or other public danger or emergency, the Militia shall be ordered out, or any part thereof, shall be ordered to be detached or drafted by the Commander in Chief, any person who shall be ordered out, detached, or drafted in pursuance of, and obedience to such orders, and being notified thereof, and ordered to march to the place of rendezvous, and shall neglect or refuse to obey such orders, and shall not within twenty-four hours, after he shall have been notified as aforesaid, pay a fine of fifty dollars, to the Commanding officer of the company to which he belongs, or procure an able bodied man in his stead, such person shall be considered as a soldier, belonging to the detachment, and be dealt with accordingly. And all fines paid as aforesaid, shall be appropriated to the hire of men to complete the detachment. And the officers of any detachment, ordered to be made as aforesaid, shall be regularly detailed from the rosters, and the non-commissioned officers and privates by lot, from the company rolls: and when any company shall not be organized, the officer commanding the brigade or regiment, shall either by himself or some officer under him, proceed to make and complete the detachment, from such unorganized company. And whenever the Militia, or any part thereof, after having been ordered out or detached as aforesaid, and shall be ordered to march for the service of this State, each non-commissioned officer and private, so ordered to march, shall provide and take with him three days' provisions, unless otherwise ordered. And the Selectmen of every town and the Assessors of every plantation to which the men detached as aforesaid, and ordered to march for the service of this State, belong, shall provide and cause carriages to attend them with further supplies and provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the Commanding officer of the detachment to desist, and the Selectmen and Assessors shall present

Officers to command detachments, how detailed.

Three days provisions for men drafted.

Selectmen, &c. to furnish supplies, &c. for drafted men, and to be reimbursed by Legislature.

their accounts for supplies to the Legislature for allowance. And whenever the Selectmen of any town or Assessors of any plantation from which a detachment or part thereof as aforesaid shall march, and being notified by the Commanding officer of such detachment or part thereof, belonging to such town or plantation, and shall neglect or refuse to furnish the necessary supplies, camp equipage, and camp utensils, the town or plantation to which the Selectmen or Assessors, neglecting or refusing as aforesaid, belong, shall forfeit not less than two hundred nor more than five hundred dollars, to be sued for and recovered by any person, who may prosecute for the same, in an action on the case, in any Court of competent jurisdiction, one moiety to the prosecutor, and the other to the use of the State. And the officer to whom, or by whose order any camp equipage or camp utensils, shall be delivered, shall be accountable for the same, unless injured or lost by some accident not in his power to prevent.

Penalty for neglect and refusal in such cases.

SEC. 31. *Be it further enacted,* That all the troops of each division shall be paraded once in each year for review, inspection and discipline, either in brigades, regiments, or battalions of regiments, (regard being had to the scattered or compact situation of the troops,) at such times as the Commanding officer of the divisions may order. And when a brigade review or inspection is ordered, the Commanding officer of the brigade shall appoint the place, and give notice thereof to the Commanding officer of the division; when a regimental review or inspection is ordered, the Commanding officer of the regiment shall appoint the place, and give notice thereof to the Commanding officer of the brigade; and when a review or inspection of a regimental battalion is ordered, the Commanding officer of the regiment shall appoint the place, and give notice thereof to the Commanding officer of the brigade. And the places to be appointed for reviews or inspections as aforesaid, shall always be as central as, in the judgment of the officer pointing out the place, convenience will admit. And the artillery, cavalry, and other troops raised at large, and not annexed to any particular regiment, shall be reviewed and inspected once in each year, either by themselves, or with the brigades, regiments, or battalions of regiments, as the Commanding officer of the respective divisions may order and direct: *Provided,* That no officer, non-commissioned officer or private, shall be obliged to travel more than fifteen miles to any brigade review.

All the militia to be paraded for review, &c. once in a year.

Manner of notifying, &c.

No officer &c. compelled to travel more than 15 miles to brigade review.

SEC. 32. *Be it further enacted,* That no officer, non-commissioned officer or private shall be holden to perform any military duty on any day, (except on days which are or may be specially prescribed by law,) on which the Selectmen of the town in which such officer, non-commissioned officer or private resides, shall appoint a meeting for the election of a Representative to the Legislature, nor shall there be any

No military parade to be allowed on certain town meeting days.

military parade on the day pointed out by the Constitution of this State for the election of Governor, and Senators, nor on any day which may be appointed for the choice of electors of President and Vice President of the United States, or Representatives to Congress. And it shall not be lawful for any officer to parade his men on either of said days, unless in case of invasion made or threatened, or in obedience to the orders of the Commander in Chief, except as is herein before excepted.

State colours, drums, fife, &c. to be furnished by State.

SEC. 33. *Be it further enacted,* That each regiment of infantry and each battalion of cavalry or artillery shall be furnished with the State colours; and each company of infantry, artillery, light infantry, grenadiers and riflemen, shall be furnished with a drum and fife, or bugle horn, and each company of cavalry with a trumpet; and each Brigadier General after the first day of August next ensuing, is hereby authorized to draw orders upon the Quarter Master General in favor of the Commanding officers of regiments, battalions, and companies, for the above purposes, that the several regiments, battalions and companies may be supplied as aforesaid. And the Commanding officers of regiments and battalions shall be responsible for the safe keeping of their colours; and the Commanding officers of companies shall be responsible for the safe keeping of the drums, fises, bugle horns, and trumpets, delivered to them for the use of their companies; and it shall be the duty of the Quarter Master General to furnish such colours and musical instruments, and to present his accounts therefor to the Legislature for allowance. And the Adjutant General shall furnish blank orders for the Commanding officers of companies to order their non-commissioned officers and privates to notify their men to attend all the inspections, trainings and reviews, and meetings for the choice of officers, which shall be ordered; also blank notifications or orders, to be left with the men by the non-commissioned officers or privates, ordered to notify as aforesaid; and Clerk's complaints to Justices of the Peace; and it shall not be necessary that seals be affixed to any orders whatever.

Commanding officers responsible for safe keeping of colours, &c.

Adjutant general to furnish blank orders, &c.

Parents, masters, &c. to furnish their minors with arms and equipments.

SEC. 34. *Be it further enacted,* That all parents, masters or guardians, shall furnish all minors enrolled in the militia, who shall be under their care respectively, with the arms, and equipments, required by this Act; and if any parent, master or guardian, having any minor under his care, enrolled as aforesaid, shall neglect to provide such minor with the arms and equipments, required by this Act; or if said minor shall absent himself from any meeting of the company, to which he belongs, required by law, without sufficient excuse, the said parent, master or guardian is hereby subjected and made liable to the same forfeitures as such minor would be liable to, for a like deficiency, neglect or non-

appearance, if such minor were of age; and all persons liable by this Act to military duty, shall be allowed six months, immediately from and after their arrival at the age of eighteen years, and not afterwards, within which to furnish themselves with the arms and equipments required by law: *Provided however*, That such parents, masters, or guardians as shall produce, on or before the first Tuesday of May annually, certificates from the Overseers of the poor of the town or district in which they reside, of their inability to provide arms and equipments as aforesaid, to the Commanding officer of the company in which the minor under their care is enrolled, shall be exempted from the forfeitures aforesaid.

Six months allowed for providing arms and equipments.

Proviso respecting those unable to arm and equip.

SEC. 35. *Be it further enacted*, That no non-commissioned officer or private of any company shall be exempted from military duty on account of bodily infirmity, unless he shall obtain from the Surgeon or Surgeon's mate of the regiment to which he belongs, if either of those officers are commissioned in such regiments; if not, from some respectable physician, living within the bounds of the same, a certificate that he is unable to perform military duty on account of bodily infirmity, the nature of which infirmity is to be described in said certificate, and the Commanding officer of the company may, on the back of such certificate, discharge the non-commissioned officer or private, named therein, from performing military duty, for such a term of time, as he shall judge reasonable, not exceeding one year, which certificate, if approved and countersigned by the Commanding officer of the regiment, or battalion, to which the disabled non-commissioned officer or private belongs, shall entitle him to exemption from military duty for the time specified. And any non-commissioned officer or private, having obtained a certificate as aforesaid, and who may be refused a discharge, may apply to the Commanding officer of the regiment for further examination of his case, and if on such examination, the Commanding officer of the regiment shall be well satisfied that the bodily infirmity of such non-commissioned officer or private is such that he ought to be discharged, he is hereby authorized to discharge him from military duty for such time as he shall judge reasonable, not exceeding one year, which being certified by the Commanding officer of the regiment on the back of the certificate, shall discharge the non-commissioned officer, or private, from military duty for the time specified by the Commanding officer of the regiment.

No invalid exemptions allowed without surgeon's certificate.

Certificates to be countersigned.

SEC. 36. *Be it further enacted*, That if any non-commissioned officer or private shall be killed, or die of wounds received when on any military duty required by this Act, his widow, child or children, shall receive from the Legislature such relief as shall be just and reasonable. And if any officer, non-commissioned officer or private, shall be wounded,

Pensions to be allowed in certain cases of death or wounds, when on duty.

or otherwise disabled when on such duty, he shall receive from the State just and reasonable relief.

COURTS MARTIALS.

Courts martial general and division, how appointed.

SEC. 37. *Be it further enacted,* That the Commander in Chief shall appoint general courts martial for the trial of all officers above the rank of Captain; and the Major Generals, or Commanding officers of divisions, each within his own division, shall appoint division courts martial for the trial of Captains and officers under that rank; and whenever a court martial is ordered, the officer ordering it shall appoint the president and marshal of the same; and if it be a general court martial, orders shall be issued to such divisions, as, in the opinion of the Commander in Chief, may most conveniently furnish the members thereof; if it be a division court martial, orders shall be issued to such brigades, regiments, battalions, or companies, within the division, as in the opinion of the Major General or Commanding officer of the division, may most conveniently furnish the members thereof. The president of a general court martial shall in no case be under the rank of Brigadier General, and the president of a division court martial shall in no case be under the rank of Colonel; and if any such officer appointed to serve as president of such court shall be sick or necessarily detained from serving, the officer who ordered the court, shall, as soon as advised thereof, and without delay, appoint some other officer of the same grade to be president of said court, who shall forthwith, on receiving notice thereof, repair to the place where the court was ordered to sit, provided the time for sitting of said court has arrived. And whenever the Commanding officer of a division, brigade, regiment, or battalion, shall be ordered to furnish any officer or officers, as member or members, supernumerary or supernumeraries of a court martial, such officer or officers, including Staff officers, shall be regularly detailed from the roster of the division, brigade, regiment, or battalion, by the Commanding officers thereof, respectively, forthwith, after having received orders therefor as aforesaid; and the Commanding officers of divisions, brigades, and regiments, shall furnish the officers next below them in grade, with a certified copy of the rosters of the Staff officers respectively; but no Staff officer shall be detailed to serve on any court martial or court of inquiry in any case where the officer who appointed such Staff officer is to be tried, or has preferred charges against another officer: *Provided however,* That in case of inability, sickness, or absence of any officer whose turn it would be to serve on a court martial, the detailing officer shall certify such circumstance to the officer who ordered the court martial, and detail the officer next in rotation. And the officers, ordered to be detailed to serve on courts martial, shall be detailed in the following manner: Major Generals, by the Commander in

Case of sickness or absence of president.

Members of court, how detailed.

Chief, or his orders, from the general roster; Brigadier Generals, by the Commanding officers of divisions, from the division rosters; Colonels, Lieutenant Colonels, and Majors, by the Commanding officers of brigades, from the brigade rosters; and Captains and Subalterns, by the Commanding officers of regiments or battalions, from the regimental, or battalion rosters, as the case may be. All general courts martial shall be constituted of a president, a judge advocate, six members, and a marshal; and every division court martial shall consist of a president, a judge advocate, a marshal, and four members. And the officer appointing a court martial, may, at his discretion, order a number of officers, not exceeding two, to be detailed as supernumeraries, in addition to the number intended to serve as members, to attend the court at the organization thereof; and in case there should be any vacancy or vacancies, the judge advocate shall fill such vacancy or vacancies, from the supernumeraries, beginning with the highest in grade, and proceeding in regular rotation. All officers on a court martial shall take rank by seniority of commission, without regard to corps. Before any court martial shall proceed to the trial of any officer, the Judge Advocate shall administer to the president and each of the members, singly, the following oath:

Numbers of which courts martial shall consist.

Supernumeraries.

Rank of officers.

You, A. B. do swear, that without partiality, favor, affection, prejudice, or hope of reward, you will well and truly try the cause now before you, between this State and the person [or persons, if more than one is accused in the same complaint] to be tried; and you do further swear, that you will not divulge the sentence of this court martial, until said sentence shall be promulgated in orders; and that you will not, on any account, at any time whatever, discover the vote or opinion of any member, unless required to give evidence thereof, as a witness, by a Court of Justice, in a due course of law. *So help you GOD.*

Oath of president and members of court.

And the President shall administer to the Judge Advocate the following oath:

You, A. B. do swear, that you will faithfully and impartially discharge your duties as Judge Advocate on this occasion, as well to the State, as to the accused; and that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this court martial, or the sentence thereof, unless required to give evidence thereof, as a witness, by a Court of Justice, in due course of law. *So help you GOD.*

Oath of Judge advocate.

And the Judge Advocate shall administer to the marshal and supernumeraries the following oath:

You, A. B. do swear, that you will not divulge the sentence of this court martial, until said sentence is promulgated in orders; and that you will not, on any account, at any time whatever, discover the vote or opinion of any member, un-

Oath of marshals and supernumeraries.

less required to give evidence thereof, as a witness, by a Court of Justice, in a due course of law. *So help you GOD.*

And the Judge Advocate shall administer to each supernumerary, who may take the place of any member of the court, the oath required by this Act to be taken by the members of the court.

Witnesses summoned, bound to appear.

All persons shall be holden to appear and give evidence, before any court martial, when thereto summoned by the Judge Advocate, or a Justice of Peace, under the same penalties for neglect, as are by law provided against witnesses, who neglect to appear when summoned to give evidence in criminal prosecutions. All witnesses shall be sworn or affirmed by the Judge Advocate before they give their evidence to the court, and the form of the oath or affirmation to a witness shall be as follows :

Oath of witnesses.

You, A. B. do swear, (or affirm, as the case may be,) that the evidence you shall give, in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. *So help you GOD.* [Or, this you do under the pains and penalties of perjury, in case the witness shall affirm.]

Challenges, how decided.

When any member of a court martial is challenged, either on the part of the government, or the accused, the cause of challenge must be stated in writing, of which the court, after due deliberation, shall determine the relevancy or validity, and decide accordingly. And no challenge to more than one member at a time shall be received by the court.

Time allowed for courts martial to be open, &c.

On questions of challenge, the member objected to shall not vote, but the President may vote with the members, that the number of votes may remain the same. And in no case shall a challenge be acted upon, until the President, and Judge Advocate, and the intended members are sworn. All trials by courts martial shall be carried on in the day time, and when the votes are called for, on a question, the Judge Advocate shall begin with the youngest in commission, and proceed regularly to the oldest. And at all courts martial, unless two thirds of the members agree that the accused is guilty, the Judge Advocate shall record his acquittal ; but if two thirds or more, pronounce the accused to be guilty, the court shall sentence him either to be reprimanded in orders, or removed from office, in which sentence the President shall have a casting vote ; and if any officer be sentenced to be removed from office, the court shall adjudge him to be disqualified for, and incapable of, holding any military office under this State, either for life or term of years, according to the aggravation of his offence : which sentence, either of reprimand in orders, or removal from office, shall remain in full force. And all courts martial are hereby authorized to preserve order during their session ; and if any person or persons, in presence of a court martial, shall behave in a disorderly manner, or make any tumult in, or disturb a court martial, and shall not

Questions and decisions, how taken and recorded.

Sentences and effect thereof.

Courts martial to preserve order, &c.

upon command of the marshal thereof, desist therefrom, it shall be lawful for the court martial to confine such disorderly person or persons for a time not exceeding eight hours.

SEC. 38. *Be it further enacted*, That the Commander in Chief may call boards of officers, whenever in his opinion they may be necessary, for settling military questions, or for other purposes relative to good order and discipline. And the Commander in Chief, or the Major Generals, or Commanding officers of divisions, each within his own division, may order courts of inquiry, to examine into the nature of any transaction, or any accusation, or imputation against any officer, when made by an inferior: *Provided however*, That courts of inquiry on all officers above the rank of Captain are to be ordered by the Commander in Chief; and courts of inquiry on Captains and other officers under that rank are to be ordered by the Major Generals or Commanding officers of divisions. And courts of inquiry shall always consist of three officers, with the Judge Advocate of the division in which they are holden, or some other suitable person, in case of his inability to attend, or any legal impediment to his acting, all of whom shall be sworn. These courts shall have the same power to summon witnesses as courts martial, and to examine them on oath; but they shall not give their opinions on the merits of the case, unless they are specially required so to do. The parties shall also be permitted to cross examine and interrogate the witnesses so as fairly to investigate the circumstances in question. The proceedings of a court of inquiry are to be authenticated by the signatures of the President and Judge Advocate, and are to be transmitted by the Judge Advocate, under seal, to the officer who appointed the court. The Judge Advocate shall administer to each of the officers composing a court of inquiry the following oath:

You, A. B. do swear, that you will well and truly examine and inquire into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. *So help you GOD.*

After which the President shall administer to the Judge Advocate the following oath:

You, A. B. do swear, that you will impartially record the proceedings of the court, and the evidence to be given in the case in hearing, *So help you GOD.*

The Judge Advocate shall administer to the witnesses the same oath or affirmation, as the case may be, as is prescribed in the thirty-seventh section of this Act, to be administered to witnesses before a court martial. And as courts of inquiry, when not properly regulated, may be perverted to improper purposes, all other courts of inquiry than those above provided for are prohibited.

SEC. 39. *Be it further enacted*, That it shall be the duty of the Judge Advocates to attend all general and division

Boards of officers may be called by commander in chief.

Courts of inquiry may be ordered by commander in chief or major generals;

to consist of 3 officers;

mode of proceeding at such courts.

Oath to officers of court.

Judge advocate's oath.

Judge advocates to attend all courts martial and courts of inquiry.

Proviso for appointing judge advocate pro-tem.

courts martial, and all courts of inquiry, within the divisions in which they are respectively commissioned, when thereto ordered: *Provided nevertheless*, That it shall be in the power of the Commander in Chief, or the Major Generals, or Commanding officers of divisions, or the President of a court while in session, during the absence of the Judge Advocate, to appoint a Judge Advocate, pro tempore, to any particular court martial, or to any particular court of inquiry, appointed to be holden, in case of inability of the division Judge Advocate, or in case of any legal impediment to his acting. And it shall further be the duty of each Judge Advocate, or person officiating as such, at any court martial, impartially to state the evidence both for and against the officer or officers under trial, all which evidence shall be taken as in civil actions. And on the decision of the court, it shall be his duty forthwith, to put under seal and so transmit the judgment or sentence of said Court, together with the decision on each specification of charges, to the officers ordering the same, whose duty it shall be to promulgate, without delay, said sentence in orders regularly transmitted. And the original records of the proceedings and judgment of all general and division courts martial, shall, as soon as opportunity of time and distance will admit, after such courts martial are dissolved, be deposited in the office of the Adjutant General, where they shall be carefully kept and preserved. And it shall further be the duty of the Judge Advocate to make up and certify the pay rolls of all such courts martial and courts of inquiry, together with accounts of incidental expenses, and cause the same to be presented to the Legislature for allowance. And when such pay rolls and accounts are allowed and paid to the Judge Advocate, he shall on demand, pay the amount due to each officer who performed the service, and to each other person, the sum allowed by the Legislature, and shall within a reasonable time transmit such pay rolls and accounts received in full to the office of the Adjutant General. The Militia officers, excepting Judge Advocates, while serving on courts martial, courts of inquiry, and military boards, including supernumeraries and marshals, shall be entitled to pay for each day as follows, viz: Major Generals five dollars, Brigadier Generals four dollars and fifty cents, Colonels four dollars, Lieutenant Colonels three dollars and seventy-five cents, Majors three dollars and fifty cents, Captains three dollars, Subalterns two dollars and fifty cents each.

Duty of judge advocate as to recording and transmitting proceedings of courts, &c.

and make up pay roll, &c.

Pay of officers at courts martial, &c.

Attendance per day.

Pay for travel, &c.

SEC. 40. *Be it further enacted*, That each officer aforesaid shall be entitled to pay and allowance for rations to and from the place of the courts, or boards sitting, at the rate of thirty miles per day, and allowance for forage for one horse when the same shall be necessary.

SEC. 41. *Be it further enacted*, That Judge Advocates,

while employed on courts martial, or courts of inquiry, or military boards, shall be entitled to five dollars per day; which shall include their compensation for the time necessarily employed in preparing papers, made requisite previous to, and after any trial, inquiry or investigation; and for making out the pay rolls, receiving the monies and paying over the same to the respective officers composing such courts; and pay, to and from the place of the courts or boards sitting, at the rate of thirty miles per day; and for forage for one horse if necessary.

SEC. 42. *Be it further enacted,* That the fees for subpoenas for witnesses on the part of the State, and for making service shall be the same as are allowed in civil causes, and the witness shall be allowed for travel four cents for each mile, to and from the place of the courts or boards sitting and one dollar for each day's attendance.

SEC. 43. *Be it further enacted,* That no allowance for pay or rations shall hereafter be made for any military guard attending a court martial, unless the officer appointing the court shall order such guard.

SEC. 44. *Be it further enacted,* That no officer, appointing a court martial, court of inquiry or board of officers, shall order out a guard, unless in his judgment such guard be necessary to protect the same. But a non-commissioned officer or private may be ordered to attend such courts or boards of officers and shall be allowed at the rate of one dollar per day.

RULES AND ARTICLES,

Governing the Militia when not in actual service.

SEC. 45. *Be it further enacted,* That the following shall be the rules and articles, by which the Militia of this State shall be governed when not in actual service.

Article 1. Every commissioned officer, who shall be guilty of any unmilitary conduct, neglect of duty, or disobedience of orders, or who shall, when on duty, appear or behave himself in an unofficer-like manner, or who shall wilfully oppress or injure any under his command, or who shall at any time set on foot, or join in any combination to resist or evade the lawful orders of any commissioned officer, shall be liable to be tried by a court martial.

Art. 2. If any officer shall in due course of law be convicted of any infamous crime, he shall be forthwith put in arrest, and deprived of all military command, until an opportunity shall be had for both Houses of the Legislature to address the Governor for his removal.

Art. 3. Every officer, to be tried by a court martial, shall be put in arrest, so as to be suspended from the exercise of his office, and shall have a copy of the charges exhibited against him, and notice of the time and place appointed for

Pay of judge
advocates.

Fees for subpoenas, and
witnesses' pay.

No pay for
guard unless
ordered, &c.

No guard to be
ordered, unless
necessary to
protect the
court.

Rules, &c. for
government of
militia when
not in actual
service.

Neglect of duty,
disobedience of
orders, &c.

Officer convicted
of a crime,
to be deprived
of command.

Manner of ar-
resting officers
for trial.

his trial ; which copy and notice shall be given thirty days at least before his trial is commenced.

Officer not appearing at time for his trial, &c. may be tried as if he had pleaded not guilty.

Art. 4. In case any officer, for the trial of whom a court martial is appointed, shall neglect to appear and make defence, or if appearing shall afterwards withdraw in contempt of the court, or being arraigned before a court martial, shall from obstinacy or deliberate design stand mute, or answer foreign to the purpose, the court may proceed to trial and judgment as if he had regularly pleaded not guilty.

Penalty for officer arrested presuming to exercise command.

Art. 5. If any officer, after having been put in arrest, shall presume to exercise any military command, until he is discharged from his arrest, he shall be liable to be tried by a court martial, and if convicted, he shall be removed from office.

No officer to be tried for offences of more than year previous, unless, &c.

Art. 6. No officer shall be tried by a court martial for any offence which shall have been committed more than one year, previous to the time when a complaint shall have been made in writing therefor, unless he shall have repeated such offence in two or more successive years, or by reason of having absented himself, or some other manifest impediment, shall not have been amenable to justice within that period.

Captains to call out their companies when required by law, &c.

Art. 7. Every Captain or Commanding officer who shall neglect or refuse to call out his company as often as, and at the times required by this Act, or at any other time, when thereto required by his superior officer, or who shall at any time excuse any under his command for unnecessary absence or deficiency, shall be liable to be tried by court martial.

No officer to resign while under arrest, nor between May 1, and November 1, unless.

Art. 8. No officer shall be permitted to resign while under arrest. And no resignation of any officer shall be approved, if such resignation be offered between the first day of May and the first day of November, unless the reasons offered by the officer wishing to resign within those days, be very urgent.

No officer to be discharged except by commander in chief, on request, &c.

Art. 9. No officer shall be discharged, except by the Commander in Chief, on request of such officer, in writing, or by actual removal of residence, out of the bounds of his command, and to such distance that his Major General shall think it inconvenient for him to discharge the duties of his office, or by twelve months' absence, without leave of the Commanding officer of his division, or by the corps to which he belongs being disbanded by law ; and whenever any division, brigade, regiment or battalion shall be divided and the residence of any Staff officer attached thereto, shall be without the bounds of the corps, in which he was commissioned, such Staff officer shall be entitled to an honorable discharge, and shall cease to do duty after such division is made, and the commanding officer of such corps may proceed to fill the vacancy occasioned thereby.

and for reasons.

No officer exempted from duty until discharged, &c. or under arrest.

Art. 10. No officer shall consider himself as exempted from the duties of his station, except when under arrest, un-

til he shall have been discharged by one of the methods or causes pointed out in the preceding article, or shall have received a certificate of his discharge from the Commander in Chief.

Art. 11. No general or field officer shall approve a resignation, until the orderly and other books and property of the State, in the possession of the resigning officer are taken care of, for the use of the corps to which such officer belongs, in order that such books and property may be delivered to his successor.

Officer resigning to deliver books and State property, in his possession.

Art. 12. The Captain or Commanding officer of every company raised at large, shall annually, in the month of April, make out a list of the names of the men belonging to his company, and deliver the same to the commanding officer of the regiment or regiments, within whose bounds such men reside.

Commanding officers of companies at large to return list of his men in April.

Art. 13. Every Captain or Commanding officer of a company shall make a return of the state of his company, comprehending the names of all the men belonging thereto, with all the arms and equipments of the men present at the company inspection, to the commanding officer of his regiment or battalion, in the month of May, annually. Every Commanding officer of a regiment shall cause his Adjutant to make a return of the state of his regiment to the Commanding officer of the brigade in the month of June, annually.

Captains, &c. to make return of company to commanding officer of regiment in May, annually.

And every Commanding officer of a brigade, shall cause his brigade Inspector to make out a return of his brigade, of which he shall transmit to the Major General of the division to which he belongs, in the month of July, annually. And the Major General shall cause the Division Inspector to transmit a certified copy of such brigade returns to the office of the Adjutant General during the months of August and September, annually.

Adjutant of regiment to make return to brigadier in June.

Brigade return to be made to major general in July.

Art. 14. Every person who shall lawfully enlist in any volunteer company, (whether such person be exempted by this Act from any military duty or not,) shall be holden to do duty therein for the term of seven years, unless such person be sooner discharged by the order of the Commanding officer of the brigade.

Division return to be made to adjutant general in August or September.

Art. 15. Each Brigadier General or Commanding officer of brigade, within his own brigade, upon application of the Commanding officer of any company of artillery, cavalry, light infantry, grenadiers, or riflemen, may discharge any non-commissioned officer or private from any of the aforesaid companies; and such non-commissioned officer or private shall forthwith be enrolled in the standing company, within the bounds of which he resides; and every non-commissioned officer so discharged, shall be considered as reduced to the ranks.

Persons enlisting in volunteer companies holden 7 years.

Art. 16. Whenever different corps shall parade, join, or

Brigadier general in certain cases, may discharge privates, &c. from volunteer corps, at request of captain.

Senior officer to command

when different
corps are join-
ed.

do duty together, the senior officer present, according to rank, shall command, without regard to corps.

Penalty for of-
ficer refusing
to make draft.

Art. 17. Any officer neglecting or refusing to make a draft or detachment, when ordered in pursuance of the thirtieth section of this Act, shall be arrested, and be liable to be tried by a court martial, and the officer next in command, shall be ordered to make the draft or detachment.

Cartridges
drawn, how to
be distributed.

Art. 18. It shall be the duty of each Commanding officer of a company, drawing cartridges in pursuance of the twenty-ninth section of this Act, to cause them to be distributed equally among his men on the parade, and to be used in teaching his men precision in their firings. And if any non-commissioned officer or private shall come on to any parade with his musket, rifle or pistol, loaded with ball, slugs or shot, he shall for such offence forfeit not less than *five*, nor more than *twenty* dollars.

Penalty for
having gun,
&c. on parade
loaded with
ball, &c.

For parading
men on election
days.

Art. 19. If any officer, contrary to the provision of the thirty-second section of this Act, shall parade his men on either of the days of election in said section pointed out, he shall be liable to be tried by court martial; and moreover shall forfeit a sum not less than *fifty*, nor more than *three hundred dollars*, to be sued for and recovered in any action on the case, before any Court of competent jurisdiction, one moiety thereof to the use of the person who may prosecute for the same, the other to the use of the State.

Companies in
regiment, &c.
how to be form-
ed.

Art. 20. At all regimental and battalion parades, the several companies shall form in regiment or battalion, according to the rank of the officers present, actually commanding them; and the same rule shall apply in all cases, excepting those in which artillery, cavalry, light infantry, grenadiers, and riflemen, may by usage and necessity, be detached from the regiments and battalions.

Punishment for
disorderly be-
haviour of pri-
vates, &c.
when on duty.

Art. 21. Any non-commissioned officer or private, who shall, while under arms, or when on duty, behave himself with contempt to an officer, or shall conduct in a disorderly manner, or excite or join any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard, and so kept for a longer or shorter time, at the discretion of the Commanding officer of the company; not exceeding however, the time which the company, to which he belongs is dismissed; and shall moreover forfeit a sum not less than *five*, nor more than *twenty dollars* for each offence, according to the degree and aggravation of the same.

Fine for quit-
ting platoon,
&c. without
leave.

Art. 22. Any non-commissioned officer or private, who shall, without leave of his officer, quit his guard, section, platoon, or company, shall for each offence forfeit not less than *two*, nor more than *ten dollars*.

Disorderly fir-
ing.

Art. 23. Any non-commissioned officer or private, who shall, in going to or returning from, or while on the place of parade, or while under arms, unnecessarily, and without or-

ders discharge his musket, rifle or pistol, shall forfeit not less than *five*, nor more than *twenty dollars* for each offence.

Art. 24. Any non-commissioned officer or private, who shall refuse or neglect to give any notice or warning, when ordered thereto by the Commanding officer of the company to which he belongs, shall for such offence forfeit not less than *one*, nor more than *four dollars*, for each non-commissioned officer or private, which he shall neglect or refuse to warn or notify, to be recovered on indictment in the Circuit Court of Common Pleas, or on complaint before some Justice of the Peace; one half thereof to the complainant and the other half thereof to the State.

For neglecting to give notice or warning when required.

How recovered.

Art. 25. If any non-commissioned officer or private, shall, in due course of law, be convicted of any infamous crime, he shall be forthwith disenrolled from the Militia.

Non-commissioned officer, or private, convicted of infamous crime, to be disenrolled. Sergeants, &c. guilty of disobedience, &c. to be reduced.

Art. 26. Every non-commissioned officer, who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct, may be reduced to the ranks by the Commanding officer of the regiment to which he belongs, by and with the advice of the Commanding officer of the company to which such non-commissioned officer belongs.

Art. 27. Every non-commissioned officer or private, (excepting those, who by the third section of this Act, are permitted to send their arms and equipments on that day for inspection,) who being duly ordered to appear at the company inspection and view of arms on the first Tuesday of May, and shall unnecessarily neglect to appear at the time and place appointed, shall forfeit *two dollars and fifty cents*.

Fine for absence of privates, &c. from inspection in May—

Art. 28. Every non-commissioned officer or private, who, being duly ordered, shall unnecessarily neglect to appear at any company training, at the time and place appointed, shall forfeit *one dollar and fifty cents*.

for absence from company training—

Art. 29. Every non-commissioned officer or private, who being duly ordered, shall unnecessarily neglect to appear, for any battalion, regimental, or brigade inspection or review, at the time and place appointed, shall forfeit *three dollars*. And in no case in time of peace shall any substitute be received.

from regimental muster, &c.

Art. 30. Every non-commissioned officer or private, who shall appear at the company inspection, on the first Tuesday in May, or at any company training, or for any battalion, regimental, or brigade inspection or review, and shall not be armed and equipped as the law directs, shall for each article, in which he is deficient, or which shall be of bad quality, or in bad condition, forfeit as follows: if deficient of a good musket, bright and in good order, of a bore sufficient for balls of the eighteenth part of a pound, a sufficient bayonet and belt, and an iron or steel ramrod; all which articles are to be considered as one, and a deficiency in either shall be considered a deficiency of the whole, he shall forfeit *one*

for deficiencies of arms and equipments at May inspection.

dollar; if deficient of a cartridge box, containing twenty-four cartridges suited to the bore of his musket, and each cartridge containing a proper quantity of good powder and ball, or if deficient of a serviceable knapsack, he shall forfeit *thirty cents*; if deficient of two spare flints and priming wire and brush, or either of them, he shall forfeit *twenty cents*; *Provided nevertheless*, That none of the above forfeitures shall be incurred by any private, in case he appears with a good rifle, knapsack, shot pouch, powder horn, a quarter of a pound of powder, and twenty balls suited to the bore of his rifle: *Provided moreover*, That cartridges, with ball, shall not be brought into the field, except at the company inspection on the first Tuesday in May, and knapsacks may be dispensed with at the company trainings.

Fine for not wearing uniform of the company.

Art. 31. If any non-commissioned officer or private of any company of artillery, cavalry, light infantry, grenadiers, or riflemen, shall appear on any of the occasions mentioned in the preceding article, without the uniform of the company to which he belongs, he shall forfeit *one dollar and fifty cents*.

Excuses for absence, &c. to be made within 8 days.

Art. 32. All excuses for non-appearance of non-commissioned officers and privates, must be made within eight days of any training, view of arms, or other military duty, to the Commanding officers of their respective companies; and on the delinquent's producing or causing to be produced satisfactory evidence of his inability to appear, his Commanding officer may excuse him; but all Commanding officers of companies are hereby forbidden from receiving any excuse, for non-appearance, under any pretence whatever, after the expiration of the eight days allowed. And any such non-commissioned officer or private, who shall neglect to give or cause to be given, to his Commanding officer, such satisfactory evidence of his inability to appear, (*Provided*, he is not prevented therefrom by severe sickness,) within the said eight days, shall forfeit and pay the penalty by law provided for such non-appearance. And all Commanding officers of companies are prohibited from receiving any excuses from their men, for any deficiency or deficiencies of equipments, and Commanding officers of companies shall inform, or cause their clerks to be informed, of all the excuses for non-appearances, which they may allow as good and sufficient.

No excuse allowed for defect of equipments.

Fine for absence from meeting for choice of officers.

Art. 33. Any non-commissioned officer or private, being a legal voter of a company, who, after being duly notified, shall unnecessarily neglect to appear at any meeting for the choice of any officer or officers of the company to which he belongs, he shall for every such neglect, forfeit *one dollar*.

Surgeons, &c. prohibited from taking fee for certificate of disability.

Art. 34. All Surgeons and Surgeons' mates are prohibited from taking any fee or gratuity whatever, under any pretence whatsoever, from any man to whom they may give a certificate of inability to perform military duty on account of bodi-

ly infirmity. And it shall be their duty critically to examine the case of any applicant for such certificate, and not to grant a certificate unless the infirmity or disability be such, beyond all doubt, as to render him unable to perform military duty. And if any Surgeon or Surgeon's mate, shall in violation of this article, take any fee or gratuity, or if any Surgeon or Physician not commissioned as Surgeon or Surgeon's mate, shall without good and sufficient cause, grant such certificate in violation of this article, he shall, for every such offence, forfeit and pay not less than *twenty*, nor more than *one hundred dollars*, to be recovered by indictment in the Circuit Court of Common Pleas; one half thereof to the complainant and the other half to the State.

Penalty and how recovered.

Art. 35. The Aid-de-Camp to each Major General, by him appointed orderly officer; the Aid-de-Camp of each brigade, and the Adjutant of each regiment, battalion, or corps, shall constantly keep a correct roster of the division, brigade, regiment, battalion, or corps, to which they respectively belong; and an orderly book, and record therein all orders and other official communications, received or issued by their respective commanding officers, and copy, distribute, and transmit all such orders and other papers, as they may be directed by said officers, and attend them while on the performance of military duty.

Rosters and orderly books to be kept in each division, brigade, regiment, &c. and by whom.

Art. 36. Every Sergeant Major, Quarter Master Sergeant, Drum Major or Fife Major, who shall be guilty of neglect or disobedience of the orders of the Commanding officer of their respective regiments or battalions, shall, for each offence, forfeit not less than five dollars, nor more than twenty dollars, to be recovered by the Adjutants of their respective regiments or battalions, on complaint, in the same manner, that fines are recovered by clerks of companies; one half thereof to said Adjutant, for his own use, and the other half to be expended by him, under the direction of the field officers, in the repair of the regimental and battalion colours, and of the musical instruments furnished by the State for the use of the companies of his said regiment or battalion, and the purchase of camp colours. And every such non-commissioned officer, who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct, may be reduced to the ranks by their Brigadier General, by and with the advice of the Commanding officer of the regiment or battalion to which such non-commissioned officer may belong.

Fines for neglect or disobedience of regimental staff officers, non-commissioned.

How recovered and disposed of.

Such staff officers may be reduced, &c.

Art. 37. These rules and articles shall be read at the head of each company on the first Tuesday of May annually.

Rules to be read to each company 1st Tuesday of May. Fines, &c. how recovered.

Sec. 46. *Be it further enacted,* That all fines and forfeitures incurred by non-commissioned officers and privates under the provisions of this Act, the recovery of which, and the mode of the recovery of which, are not in and by this Act otherwise provided for, shall be prosecuted for and recover-

Limitation of prosecutions.

Clerk may amend his writ, in any stage.

Clerk not liable to costs in case.

No appeal from judgment of Justice for 10 dollars and less.

Appropriation of fines collected by clerks of companies.

Compensation of adjutant and quarter master general.

Compensation of commissioned staff officers.

Duties of certain militia of Secs.

ed by the respective clerks of the companies to which such non-commissioned officer or officers, private or privates, incurring any fine or forfeiture, as aforesaid, belong, in an action of debt, before any court proper to try the same. And such action shall not be commenced till after eight days, and shall be commenced within thirty days, after the day of any parade of any company to which such clerk belongs. And it shall be lawful for any clerk in such action, to amend his writ in any stage of the process before the rendition of final judgment therein, without paying costs. And no clerk shall be liable to pay any defendant costs, in any case in which the Commanding officer of the company has endorsed his approval on the writ of such clerk. And no appeal shall be allowed from any judgment of a Justice of the Peace, when the forfeiture by him adjudged does not exceed ten dollars, exclusive of costs.

SEC. 47. *Be it further enacted,* That the Clerk of each company shall retain to his own use, one fourth part of all fines and forfeitures collected or recovered by him, and the residue he shall faithfully pay over to the Commanding officer of the company, on demand; and the Commanding officer of the company shall give his receipt to the Clerk for all money paid over to him as aforesaid. And it shall be the duty of every Commanding officer of a company to expend such part of the money paid him by the Clerk as may be necessary for defraying such company expenses, as a majority of the commissioned officers of the company shall judge to be necessary.

SEC. 48. *Be it further enacted,* That the Adjutant General and the Quarter Master General, shall receive compensation for their services, to be allowed by the Legislature.

SEC. 49. *Be it further enacted,* That the following shall be the annual allowance to the officers hereinafter named, as a full compensation for all the services they may render in the official discharge of their duties respectively:

To the Aid-de-Camp acting as orderly officer to the Major General of each division, fifty dollars; to the Brigade Inspector of each brigade, twenty dollars; to the Brigade Quarter Master of each brigade, ten dollars; to the Aid-de-Camp of each Brigadier General, twenty dollars; to the Adjutant of each regiment, twenty-five dollars; to the Adjutant of each battalion of cavalry or artillery, fifteen dollars; to the Quarter Master of each regiment, ten dollars; *Provided,* The said officers shall promptly and faithfully perform the duties belonging to them, respectively.

SEC. 50. *Be it further enacted,* That it shall be incumbent on all officers and non-commissioned officers, whose duties are not herein fully defined, to do and perform all such duties as by law and military principles and usages are attached to their offices, respectively: *Provided,* Such duties

shall be required of them by their senior and proper Commanding officer.

SEC. 51. *Be it further enacted,* That the Adjutant General is hereby authorized to issue blank forms, to be uniform throughout the State, for the use of the officers of the Militia, and for the auditing of military accounts of every description.

Adjutant general to issue blank forms for the use of the militia.

SEC. 52. *Be it further enacted,* That the Adjutant General is hereby authorized to provide, and cause to be distributed, five hundred copies bound of the United States system of infantry Exercise and Manœuvres.

To provide and distribute 500 copies of U. S. system of infantry exercise.

SEC. 53. *Be it further enacted,* Every new division shall be designated by the number, next higher than that of the division established next before it, and the divisions shall take rank according to the numbers by which they are severally designated, the first being highest in rank.

New divisions, how numbered and rank.

RULES AND ARTICLES

For governing the Troops stationed in Forts and Garrisons, within this State; and also the Militia, or any part thereof, when called into actual service.

SEC. 54. *Be it further enacted,* That the following rules and articles, be, and they hereby are, established, and declared to be in force, for governing all troops stationed in forts and garrisons within this State; and also the Militia, or any part thereof, when called into actual service, *viz.*

Rules and articles for governing militia, &c. in actual service.

Article 1. All officers and soldiers shall diligently attend divine service; all officers and soldiers who shall unnecessarily absent themselves from or behave indecently or irreverently at any place of divine worship shall, if commissioned officers, be brought before a general court martial, there to be publicly and severely reprimanded by the President; if non-commissioned officers or soldiers, every person so offending, shall for the first offence, forfeit twenty cents, to be deducted out of his next pay; for the second offence he shall not only forfeit a like sum, but be confined twenty four hours; and for every like offence, shall suffer and pay in like manner; which money so forfeited, shall be applied to the use of the sick soldiers of the troop or company to which the offender belongs.

Officers and soldiers to attend divine service.

Forfeitures for neglect.

Art. 2. Whatsoever non-commissioned officer or soldier shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article; and if a commissioned officer be thus guilty of profane cursing or swearing, he shall forfeit and pay, for each and every such offence, sixty-seven cents.

Punishment for profane oaths—

Art. 3. Whatsoever officer or soldier shall presume to use traitorous or disrespectful words, against the authority of the United States, in Congress assembled, or the Legislature of this State; if a commissioned officer, he shall be cashiered; if a non-commissioned officer or soldier, he shall suffer such

for traitorous or disrespectful words—

punishment as shall be inflicted upon him by the sentence of a court martial.

for contempt,
 &c. against
 commanders.

Art. 4. Any officer or soldier who shall behave himself with contempt or disrespect towards the Commander in Chief, or any General or Commanding officer of the troops or Militia of this State, or shall speak words tending to his hurt or dishonor, shall be punished according to the nature of his offence, by the judgment of a court martial.

for mutiny—

Art. 5. Any officer or soldier who shall begin, excite, cause or join in any mutiny or sedition, in the troop, company or regiment to which he belongs, or in any other troop or company in the service of this State, or in any party, post, detachment or guard, on any pretence whatsoever, shall suffer such punishment as by a court martial shall be inflicted.

for not using
 endeavors to
 suppress mutiny—

Art. 6. Any officer, non-commissioned officer or soldier, who, being present at any mutiny or sedition, doth not use his utmost endeavors to suppress the same; or coming to the knowledge of any intended mutiny, doth not without delay give information thereof to his Commanding officer, shall be punished by sentence of a court martial, according to the nature of his offence.

for striking or
 offering violence to
 superior officer.

Art. 7. Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer such punishment as shall, according to the nature of his offence, be inflicted upon him by the sentence of a court martial.

Desertion.

Art. 8. Any non-commissioned officer or soldier, who shall desert, or, without leave from his Commanding officer, absent himself from the troop or company to which he belongs, or from any detachment of the same, shall, upon conviction thereof, suffer death, or such other punishment as shall be inflicted by the sentence of a general court martial.

Punishment for
 persuading
 others to desert—

Art. 9. Whatever officer or soldier shall be convicted of having advised or persuaded any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by the sentence of a court martial.

for provoking
 speeches or
 challenges—

Art. 10. No officer or soldier shall use any reproachful or provoking speeches or gestures to another; nor shall any officer or soldier presume to send a challenge to any person to fight a duel, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering corporal punishment, at the discretion of a court martial.

for officers suf-
 fering others to
 fight duels.

Art. 11. If any commissioned or non-commissioned officer commanding a guard, shall knowingly and willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and likewise all seconds, promoters and carriers of challenges, in order to duels, shall be deemed as principals, and be punished accordingly.

Art. 12. All officers of what condition soever shall have power to part and quell all quarrels, frays and disorders, though the persons concerned should belong to another regiment, troop or company; and either to order officers into arrest, or non-commissioned officers or soldiers to prison, until their proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer, (though of an inferior rank,) or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Officers to quell all quarrels, disorders, &c.

Punishment for resistance.

Art. 13. Whatsoever officer or soldier shall upbraid another for refusing a challenge, shall be considered as a challenger, and punished accordingly.

for upbraiding another for refusing challenge.

Art. 14. Every officer commanding in quarters, garrisons, or on a march, shall keep good order, and to the utmost of his power redress all such abuses or disorders as may be committed by any officer or soldier under his command; and if, upon complaint made to him of officers or soldiers beating or otherwise ill treating any person, or of committing any kind of riots to the disquieting the good citizens of this or either of the United States, he shall refuse or omit to see justice done on the offender or offenders, and reparation made to the party or parties injured, so far as the offender's pay shall enable him or them, he shall, upon proof thereof, be punished by a general court martial, as if he himself had committed the crimes or disorders complained of.

Officers to keep good order and redress abuses.

Art. 15. If any officer shall think himself to be wronged by his Colonel, or the Commanding officer of his regiment, and shall, upon due application made to him, be refused to be redressed, he may complain to the General or Commander in Chief of the forces in service, in order to obtain justice, who shall examine into the complaint and see that justice be done.

Officer wronged by his Colonel may complain to the General.

Art. 16. If any inferior officer or soldier shall think himself wronged by his Captain, or other officer commanding the troop or company to which he belongs, he may complain thereof to the Commanding officer of the regiment, who shall summon a regimental court martial, for the doing justice to the complainant; from which regimental court martial either party if he thinks himself still aggrieved, may appeal to a general court martial. But if, upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of the said general court martial.

Subaltern or soldier may complain to the Colonel against his Captain.

Art. 17. Whatsoever non-commissioned officer or soldier shall be convicted at a court martial of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him to be employed in the service of this State, shall, if a non-commissioned officer, be reduced to a private, and if a soldier, shall suffer such punishment as shall be inflicted upon him by a court martial.

Punishment for wasting ammunition.

Art. 18. All non-commissioned officers and soldiers who

for being found one mile from camp without leave— shall be found one mile from the camp without leave, in writing, from their commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a court martial.

for being out of quarters or camp without leave. *Art. 19.* No officer or soldier shall be out of his quarters or camp, without leave from his Commanding officer, upon penalty of being punished according to the nature of his offence, by the sentence of a court martial.

Soldiers to retire to their quarters at the beating of the retreat. *Art. 20.* Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the tattoo, in default of which he shall be punished according to the nature of his offence, by the sentence of a court martial.

Officers and soldiers to repair to parade at time fixed. *Art. 21.* No officer, non-commissioned officer or soldier shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by his Commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous or from the guard, without leave from his Commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence by the sentence of a court martial.

Punishment for being found drunk on guard or duty— *Art. 22.* Whatsoever commissioned officer shall be found drunk on his guard, party or other duty, under arms, shall be cashiered for it; and any non-commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted by the sentence of a court martial.

for sentinels sleeping on their posts. *Art. 23.* Whatsoever sentinel shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be inflicted by the sentence of a general court martial.

Punishment for occasioning false alarms— *Art. 24.* Any person belonging to the forces employed in the service of this State, who, by discharging of fire arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court martial.

for quitting platoons, &c.— *Art. 25.* Any officer or soldier, who shall, without urgent necessity or without the leave of his superior officer, quit his platoon or division shall be punished according to the nature of his offence, by the sentence of a court martial.

for insults, &c. to persons bringing provisions, &c. *Art. 26.* No officer or soldier shall do violence or offer any insult or abuse to any person who shall bring provisions or other necessaries to the camp, garrison, or quarters of the forces of this State, on pain of suffering such punishment as a court martial shall direct.

for abandoning post, &c. during engagement— *Art. 27.* Whatsoever officer or soldier shall abandon any post committed to his charge, or shall speak words inducing others to do the like, in time of an engagement, shall suffer death, or such other punishment as shall be inflicted by the sentence of a general court martial.

Art. 28. Any person belonging to the forces in the service of this State who shall make known the watch word to any person not entitled to receive it according to the rules and discipline of war, or shall presume to give the parole or watch word different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

for divulging the watch word, &c.

Art. 29. Whosoever belonging to the forces in the service of this State shall relieve the enemy with money, victuals or ammunition; or shall knowingly harbor and protect an enemy, shall suffer such punishment as by the sentence of a court martial shall be inflicted.

for relieving the enemy with money, &c.—

Art. 30. Whosoever belonging to the Maine forces shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer such punishment as by the sentence of a court martial shall be inflicted.

for corresponding with enemy—

Art. 31. All public stores taken from the enemy by the forces in the service of this State, shall be secured for the use of the State.

Public stores taken, to be for the use of the State.

Art. 32. If any officer or soldier shall leave his post or colours to go in search of plunder, he shall, upon conviction thereof, before a general court martial, suffer such punishment as by the sentence of the said court martial shall be inflicted.

Punishment for leaving post in search of plunder—

Art. 33. If any commander of any garrison, fortress or post shall be compelled, by the officers or soldiers under his command, to give up to the enemy or to abandon it, the commissioned officers, non-commissioned officers or soldiers, who shall be convicted of having so offended, shall suffer death or such other punishment as shall be inflicted upon them by the sentence of a court martial.

for soldiers' compelling their officers to abandon post to the enemy.

Art. 34. All sutlers and retailers to the camp, and all persons serving with the troops of the State in the field, shall be subject to orders according to the rules and discipline of war.

Sutlers and retailers, &c. subject to orders, &c.

Art. 35. If, upon marches, guards or in quarters, different corps shall happen to join or to do duty together, the eldest officer by commission there on duty, or in quarters, shall command the whole, and give out orders for what is needful for the service, regard being always had to the several ranks of those corps, and the posts they usually occupy.

When different corps are joined, eldest officer to command.

Art. 36. If any regiments, troops or detachments of horse or foot shall happen to march with, or be encamped or quartered with, any bodies or detachments of other troops, the eldest officer, without respect to corps, shall take upon him the command of the whole, and give the necessary orders to the service.

Different corps of troops quartered or marching together, to be commanded by senior officer without regard to corps.

Art. 37. A general court martial shall not consist of less than thirteen commissioned officers, and the President of

General court martial how organized as to numbers, &c.

such court martial shall not be the Commander in Chief, nor Commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a Field officer.

Rank of officers.

Art. 38. The members of courts martial, shall, when belonging to different corps, take rank as is herein before directed when on other duty.

Prosecutor in behalf of State, to administer oath to members.

Art. 39. Some person shall be appointed by the Commanding officer, who shall order the court martial to prosecute in the name of the State of Maine; and in trials of offenders, such person shall administer to each member the following oath :

Form of oath.

You swear, that you will well and truly try and determine according to your evidence, the matter now before you, between the State of Maine and the prisoner to be tried; that you will duly administer justice according to the rules and articles for governing the troops of the said State without partiality, favor or affection; and if any doubt shall arise which is not explained by the said articles, according to your conscience, the best of your understanding, and the custom of war in like cases; that you will not divulge the sentence of the court until it shall be approved of by the Commanding officer; and that you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence as a witness by a court of justice, in a due course of law. *So help you GOD.*

Prosecutor to be sworn.

Which oath being administered to the members of the Court, the President shall administer the following oath to the person prosecuting as aforesaid.

Form of his oath.

You, A. B. do swear, that you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law. *So help you GOD.*

Mode of giving votes.

Art. 40. All the members of a court martial are to behave with calmness and decency; and in the giving their votes, are to begin with the youngest in commission.

Witnesses.

Art. 41. All persons who give evidence before a court martial, shall be examined upon oath, which oath shall be administered by the President of the court martial, in the form following :

Form of oath.

You swear, the evidence you shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. *So help you GOD.*

Two thirds to agree when sentence of death is given.

Art. 42. No sentence of death shall be given against any offender by any general court martial, unless two thirds of the members shall concur therein.

Punishment of witnesses re-

Art. 43. All persons called to give evidence in any cause before a court martial who shall refuse to give evidence,

shall be punished for such refusal at the discretion of such court martial. fusing to testify.

Art. 44. No field officer shall be tried by any person under the degree of a Captain; nor shall any proceedings or trials be carried on excepting between the hours of sun-rise and sun-set. Trials how carried on.

Art. 45. No sentence of a court martial shall be put in execution, until after report shall be made to the Commanding officer where the court martial shall be held, and his orders to be issued for carrying such sentence into execution. Sentences to be reported to the commanding officer.

Art. 46. The commissioned officers in any regiment, may, by the appointment of their Colonel or Commanding officer, hold regimental courts martial for the inquiring into such disputes or criminal matters as may come before them, and for inflicting corporal punishment for small offences, and shall give judgment by the majority of voices; but no sentence shall be executed till the Commanding officer, (not being a member of the court martial,) shall have confirmed the same. Regimental courts martial.

Art. 47. No regimental court martial shall consist of less than five officers, excepting in cases where that number cannot be conveniently assembled, when three may be sufficient; who shall likewise determine upon the sentence by the majority of voices. to consist of not less than 5 officers.

Art. 48. Any officer commanding in a fort, castle, barrack or elsewhere, where the corps under his command consists of detachments from different regiments, or of any independent company or companies, may assemble courts martial for the trial of offenders in the same manner as if they were regimental, whose sentence shall not be executed until it shall be confirmed by the said Commanding officer. Commanders of forts, &c. may order courts martial.

Art. 49. No person whatsoever shall use menacing words, signs or gestures in the presence of a court martial then sitting, or shall cause any disorder or riot so as to disturb their proceedings, on the penalty of being punished at the discretion of the said court martial. Penalty for disturbing courts martial.

Art. 50. To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime deserving punishment, he shall, by his Commanding officer, if an officer, be put in arrest; if a non-commissioned officer or soldier, be imprisoned until he shall be either tried by a court martial, or shall be lawfully discharged by proper authority. Offenders, how proceeded with previous to trial.

Art. 51. No officer or soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or until such time as a court martial can be conveniently assembled. Not to continue in confinement more than 8 days, &c.

Art. 52. No officer commanding a guard or provost martial, shall refuse to receive or keep any prisoner committed to his charge by any officer belonging to the forces of this State; which officer, shall, at the time of commitment, deliver an account, in writing, signed by himself, of the crime with which the prisoner is charged. Account of the crime charged to be given in writing at the time of commitment.

Punishment for releasing prisoner without authority.

Art. 53. No officer commanding a guard or provost martial, shall presume to release any prisoner committed to his charge, without proper authority for so doing, nor shall he suffer any prisoner to escape, on the penalty of being punished for it by the sentence of a court martial.

Provost martial, &c. required to give to commanding officer, list of prisoners, and charges, &c. against them.

Art. 54. Every officer or provost martial to whose charge prisoners shall be committed, is hereby required, within twenty-four hours after such commitment, or as soon as he shall be released from his guard, to give, in writing, to the Colonel of the regiment to which the prisoner belongs, (where the prisoner is confined upon the guard belonging to the said regiment and his offence only relates to the neglect of duty in his own corps,) or to the Commander in Chief, their names, their crimes, and the names of the officers who committed them, on the penalty of his being punished for his disobedience or neglect, at the discretion of a court martial.

Officers arrested leaving confinement to be cashiered.

Art. 55. If any officer under arrest, shall leave his confinement before he shall be set at liberty by the officer who confined him, or by a superior power, he shall be cashiered for such his offence.

Officers convicted of scandalous behaviour, &c. to be discharged.

Art. 56. Whatsoever commissioned officer shall be convicted before a general court martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman, shall be discharged from the service.

Artillery officers, matrosses, drivers, &c. to be subject to these rules.

Art. 57. All officers, conductors, gunners, matrosses, drivers, or any other person whatsoever, receiving pay or hire in the service of the State artillery, shall be governed by the aforesaid rules and articles; and shall be subject to be tried by courts martial in like manner with other officers and soldiers.

Courts martial may consist of their own officers in certain cases.

Art. 58. For differences arising amongst themselves, or in matters relating to their own corps, the courts martial may be composed of their own officers; but where a sufficient number cannot be assembled, or in matters wherein their corps are interested, the officers of artillery shall sit in courts martial with the officers of other corps.

No sentence of death to be passed except in cases expressed.

Art. 59. No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles.

Field officers to appoint persons to receive fines, &c.

Art. 60. The field officers of each and every regiment shall appoint some suitable person belonging to such regiment to receive such fines as may arise within the same for any breach of any of the foregoing articles; and shall direct the same to be properly applied to the relief of such sick, or necessitous soldiers as belong to such regiment; and such person shall account with such officer for all fines received and the application thereof.

Crimes, not capital, not mentioned

Art. 61. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of to the

prejudice of good order and military discipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion.

herein, may be taken cognizance of.

Art. 62. Whenever any officer or soldier shall be accused of a capital crime, or having used violence or committed any offence against the person or property of the good people of this or either of the United States, such as is punishable by the known laws of the land, the Commanding officer and officers of every regiment, troop or party to which the person or persons so accused shall belong, are hereby required, upon application duly made by or in behalf of the party or parties injured, to use his utmost endeavors to deliver over such accused person or persons to the Civil Magistrate, and likewise to be aiding and assisting the officers of justice in apprehending and securing the person or persons so accused, in order to bring them to trial. And if any Commanding officer or officers shall wilfully neglect or shall refuse, upon the application aforesaid, to deliver over such accused person or persons to the Civil Magistrate, or to be aiding and assisting the officers of justice in apprehending such person or persons, such officer or officers, so offending, shall be cashiered.

Officer or soldier accused, of a crime against State laws, &c.

to be delivered over to the civil magistrate.

SEC. 55. *Be it further enacted,* That all laws in force in this State, inconsistent with the provisions of this Act, be and the same hereby are repealed.

Former laws repealed.

[Approved March 21, 1821.]

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CHAPTER CLXV.

An Act providing for the security of the Treasury of this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every person, chosen to the office of Treasurer of this State, shall give the bond, which by the Constitution is required, to the State of Maine, in the penal sum of not less than seventy-five thousand dollars, with at least six good and sufficient sureties residing within this State. The condition of which bond among other things, shall be for the faithful performance and discharge of all the duties of his said office, and for the fidelity of all persons by him employed and entrusted with any of the concerns of such office, and that during his continuance in office, he will not engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader, and that he, or his executors or administrators, or sureties, or their respective executors or administrators shall, and will render a just and true account of all his and his agents'

Treasurer to give bond.

Condition.

and servants' doings and transactions in said office to the Legislature, or such committee as they shall appoint, on the first Wednesday of January annually, and previous to a new Treasurer's being chosen, and at any other time that shall be required by the Legislature, or the Governor and Council; and that he will settle and adjust said account, and faithfully and without delay deliver over to his successor in office, or such person or persons as by the Legislature shall be appointed for that purpose, all and singular the monies, books, property and appurtenances of said office being and remaining in his hands, or in the hands of his agents or servants, and truly and without delay to pay over all such balances that shall appear due upon the adjustment of the accounts of his said office; which bond when executed and approved, as by said Constitution is provided, shall be lodged in the Secretary's office. And the Attorney General, upon order of the Governor and Council, or of the Senate and House of Representatives shall and may, in behalf and for the use of said State, commence any action or actions on such bond and the same pursue to final judgment, execution and satisfaction.

Governor and Council to declare a vacancy in certain cases,

SEC. 2. *Be it further enacted,* That the Governor, with the advice of Council, upon the complaint or suggestion, made under oath, of any surety of a treasurer in any bond to be taken as aforesaid, that such officer is insane, or manifestly insolvent, or hath absconded and concealed himself for fear of his just creditors, or is absent from this State, or the duties of his said office, to the imminent hazard of the said State in respect to the trust in such officer reposed, and the truth of such complaint or suggestion appearing upon due examination thereof had, shall have the authority, and it shall be their duty, to discontinue such Treasurer and declare such office vacant. And in case of vacancy in the office of Treasurer by death, resignation or otherwise, or said Treasurer shall become manifestly insolvent in the recess of the Legislature, the Governor, with advice and consent of the Council, shall appoint some suitable person a commissioner to transact the duties of said office during the remainder of the political year, for which such officer was chosen, unless the Legislature shall be sooner in session. And before such person so appointed shall proceed to discharge the duties of said office, he shall take and subscribe the oaths and give bonds with the same conditions required of the Treasurer elected by the Legislature, to the acceptance of the Governor and Council.

and appoint a commissioner of the Treasury.

SEC. 3. *Be it further enacted,* That whenever it shall become necessary that a Commissioner should be appointed under the second section of this Act to transact the duties of Treasurer, it shall be the duty of the Secretary of State and the Attorney General, or two discreet and impartial citizens to be appointed by warrant under the hand and seal of the Governor as soon as practicable, after either of the events

And two persons to take an account of monies, &c. in the Treasury.

shall happen mentioned in the second section aforesaid, rendering it necessary for the appointment of a Commissioner having first given notice to the sureties, or any two of them, or the late Treasurer, or Treasurer thus to be superseded, shall take a true and accurate inventory of all monies, notes, bonds, books of account and other property belonging to the State, which was in the possession of such Treasurer, or in the hands of any of his agents or servants, wherever to be found; all which shall be delivered over by them to such person, as may be appointed to discharge the duties of Treasurer as aforesaid, he giving a receipt therefor on the back of said inventory, which shall be lodged in the Secretary's office; a copy of which may be given to any person interested therein.

SEC. 4. *Be it further enacted,* That if any Clerk, or other person employed by the Treasurer shall commit any fraud or embezzlement therein, and shall be duly convicted thereof before the Supreme Judicial Court, he shall be punished by fine not exceeding two thousand dollars, or by confinement to hard labor for a term of years, or for life, according to the nature and aggravation of the offence and the judgment of said Court thereupon.

Punishment of fraud in clerks

[Approved June 13, 1820.]

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CHAPTER CLXVI.

An Act directing the manner in which notices upon Petitions to be presented to the Legislature may be given.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That when any individuals or corporations or their agents may have signed a petition to be presented to any future Legislature of this State, and when the granting the prayer of such petition may effect the rights or interests of any other individuals or corporations, the petitioners may cause the individuals or corporations whose rights or interests may be thus effected, if known, to be served with a true and attested copy of the petition sixty days at least before the commencement of the session of said Legislature, by any Sheriff, deputy Sheriff, Constable or Coroner, who shall make due return thereof: And when all the individuals or corporations whose right or interest may be thus effected are not known, the petitioners may cause a true copy of their petition to be published in any newspaper printed in the county, if any there be, otherwise in the next adjoining county, where such petitioners reside, three weeks successively, the last publication to be thirty days at least before the commencement of the session of said Legislature; and the notices thus given, shall have the same effect as notices ordered by the Legislature upon petitions presented and given in pursuance of such orders.

Petitioners to the legislature may notify interested persons, if known, by serving them with copy of their petition sixty days before next session.

If persons interested are not all known, the notice may be given by publishing in a newspaper, &c.

Fees to sheriff,
&c. for serving
such notice.

SEC. 2. *Be it further enacted,* That every Sheriff, deputy Sheriff, Constable or Coroner, who may serve a notice as aforesaid, shall be allowed and paid by the petitioners, four cents a mile for his actual travel in making the service, twelve cents a page for each copy of the petition, and thirty cents for each service thereof; and after service shall, on demand, deliver the petition with his return thereon to the petitioners.
[Approved February 24, 1821.]

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CHAPTER CLXVII.

An Act in furtherance of good discipline in the Colleges of this State.

Innholders, re-
tailers, stable
keepers, &c.
not to give
credit to under
graduates with-
out permission
of college offi-
cers.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no innholder, tavern keeper, retailer, confectioner, or keeper of any shop or boarding house for the sale of drink or food, or any livery stable keeper, shall give credit to any under graduate of either of the colleges within this State, without the consent of such officer or officers of the said colleges respectively, as may be authorized to act in such cases, by the governments of the same or in violation of such rules and regulations as shall be, from time to time, established by the authority of said colleges respectively.

No person to
be licensed, &c.
if objected to
by college offi-
cers, as having
violated this
law.

SEC. 2. *Be it further enacted,* That no person shall be approved by the Selectmen of any town within this State, as fit to be licensed for either of the employments aforementioned; nor shall a license be granted to any person within this State, provided the President of either of said colleges or other officer, especially authorized for that purpose, shall certify or make known to such Selectmen, or Court empowered to grant such license, that such person, so applying, shall have within the year then last past, given credit to any under graduate of either of said colleges contrary to the provisions in the first section of this Act.

Penalty for vio-
lation of this
act, and mode
of recovery.

SEC. 3. *Be it further enacted,* That if any person shall give credit to any under graduate of any of the colleges within this State, contrary to the provisions of this Act, the corporations of the said colleges respectively, or the Treasurers of the same, may have and maintain, in any Court within this State proper to try the same, an action on the case in the corporate name of the said colleges respectively, or in the name of the Treasurers thereof respectively, against the person or persons so giving credit, and shall have and recover a sum equal to the amount, so unlawfully trusted or credited, whether the amount so credited to any such under graduate, shall have been paid or not: and the amount so recovered shall go and enure, the one half thereof to the benefit of the said colleges, respectively, and the other to the benefit of the poor of the town in which such credit may have been given.

[Approved February 28, 1821.]

CHAPTER CLXVIII.

An Act to secure to owners their property in Logs, Masts, Spars and other Timber in certain cases.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That if any person shall take, carry away or otherwise convert to his own use, without the consent of the owner, any log suitable to be sawed or cut into boards, clapboards, shingles, joists or other lumber, or any mast, spar, or other timber, the property of another, whether the owner thereof be known or unknown, lying or being in any river, pond, bay, stream or inlet, or on the bank or shore of any river, pond, bay, stream or inlet within this State; or if any person shall cut out, alter or destroy any mark or marks of any owner or owners, made on any such log, mast, spar, or other timber, whether the owner thereof be known or unknown; the person so offending shall forfeit and pay to the use of the State, a fine not less than twenty-five dollars, nor more than fifty dollars, for each and every such log, mast, spar, or other piece of timber so taken, carried away or converted: or upon which the mark or marks so made, shall have been cut out, altered or destroyed as aforesaid; to be recovered by indictment before any Court of competent jurisdiction, with costs of prosecution; or any person committing either of the offences aforesaid shall forfeit and pay the sum of twenty-five dollars for every log, mast, spar or other piece of timber, so by him taken, carried away or converted, or on which such mark or marks shall have been cut out, altered or destroyed, when the owner or owners thereof shall be unknown, to the use of the person who shall sue therefor; or the sum of fifty dollars for every such log, mast, spar, or other piece of timber, when the owner or owners thereof shall be known; to the use of such owner or owners; to be recovered in an action of debt in any Court of competent jurisdiction.

Penalty for taking logs, &c. without owner's consent in any river, pond, &c. in this State—

for cutting out marks on logs, &c.

to be recovered by action of debt.

SEC. 2. *Be it further enacted,* That all logs, masts, spars, or other pieces of timber, carried by freshets, or otherwise lodged upon any lands adjoining said rivers, ponds, bays, streams or inlets, shall be forfeited to, and become the property of the owner or occupier of the lands so incumbered, after the expiration of two years, from the time the same may have been carried or lodged upon said lands, if improved, or after the expiration of four years, if the same are unimproved.

Logs, &c. floated and lodged upon land of others, to be forfeited to owner of lands after certain time.

SEC. 3. *Be it further enacted,* That the owner or owners of such logs or other timber, mentioned in the second section of this Act, may lawfully enter on said land and remove said timber therefrom, at any time within two years from the time the same may have lodged as aforesaid, on said lands, if improved; or at any time within four years as aforesaid, if un-

Owner of such logs may, within time limited, enter on lands and remove the timber, paying compensation.

improved, on paying or tendering to the owner or occupier of the said lands, so incumbered with logs or other timber, a reasonable compensation for the damages which said owner or occupier may have sustained by said logs, and as may be occasioned by the removal of the same.

If owner of such logs, &c. remove the same, without paying compensation, liable to damages.

SEC. 4. *Be it further enacted*, That whenever the owner or owners of such timber, mentioned in the second and third sections of this Act, shall remove the same from any of said lands, or have caused the same to be removed therefrom without having paid or tendered the compensation for damages, as in the third section of this Act is prescribed; the owner or occupier of such land may commence, and is hereby authorized to have and maintain an action of the case against the owner or owners of said timber, or against the person or persons removing the same, to recover compensation for the damages aforesaid: *Provided*, That said action be commenced within one year from the time said timber is removed from said land.

Limitation of action for damages.

Compensation for taking up and securing logs, &c. between Saco and Biddeford in divers places above base falls.

SEC. 5. *Be it further enacted*, That whenever any logs, masts, spars or other timber, shall be taken up and secured for the owner, below the great boom, (so called,) in Saco river, between Biddeford and Saco, the person or persons so taking up and securing said logs, masts, spars or timber, shall be entitled to one sixth part of said logs, masts, spars or timber, if taken up above the lower falls on said river and below said boom; or if taken up and secured below said lowest falls on Saco river, one third part of all logs, masts, spars or other timber so taken up and secured for the owners of the same: and if taken up and secured for the owner at the bridges called Spring's bridges between Biddeford and Saco, below the great boom, so called, and above the lower falls in Saco, the proprietor or proprietors of said bridges, so taken up, and securing said logs, masts, spars or other timber, shall therefor be entitled to one fourth part of all such logs, masts, spars or other timber so taken up and secured: *Provided*, The person or persons so taking up and securing the same, shall, in all such cases advertise said logs, masts, spars or timber, describing the same and the marks, (if any there be,) on the same, within seven days after so taking up and securing them, by posting up such advertisement in one or more of the public inns, in Saco and Biddeford; and if no such advertisement shall be posted up as aforesaid, the owner of such logs, masts, spars or timber, may take the whole, without paying any sum for taking up and securing the same: and if no owner shall appear to take a part of said logs, masts, spars or timber, and demand his part thereof within three months from the day it is advertised as aforesaid, then the whole of said logs, masts, spars or other timber shall become the property of the person who shall take up and secure the same as aforesaid; and any person or persons, using, selling, or any

Person taking up and securing logs, &c. to give notice, and manner of notifying.

If no notice be given, owner of logs, &c. may take them without paying any compensation, &c.

If no owner appear and demand, &c. within three months after notice advertised, the timber, &c. to become property of the person securing it.

other way disposing of said logs, masts, spars or other timber, or any part thereof, within the term of three months from the time of taking up and advertising the same in manner aforesaid, unless he purchases the same of the lawful owner, shall be liable to pay the owner thereof treble the value of such logs, masts, spars or piece of timber, with costs of suit, on being convicted thereof; to be recovered by action of debt, in any Court of competent jurisdiction: *Provided*, That a passage way shall be kept open by the owners of said bridge to the slip, which is made on the east side of Saco river, for the running of boards and other timber so that the proprietors of the said slip may possess all the advantages which they have heretofore enjoyed by said slip.

Penalty for disposing of such logs, timber, &c. within three months,

to be recovered by action of debt.

Passage way to be left open to the slip.

SEC. 6. *Be it further enacted*, That when any person shall be prosecuted for the breach of this Act for any logs, masts, spars or timber being found in his possession with the marks cut out, or altered, as aforesaid, it shall be considered as evidence against the person possessing the same, as being guilty of a breach of this Act; unless such person shall give reasonable satisfaction to the Court or Jury which tries the cause, that neither he himself, nor any other person by his order, or for or under him did so alter or deface the marks on the same.

Possession of logs, &c. with marks cut out, to be evidence against person possessing, unless, &c.

SEC. 7. *Be it further enacted*, That if any proprietors or owners of any boom or booms in or across Saco river, the great Androscoggin, Kennebec river, below Merry Meeting Bay, so called, Great Ossipee and Little Ossipee rivers aforesaid, shall unnecessarily detain or suffer to remain therein, any logs, masts, spars or other timber, which ought to be turned through the same, they shall forfeit and pay to the owner or owners of such logs, masts, spars, or other pieces of timber, unnecessarily detained or suffered to remain therein, the sum of two dollars for each log, mast, spar or other piece of timber, so detained, to be recovered in the manner provided in the fifth section of this Act: *Provided however*, Such detention aforesaid shall not exceed six days.

Penalty for stopping logs, &c. in Saco, Androscoggin, Kennebec, Great and Little Ossipee rivers.

mode of recovery.

SEC. 8. *Be it further enacted*, That all logs, masts, spars, and other timber, the marks on which have been so defaced as not to be known, (commonly called prize logs,) shall be turned from and through the several booms in Saco river until they arrive at the Saco boom; the proprietors of which boom shall carefully raft the same by themselves, and on the first Monday of August in each year shall sell the same at public auction to the highest bidder, first giving notice of such sale, by posting up advertisements thereof in some public place in the towns of Saco, Biddeford, Buxton, and Hollis, twenty days at least before the day of sale; and the proceeds of such sale, after deducting the expense of securing and selling the same, shall be appropriated to the clearing and removing obstructions, to the passage of logs and other timber,

Prize logs in Saco river, how to be disposed of by proprietors of booms, &c.

as aforesaid, down Saco river, and be immediately paid to such committee or committees, agent or agents, as shall by said Saco boom proprietors be legally appointed for that purpose ; otherwise to the Selectmen of the towns of Saco, Biddeford, Buxton, and Hollis, in proportion to their population, for the use of the poor of said towns ; and any person or persons not the owners thereof, who shall take, carry away, sell or mark anew any such prize logs, masts, spar, or any piece of timber, contrary to the foregoing provision, shall forfeit and pay for each and every such offence the sum of twenty-five dollars, to be recovered by an action of debt, in any Court proper to try the same, with legal costs, by the proprietors of Saco boom ; to be appropriated in the way and manner and for the purpose before mentioned in this Section.

Penalty for proprietors of such booms, &c. disposing of such logs, contrary to this Act.

SEC. 9. *Be it further enacted*, That if the proprietors aforesaid, or any of them who by this Act are authorized and directed to take care of and secure such prize logs and other timber aforesaid, as shall from time to time be taken up and secured at Saco boom aforesaid, for the purpose aforesaid, their agents or servants, shall knowingly suffer the same to be taken away or disposed of, contrary to the intent of this Act, for each and every such offence shall pay a fine not less than twenty-five dollars nor more than fifty dollars, for each log, mast, spar, or other piece of timber so taken away ; to be recovered in an action of debt, in any Court proper to try the same, with legal cost, by any person who shall prosecute and sue for the same.

Mode of recovery.

Owners of logs, &c. may enter mills in search of logs suspected to be there.

SEC. 10. *Be it further enacted*, That the owner or owners of any logs or other timber, or their agents, shall have liberty at all times in a peaceable manner, to enter any mill or any mill brow, boom or raft of logs, or other timber, in search of any logs or other timber, which they may suspect to be there ; and any person or persons who shall prevent such search, shall forfeit and pay for each and every such offence, a fine not less than twenty-five dollars nor more than one hundred dollars, to be recovered by action of debt, in any Court proper to try the same, in the name of the person who thus sustains the damage, and to be for his use.

Penalty for preventing such search.

When logs are intermixed in the river, expense of driving to be paid by owners.

SEC. 11. *Be it further enacted*, That all logs, masts, spars, or other timber put into any river, pond, or stream in this State, for the purpose of being floated to market, and mixed with other logs, masts, spars, or other timber, and in such manner as they cannot be separated ; such logs, masts, spars, or other timber, shall be holden, by their marks, to pay the person or persons who shall drive the same, a reasonable sum for so driving, unless the owners thereof shall appear and pay to those persons who drove any logs, masts, spars, or other timber, within thirty days after such service is performed : and at the expiration of said thirty days the person or persons, performing said service shall have full power to sell at public

If not paid within 30 days, what proceeds to be had

vendue so many of said logs, masts, spars, or other timber, as shall pay the full expense for driving the same, after giving fifteen days notice by posting up advertisements in two or more public places in the town where the owner or owners reside. And if any surplus shall remain over and above what shall compensate such person for his trouble and expenses, the same shall be returned to the owners thereof.

[Approved March 16, 1821.]

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CHAPTER CLXIX.

An Act securing to Mechanics and others, payment for their labor and materials expended in erecting and repairing houses and other buildings with their appurtenances.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any contract shall hereafter be made in writing, between the proprietor or proprietors of land on the one part, and any person or persons on the other part, for the erecting or repairing any house or other building, or their appurtenances, or for furnishing labor or materials, for the purpose aforesaid, the person or persons who shall in pursuance of such contract, have furnished labor or materials for such purpose, shall have a lien to secure the payment of the same upon such building, and the lot of land, on which the same stands, and upon the right of redeeming the same, when the same has been previously conveyed in mortgage: *Provided always*, That no such lien shall attach, unless such contracts shall have been recorded in the Registry of Deeds, in the county in which the land, on which such house or other building has been erected or repaired, lies; and no lien created by this Act, shall continue in force more than six months from the time when the last instalment shall fall due, by the contract by which such lien shall be claimed; unless a legal process shall have been commenced, for the purpose of enforcing such lien.

to obtain payment.

Persons, by contract in writing, furnishing labor or materials in erecting or repairing buildings, to have a lien on the same, and the land on which it stands, for payment.

Provided such contract has been recorded.

No lien to continue more than 6 months after last instalment is due.

SEC. 2. *Be it further enacted*, That it shall be the duty of the Register of Deeds, in the county in which any such land may lie, to record all such contracts for the usual fees; and when a contract shall consist of more than one part, the recording of one part shall be sufficient and have the same effect as recording the whole.

Register of deeds to record such contracts.

SEC. 3. *Be it further enacted*, That any person having a lien upon any building, and the lot of land on which it stands as aforesaid, may petition to the Circuit Court of Common Pleas holden in the county in which the land, mentioned in any such contract, may lie, to order a sale of such land with the appurtenances; in which case the Court shall order notice to be given to all the creditors having a lien as aforesaid, on such estate, to appear and make out their claims under

When person having such lien, petitions C. C. Pleas for sale of such property, what proceedings are to be had.

such contracts; and the owner or owners of such estate, to show cause, if any they have, why a decree, that such estate should be sold, should not be passed, by causing each of them to be served with an attested copy of said petition, and the order of Court thereon, fourteen days at least before the time assigned for a hearing upon said petition; or by causing an attested copy of such petition and order to be published, at such times, in such newspaper as the Court shall direct, the last publication to be at least fourteen days before the time assigned for such hearing; and every such creditor, who does not appear and exhibit his claim to the Court, before the sale of such estate shall be decreed as aforesaid, shall not be entitled to the benefit of such lien. And when it shall be made to appear to the Court before which such petition shall be pending, either by the default or confession of the party petitioned against, or by the verdict of a Jury, that any sum of money secured by such contract, had been due and unpaid sixty days at the time of preferring such petition, the Court may enter up judgment against the respondent, in favor of each of such lien creditors, for such sum as may be found due to them respectively, and may order the land and appurtenances, in such contract mentioned, to be sold at public auction, to pay and satisfy the same; saving to the owner or owners of such estate the right of redeeming the same, at any time, within one year from the time of sale, by paying the purchaser, or any person claiming under him, the sum for which it was sold, with interest at the rate of twelve per cent.; deducting therefrom the rents and profits, over and above the necessary repairs. And in the hearing upon any such petition, each of such lien creditors shall have a right to contest the claim of the other, by issue to the Jury or otherwise.

In certain cases court may order a partial payment to the lien creditor.

SEC. 4. *Be it further enacted,* That whenever the owner of any such estate shall have so failed to perform his contract or contracts, in relation thereto as aforesaid, that in the opinion of the Court, said estate, according to the true intent and meaning of this Act, ought to be sold as aforesaid, and the person or persons, or any of them, who have so contracted to furnish labor or materials for erecting or repairing such house or other buildings, and without any default on his, her, or their part, have not fully performed his, her, or their contract, a proportional rate of the sum, stipulated to be paid to such lien contractor, shall be awarded to him, her, or them. And any creditor of the owner of any lot of land, on which an house or other building shall be erected or repaired by contract as aforesaid, who shall have caused such lot of land, with the appurtenances to be attached, to secure the payment of his demand, previously to any such lien creditor entering into, and recording as aforesaid, his contract, for erecting or repairing such house, or other building, or their appurtenances

Proceedings, when a creditor attaches the property before the contract is recorded.

as aforesaid; shall be preferred to any such contracting creditor, so far as relates to the value of said land or building, in the state in which they were at the time when erecting or repairing of such house or building was commenced. And the value of such lot of land, or land and building at the time when the same shall be attached as aforesaid, shall be ascertained by the appraisal of three disinterested freeholders of the county, in which such land shall lie; one to be appointed by the petitioning creditor or creditors, one by the respondent, and one by the officer who shall make the sale. And in case the respondent neglects or refuses to appoint such appraiser, the appointment of two such appraisers shall be made by such officer.

SEC. 5. *Be it further enacted,* That in all cases in which the Court shall order and decree, that any such estate shall be sold as aforesaid, the sale shall be made by the Sheriff or his deputy; and if the Sheriff be interested, then by the Coroner of the county in which such estate lies; and such notice shall be given of the time and place of sale, as is provided by law, when the right of redeeming real estate is sold, which has been conveyed in mortgage. And whenever it shall be found by the officer who has made such sale, that the net proceeds of such sale are insufficient to satisfy the sums which shall have been awarded to the lien contract creditors, and attaching creditors, according to the provisions of this Act, it shall be the duty of such officer, after satisfying this claim of the attaching creditor or creditors, if such there are, to apportion the net proceeds of such sale among the lien creditors, according to the sums to them respectively awarded; and if the net proceeds of the sale of such estate, shall exceed the amount of all the sums ascertained and awarded as aforesaid, it shall be the duty of such officer to pay over the excess to the respondent.

SEC. 6. *Be it further enacted,* That each and every lien creditor, his executors, administrators, or assigns, having received payment and satisfaction of his, or their demands according to the term of such contract; or when such house or other building shall have been sold, and the proceeds thereof paid over, according to the provisions of this Act, each and every such lien creditor, his executors, administrators, or assigns, shall enter upon the margin of the record of such contract, a discharge of his or their lien upon such house or other building, created by such contract; or by deed duly executed, release the same; and any party in interest shall be entitled to have like remedy for obtaining due discharge of such lien, in case the money shall be paid as aforesaid, as is now by law secured in equity to mortgagers, their heirs, executors, administrators or assigns.

When such contract is satisfied by payment or sale of the property, lien to be discharged on margin of the record.

Party in interest to have same remedy to obtain a discharge as mortgagers have in equity.

SEC. 7. *Be it further enacted,* That in all cases arising under this Act, every party shall be entitled to a trial by

Jury trial in all cases, and right of appeal.

Jury, of any matter of fact in the cause; and any one or more of the parties may appeal from the judgment of the Circuit Court of Common Pleas, to the Supreme Judicial Court, as in other cases.

[Approved February 14, 1821.]

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CHAPTER CLXX.

An Act concerning Apprentices.

At what ages and in what manner minors may be bound as apprentices, and by whose consent.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That minors under the age of fourteen years, may be bound by deed, until that age, as servants or apprentices, by their father; and in case of his decease, by their mother or by their guardian legally appointed; or having no parent or guardian, may bind themselves, with the approbation of the Selectmen or major part of them, of the town where such minors reside. And all minors of the age of fourteen years or upwards may be bound by deed as apprentices or servants, females to the age of eighteen years, or to the time of their marriage within that age; and males to the age of twenty-one years, by their father; and in case of his decease, by their mother, or guardian legally appointed, having the minor's consent expressed in the deed: And any such minors having no father, mother or guardian within the State may, by deed, bind themselves with the approbation of the Selectmen or the major part of them, of the town where they reside: *Provided*, That in every case there shall be two deeds of the same form and tenor, executed by both parties; one to be kept by each; and where made by the approbation of the Selectmen, they, after having examined the terms of the deeds, shall express their approbation thereon, and sign the same: *Provided also*, That all considerations which shall be allowed by the master or mistress in any contract of service or apprenticeship, shall be secured to the sole use of the minor thereby engaged. And all contracts which shall be made by any parent or guardian, or by any minor for him or herself pursuant to this Act, shall be good and effectual in law against all parties, and the minors thereby engaged, according to the tenor thereof.

Indentures to be in two parts, of the same form, executed by both parties.

All considerations allowed by master or mistress, to be secured to the minors.

No indenture to be binding on the minor after the death of the master, but void from that time.

SEC. 2. *Be it further enacted*, That no covenant of apprenticeship entered into by any minor, his parent or guardian, for the purpose of such minor's learning or being instructed in any trade or mystery, and made to any master and the wife of such master; or to the executors, administrators or assigns of such master, shall be binding on such minor, parent or guardian, after the decease of the master; but on the death of such master, the said covenant shall be deemed void from that time; and in any such case any minor may be bound out anew, in the manner herein before prescribed.

SEC. 3. *Be it further enacted,* That it shall be the right and duty of parents and guardians, and of Selectmen for the time being, binding minors as aforesaid, to inquire into their usage and defend them from the cruelties, neglects or breach of covenant of their masters or mistresses; and such parents, guardians or Selectmen, for the time being, may complain to the Circuit Court of Common Pleas in the county whereof such master or mistress is an inhabitant, against him or her for any personal cruelty, neglect or breach of covenant: and the Court, after having duly notified the party complained against, shall proceed to hear and determine such complaint, with or without a Jury, according as the allegations of the parties may be. And if the same complaint shall be supported, the Court may render judgment, that the said minor be discharged from his or her apprenticeship or service, with costs against the master or mistress; and award execution accordingly: in which case the deed of service or apprenticeship shall be deemed void from the time of rendering such judgment, and the minor may be bound out anew. But if such complaint shall not be supported, the Court shall award costs to the respondent against the parent, guardian or Selectmen where the complaint of the Selectmen shall be without probable cause, and execution accordingly.

Parents, guardians and selectmen to inquire into treatment of minor, and may complain to C. C. Com. Pleas against master for wrongs done to the minors.

Court may proceed with or without Jury;

and for good reasons discharge the minor from his apprenticeship or service; or award costs against complainants.

SEC. 4. *Be it further enacted,* That if any servant or apprentice bound as aforesaid, shall be guilty of any gross misbehaviour, wilful neglect or refusal of his or her duty, the master or mistress may complain thereof to the Circuit Court of Common Pleas in the county whereof he or she is an inhabitant; and the said Court, after having duly notified such servant or apprentice, and all persons covenanting on his or her behalf; and the Selectmen for the time being of the town, (where Selectmen shall approve as aforesaid,) shall proceed to hear and decide on such complaint, with or without Jury, as the allegations of the parties may be; and if the said complaint shall be supported, the Court may render judgment, that the master or mistress shall be discharged from the contract of service or apprenticeship, and every article thereof obligatory on him or her, with costs, and award execution for costs accordingly against the parent, guardian or minor, where the minor shall engage as aforesaid, for him or herself; and any servant or apprentice whose master or mistress shall be discharged as aforesaid may be bound out anew.

In case of gross misbehaviour of apprentice or servant bound, master or mistress may complain to C. C. Com. Pleas. Court after notice, to proceed as before.

and for good cause may discharge the master or mistress from their indentures.

SEC. 5. *Be it further enacted,* That if any servant or apprentice, bound as aforesaid, shall depart from the service of his or her master or mistress, it shall be lawful for any Justice of the Peace of the county where such servant or apprentice may be found, on complaint made to him by the master or mistress, or by any one in his or her behalf, on oath, to issue his warrant to the Sheriff, his deputy or any Constable within the county directing him to apprehend such servant or

Justice of peace, on complaint, may cause absconding apprentices, &c. to be arrested,

and returned to the place of his duty or commit him to prison, &c.

Such warrant shall justify the officer in carrying the apprentice to his master though in another county.

Costs, how to be paid.

apprentice, and to bring him or her before the said Justice, who upon the hearing shall order the said servant or apprentice to be returned to the place of his or her duty; or to commit him or her to the common gaol of the county, there to remain for a term not exceeding twenty days, unless sooner discharged by his or her master or mistress: And the Justice's warrant for returning such servant or apprentice to the place of his or her duty, directed to any officer or other person by name, shall authorize him to convey any such servant or apprentice to such place, notwithstanding it may be in any other county in the State; and the costs of the process and commitment by the said Justice, shall be paid by the master or mistress, to be recovered by him or her on the deed or covenant: and when recovered of the guardian, the same with all further costs he may be held to pay, shall be a proper article of charge in his guardianship account.

[Approved February 28, 1821.]

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CHAPTER CLXXI.

An Act against Hawkers, Pedlars and Petty Chapmen,

Penalty for carrying certain articles from town to town for the purpose of sale.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the first day of May next, every hawker, pedlar, petty chapman, or other person going from town to town, on foot, or with a horse or horses, carriage or carriages, or otherwise carrying to sell, or exposing to sale, any feathers, indigo, tin ware, books, medicines, nostrums, essences, or any goods, wares or merchandize in this State, shall forfeit a sum not exceeding fifty dollars, nor less than twenty dollars, to be recovered by complaint, indictment, or information; also all such articles and goods, wares and merchandize, the one half to him or them who will prosecute therefor, the other half to the use of the town where the offence happens; and any Justice of the Peace upon complaint to him made, of any such offence, may arrest and bring before him any person or persons complained against, and order him or them to recognize with sufficient surety or sureties to appear before the next Circuit Court of Common Pleas in the county where the offence is committed, and for want of such surety may commit such offender or offenders to gaol; also may secure and detain all such articles before named, and such goods, wares, and merchandize until the trial, and in case such offender is convicted, such Court shall decree all such articles and goods, wares and merchandize to be forfeited to the uses aforesaid: *Provided however,* That nothing herein shall be so construed, as to prevent any person from vending in any town or place in this State, any farming utensils, or wooden wares, or any articles of domestic manufacture the principal material of which is

Mode of recovery.

Proviso.

wood; or from selling or marketing any fish, fruits, provisions, garden seeds, combs, leather, shoes or potter's earthen ware.

SEC. 2. *Be it further enacted*, That any person who is a citizen of this State, and who will procure a certificate from the Selectmen of the town where he resides, that he is of good moral character, may apply to the Court of Sessions of any county in this State for a license to sell tin ware for one year from the time of said application within this State; and said Court may grant said license, *Provided* the applicant shall produce to said Court said certificate and also a receipt from the Treasurer of said county, that he has deposited ten dollars for the use of the State, on condition said license is granted; and the person obtaining such license may be permitted *personally* to vend any such tin ware before named as though this law had not been passed.

Certain persons may be licensed on payment of duty, to sell goods in the above manner *personally*.

SEC. 3. *Be it further enacted*, That it shall be the duty of every person licensed as aforesaid, to have on every carriage employed by him for the conveyance of tin ware, in some conspicuous place on the same, his name printed in large letters at least one inch wide, also the words and letters "licensed by C. S." and also the name of the county where such license was granted; and also shall exhibit to any Sheriff, deputy Sheriff, or Justice of the Peace of any county, Selectmen or Constable of any town, when thereto required, a certificate of such license, and in case he shall fail in either of those particulars he shall forfeit ten dollars, to any person who shall sue for the same.

Persons so licensed to have their carriages marked, &c.

[Approved February 10, 1821.]

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CHAPTER CLXXII.

An Act respecting Boats and Lighters employed in transporting Stones, Gravel or Sand, within this State.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That every boat or lighter, employed in transporting stones, gravel or sand within this State, shall be marked at light water mark, and, at least, at five other places, with figures, four, twelve, sixteen, twenty four and thirty, legibly made on the stem and stern post thereof; which figures shall express the weight such boat or lighter is capable of carrying, when the lower part of the respective numbers shall touch the water, in which the said boat or lighter shall float; and the marks expressive of the weight such boats and lighters are capable of carrying, shall hereafter be inspected once every year; and whenever such mark shall be found to be illegible, the same shall be renewed: and every person who shall use or employ any boat or lighter, for the purpose of transporting stones, gravel or sand,

Boats and lighters for sand, stones, &c. to be marked, and how.

Penalty if used unmarked;

as aforesaid, which shall not be marked as in this Act is provided, shall forfeit and pay the sum of fifty dollars, to be recovered by an action of the case, in any Court proper to try the same, by any person who will sue therefor. And any person who shall put or cause to be put, on any boat or lighter as aforesaid, any false marks as aforesaid, shall be subject to the like penalty, to be recovered in like manner.

and for marking falsely.

Selectmen shall annually appoint inspector.

SEC. 2. *Be it further enacted,* That it shall be the duty of the Selectmen in any town, where boats and lighters are owned, which may be employed in transporting stones, gravel or sand, as contemplated in this Act, to appoint annually in the months of April or May, some suitable person to ascertain the capacities of all such boats and lighters, and mark the same as is prescribed in this Act; who shall be under oath faithfully to perform the duty as herein prescribed.

Inspector to examine and mark anew, when necessary.

SEC. 3. *Be it further enacted,* That whenever the inspector shall be of opinion that the burden or capacity of any such boat or lighter shall have been diminished or increased by any repairs made on the same, or otherwise, it shall be his duty forthwith, to ascertain anew the capacities of such boats or lighters, and to mark the same accordingly.

Selectmen to regulate fees of inspector.

SEC. 4. *Be it further enacted,* That the Selectmen of towns in which boats or lighters used for the aforesaid purposes, are owned, be, and they are hereby empowered, and it shall be their duty to regulate the amount of fees which may be demanded by the inspector of boats and lighters, of the owners thereof, for the performance of the duties imposed upon him by this Act.

[Approved January 23, 1821.]

CHAPTER CLXXIII.

An Act for the protection of Harbors and Shores.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That if any master of a ship or vessel or other person, shall unload, or throw overboard any ballast in any road, port or harbour within this State, he shall forfeit and pay, for each and every such offence, a fine not exceeding sixty dollars, to be recovered in an action of debt in any Court proper to try the same; one half thereof to the use of the town, in which such offence is committed, the other half to the use of any person who shall prosecute for the same.

penalty for throwing ballast overboard into harbours, &c.

How to be recovered.

penalty for taking ballast from any island, &c. without leave.

How to be recovered.

SEC. 2. *Be it further enacted,* That if any master of a vessel or other person, shall take off any stone, or other ballast, from any island, beach, or other land without the consent of the owner or proprietor thereof, such person shall forfeit and pay a fine for each and every such offence, not exceeding seven dollars; to be recovered in an action of debt before any Justice of the Peace within the county in which such of

fence shall be committed, the one half thereof to the use of the town, where such offence is committed, the other half to the use of any person, who shall prosecute for the same.
 [Approved March 2, 1821.]



CHAPTER CLXXIV.

An Act to prevent damage by mischievous Dogs.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That when any dog shall do any damage either to the person or the property of any person, the owner or keeper of any such dog, and also the parent, guardian, master or mistress of any minor or servant who shall own or keep any such dog, shall be liable to, and shall forfeit and pay to the person injured double the amount of the damage done by such dog, to be recovered by action of trespass, before any Court proper to try the same.

Owners of dogs, and parents, masters, &c. liable for double damages.

SEC. 2. *Be it further enacted,* That it shall and may be lawful, for any person or persons in this State, to kill any dog that shall suddenly assault them while they are quietly and peaceably walking or riding any where out of the enclosure of the owner or keeper of such dog; and it shall also be lawful for any person to kill any dog that shall be found out of the enclosure or immediate care of its owner or keeper, worrying, wounding or killing any neat cattle, sheep or lambs.

Person suddenly assaulted by a dog, may kill him.

and if wounding cattle, dog may be killed.

SEC. 3. *Be it further enacted,* That if any person shall be assaulted by any dog in manner as aforesaid, or if any dog shall hereafter be found strolling out of the enclosure or immediate care of its owner or keeper, by day or by night, and the person so finding such dog, shall, at any time within forty-eight hours after such an assault, or the finding such dog strolling as aforesaid, make oath thereof before any Justice of the Peace for the county or Clerk of the town where the owner of such dog shall dwell, (who are hereby empowered to administer said oath and to certify the same,) and shall further swear, that he really suspects such dog to be a dangerous or mischievous dog, and shall give notice thereof to such owner or keeper, by delivering him a certificate of such oath, signed by such Justice or Clerk, it shall be the duty of the owner or keeper of such dog forthwith to kill or confine the same; and if he shall neglect so to do for the space of twenty-four hours after notice is given as aforesaid, he shall forfeit and pay the sum of five dollars, to any person that shall sue for the same, to be recovered with costs, by action of debt, before any Justice of the Peace in the county in which such owner or keeper dwells.

Penalty for not killing or confining a dog, on complaint upon oath, and notice, &c.

SEC. 4. *Be it further enacted,* That if after such notice, such dog shall not be killed or confined, but shall again be found strolling out of the enclosure or immediate care of its owner

After such complaint and notice, such dog, if not killed, may be killed.

or keeper, it shall and may be lawful for any person to kill such dog; and if sued therefor, (or for killing a dog, as in and by the first enacting clause of this Act, is provided,) to plead the general issue, and give this Act and the special matter in evidence under it.

Treble damages may be recovered for injuries done after such notice.

SEC. 5. *Be it further enacted*, That if any dog, after notice is given as aforesaid, shall by any sudden assault in manner as aforesaid, wound or cause to be wounded, any person, or shall worry, wound or kill any neat cattle, sheep or lambs, or do any other mischief, the owner or keeper shall be liable to pay to the person injured thereby treble damage, to be recovered with costs, by action of debt before a Justice of the Peace in the county where such owner dwells, if such treble damage doth not exceed twenty dollars, but if it doth exceed that sum, then before the Circuit Court of Common Pleas in such county.

[Approved March 2, 1821.]

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CHAPTER CLXXV.

An Act for the regulation of the Penobscot and Passamaquoddy tribes of Indians.

Governor to appoint agents for Penobscot Indians.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That the Governor, by and with the advice of the Council, be, and he hereby is authorized and empowered to appoint, during pleasure, one or more, not exceeding three persons, to be agents for the Penobscot tribe of Indians.

Also for Passamaquoddy Indians.

SEC. 2. *Be it further enacted*, That the Governor, be, and he hereby is authorized to appoint, as aforesaid, one or more, not exceeding three persons, to be agents for the Passamaquoddy tribe of Indians.

Penobscot agent to provide and deliver on account of the State the goods, monies, &c. as they become due.

SEC. 3. *Be it further enacted*, That the agent or agents, appointed as aforesaid, for the Penobscot tribe of Indians, shall provide, furnish, pay and deliver to the said Indians, for and on account of this State, all such articles; goods, provisions and monies as shall from time to time become due them by virtue of any treaty or agreement now existing, or that may hereafter exist between them and this State.

Such agents to be sworn and give bond.

SEC. 4. *Be it further enacted*, That the persons appointed agents for either of said tribes, as aforesaid, shall be sworn or affirmed to, and shall give bonds, to the State, with sufficient surety or sureties, to the satisfaction of the Governor and Council, for the faithful discharge of the trust reposed in them by this Act, and shall have the care and management of their property, for the use and benefit of said Indians.

Contracts, &c. respecting lands of Indians void unless approved by agents

And all contracts and bargains of every kind, relative to the sale or disposal of trees, timber or grass growing, or being on said Indians' land, and all leases or other contracts relative to the improvement of lands, which any person may obtain

from said Indians, shall be void and of no effect unless the same shall be examined and approved by the person or persons acting as agents as aforesaid. And no lease of land or contract for trees, timber or grass, shall have effect for a longer term than one year. Nor shall the agents for either of said tribes sell or dispose of the trees or timber of said Indians, to an amount exceeding five hundred dollars in any one year.

No lease good for more than one year.

Agents not to sell timber, &c. more than 500 dollars value, annually.

SEC. 5. *Be it further enacted,* That the agent or agents for either of said tribes, in his or their own names, and in said capacity, may maintain any proper action, or actions for any sum due any Indian or Indians of their respective tribes, or for any injury done to them or their property, and all property or money received or recovered by said agents in their said capacity shall be by them distributed among the Indians of the tribe for which they are agents, according to their usages, rights and interests; or otherwise vested in such articles as shall be most useful to said Indians.

Agents may maintain actions in their own names for debts due Indians, &c.

SEC. 6. *Be it further enacted,* That the person or persons appointed agents as aforesaid, shall keep a true record of their proceedings relative to the trust reposed in them by this Act, and correct accounts of all receipts and expenditures of all monies and other property that shall come to their hands, as such agents, and shall lay the same before the Governor and Council for inspection and settlement at least once in every year, and oftener if required, who are hereby authorized to adjust and settle the same.

Agents to keep record of their proceedings.

[Approved March 5, 1821.]

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CHAPTER CLXXVI.

An Act for regulating Ferries.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no person or persons whatever, shall keep a ferry within this State, so as to demand or receive pay, without a special license first had and obtained from the Court of Sessions of the county wherein such ferry may be; and the said Court is hereby empowered to grant such licenses to such person or persons as shall be judged suitable for such service by the same Court; and to state the fare or ferriage at each ferry for passengers, horses and other creatures, carriages, waggons, carts, teams and other things there transported, always having regard to the breadth and situation of, and the more or less passing at any ferry; in all cases taking bond with sufficient sureties of each ferryman for the faithful performance of the duties and services of his place; excepting however, all such ferries as are already stated and settled by the Court or town to whom they appertain.

No person to keep a ferry unless licensed by Court of Sessions;

who are to grant such license and establish rate of ferriage.

Ferryman to give bond, &c.

Ferryman to keep good boats,

and give due attendance, &c.

Penalty for neglect,

and liability to pay damages.

Penalty for keeping ferry and demanding pay, without authority.

When Court of Sessions set up a ferry, the town in which it may be, must provide a ferryman, &c.

who is to be licensed by the Court, and give bond.

Court to fix the fare.

Penalty for such ferryman's neglect.

Towns on opposite sides of a river, to provide a ferry.

SEC. 2. *Be it further enacted,* That all ferrymen at the several ferries in this State, as well as those stated and settled as aforesaid, as others, shall keep a good boat or boats in good repair, suitable to the water they are to ferry over, and give ready and due attendance on passengers on all occasions, for the times and according to the regulations established at any ferry; and the keeper or keepers of each ferry, for every neglect of such attendance, shall forfeit and pay one dollar; and for every neglect in keeping such a boat twenty dollars; one moiety thereof in each case, to the use of the State, and the other moiety to him or them who shall inform and sue for the same; and be further liable to pay in an action on the case all such special damages as any person shall sustain by such neglect.

SEC. 3. *Be it further enacted,* That if any person or persons shall keep a ferry or transport passengers over, or across any stated ferry, so as to demand or receive pay, having no right or authority so to do, he shall forfeit and pay for every such offence four dollars, one moiety thereof to the State, and the other to him or them who shall inform and sue for the same; and be further liable in a special action on the case, to pay such damages as may or shall accrue to the person or persons assigned and authorized to keep any such stated ferry or ferries.

SEC. 4. *Be it further enacted,* That whenever the Court of Sessions of any county in this State, shall judge it necessary to set up a ferry for the convenience of passing any river or waters, and no person shall appear to keep the same for the stated profits thereof, the town wherein such ferry may be, shall take effectual care to provide suitable person or persons to keep and attend the same at such place, and in such times of the year, as the said Court shall judge necessary; which person or persons shall be licensed by such Court as aforesaid. And the said Court shall take bonds with sureties of such persons for the faithful performance of the duties and services of their places; and state the fare or ferriage to be demanded and received at such ferry, having regard to the breadth and situation of, and the more or less passing at the same. And the person or persons so appointed ferrymen at any ferry so set up, shall keep a good boat or boats in good repair, suitable to the waters they are to ferry over; and on failure at any time so to do, shall forfeit and pay twenty dollars for each neglect; and shall also give ready and due attendance on all passengers; and for each neglect so to do, shall forfeit and pay one dollar, one moiety thereof in each case to the town wherein such ferry may be, and the other moiety to him or them who shall inform and sue for the same.

SEC. 5. *Be it further enacted,* That if any such ferry so judged necessary, shall be over any river or water when one

town joins thereto on one side, and another town on the other side; in such case the said towns shall either jointly or alternately, provide such person or persons to keep such ferry as the said Court shall order.

SEC. 6. *Be it further enacted,* That any town neglecting to provide suitable persons to keep ferries as aforesaid shall forfeit and pay forty dollars for each month's neglect, one moiety thereof to the use of the State, and the other moiety to him or them who shall inform and sue for the same; and all the forfeitures aforesaid which may be incurred, shall be recoverable in an action of debt, with costs of suit, before a Justice of the Peace or Circuit Court of Common Pleas of the county wherein the ferry may be, according to the amount of the forfeitures to be recovered.

[Approved February 24, 1821.]

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CHAPTER CLXXVII.

An Act for regulating Pilotage in the several ports in this State.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That the Governor with advice of Council, be, and he hereby is empowered to appoint and commission one or more pilots for such port or ports in this State as may apply for the same, such application to be signed by a majority of the ship owners and ship masters then in the port recommending such suitable person or persons, and give to each of the said pilots branches or warrants for the due execution of the duties of their respective offices.

SEC. 2. *Be it further enacted,* That every pilot appointed as aforesaid shall, before he enter upon the business of his office, take the following oath or affirmation before some Justice of the Peace, viz.

You, A. B. do swear, (or affirm, as the case may be,) that you will from time to time, truly and faithfully perform the duties of a pilot for the harbor or port of — according to your best skill and judgment, agreeable to the laws of this State. *So help you GOD.*

And each of said branch pilots shall before he enter upon the duties of his office, give bonds with sufficient sureties to the Treasurer of this State, in the sum of five thousand dollars, for the due performance of the trust reposed in him: And every branch pilot being commissioned and qualified as aforesaid, is hereby empowered and directed to take charge of any vessel or vessels drawing nine feet of water and upwards, bound into any of the ports aforesaid; and shall pilot such vessel or vessels into the port assigned to him, first shewing to the master thereof, his branch or warrant, and acquainting him or them of his fees.

Governor and Council to establish their fees,

and send a schedule of them to each collector of customs.

Any man may pilot his own vessel.

Pilot liable to pay for vessel, cast away, &c. by his neglect or unskilfulness,

to the owners or insurers.

Outward bound vessels subject to same regulations as inward bound, (except coasting and fishing vessels.)

Pilots of such, liable to same penalties, &c.

Governor and Council to decide on complaints against pilots.

SEC. 3. *Be it further enacted,* That the Governor with the advice of Council, be, and he hereby is empowered to determine and fix the fees of pilotage of the several pilots, and to specify the same in their respective warrants; and also to transmit to each Collector of the customs, in the ports and harbors aforesaid, a schedule of the said fees, to be by such Collector hung up in his office for public inspection: *Provided nevertheless,* That any master of a vessel who may choose to hazard the pilotage of his own vessel into or out of any port, shall be at liberty so to do.

SEC. 4. *Be it further enacted,* That if any vessel, while under the charge and direction of a branch or warrant pilot, shall be lost cast away or run aground, through the unskilfulness or neglect of such pilot, then and in that case, such pilot shall be liable to pay the just value of the vessel and her cargo; or any proportionable damage which may be sustained thereby; to be sued for and recovered by the owner or owners, or insurer or insurers thereof, in any Court proper to try the same.

SEC. 5. *Be it further enacted,* That all vessels drawing nine feet of water and upwards, bound to sea, out of any of the ports aforesaid, (except coasting and fishing vessels,) shall be under the same restrictions, and liable to pay the same fees, that vessels are under and liable to, that are bound into any of the same ports; and all pilots of any outward bound vessels shall be liable to similar actions for damages, and subject to the same penalties for their unskilfulness or neglect, that they would have been, if the same vessels had been bound into any of the ports aforesaid: and to the intent that a suitable check may be had upon the pilots aforesaid, and that they may be excited to a due vigilance in the discharge of the duties assigned them:

SEC. 6. *Be it further enacted,* That the Governor and Council be, and they hereby are empowered to hear and determine all complaints exhibited against the said pilots for mal-conduct in the premises, and to suspend or remove them at their discretion, and to appoint others in their room, laying the reasons therefor before the Legislature at the next session after such suspension or removal.

[Approved February 24, 1821.]

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CHAPTER CLXXVIII.

An Act to regulate the Herring Fishery.

Herrings not to be taken between March 1. and Sept. 1.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That no person shall take any fish called English herrings, within the waters of this State, between the first day of March and the first day of September, in each year, for the purpose of pickling or smoking the same.

SEC. 2. *Be it further enacted,* That no net having meshes less than seven eighths of an inch square shall be used for taking herrings for the purpose of pickling or smoking the same. What nets may be used.

SEC. 3. *Be it further enacted,* That no more than sixty yards of nets in length and five yards in width for each fisherman employed on board of any fishing vessel, shall be carried or used, in any such vessel, for the purpose of taking herrings and no one vessel shall carry or use more than three hundred yards in length, at any one time, for the purpose of taking herrings. Size of nets on board fishing vessels.

SEC. 4. *Be it further enacted,* That no person shall set or place any net crosswise of any river, stream, harbor, creek or cove, within this State; but all nets shall be set or placed lengthwise of the river, stream, harbor, creek or cove, in which such nets shall be set or placed for the purpose of taking herrings. No nets to be set across streams, but lengthwise.

SEC. 5. *Be it further enacted,* That it shall not be lawful for any person to take herrings within any river, stream, harbor, creek or cove, within this State, between sun-set on Saturday night, and sun-rise on Monday morning in each week, for the purpose of pickling or smoking the same. Herrings not to be taken between sunset on Saturday night and sunrise Monday morning.

SEC. 6. *Be it further enacted,* That no person other than a citizen of this State shall set or place any net, seine, wear or other machine in any of the rivers, streams, creeks, harbors, inlets or coves in this State for the purpose of taking salmon, shad, herrings or alewives. None but citizens of this State to set seine or place wear to catch salmon.

SEC. 7. *Be it further enacted,* That no person shall drive herrings in the night time, with lamps, torches, fires or other lights, for the purpose of taking them with dip nets or any other machine: *Provided,* This section shall go into operation in the waters eastward of Penobscot river after the expiration of two years from the passing of this Act, and not before. Herrings not to be driven in night time, with lamps, torches, &c.

SEC. 8. *Be it further enacted,* That any person who shall violate any provision of this Act, shall forfeit and pay, for each and every such offence, a fine not exceeding fifty, nor less than five dollars, to be recovered in an action of debt in any Court proper to try the same, by and for the use of the person, who shall prosecute therefor. Fines, and how recovered.

[Approved March 19, 1821.]

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CHAPTER CLXXIX.

An Act for the preservation of certain Fish.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That it shall not be lawful for any person to take any of the fish, called pickerel or trout, in any of the ponds, rivers or streams within this Penalty for killing pickerel in night by spearing, or shooting at any time.

State, with spears in the night time, or by shooting them at any time; and every person offending, contrary to the true intent of this Act, upon conviction thereof, before any Justice of the Peace, shall pay a fine of fifty cents for each and every pickerel or trout so taken, to and for the use of the person who shall sue for the same.

Penalty for taking away or destroying oysters,

SEC. 2. *Be it further enacted,* That it shall not be lawful for any person to take any oysters from their beds, destroy them or wilfully obstruct their growth therein, in any part of this State, except as is herein after excepted; and every person who shall so take, destroy or obstruct the same, shall forfeit and pay for every bushel of oysters, including the shells so taken or destroyed, the sum of two dollars: *Provided however,* And it shall, at all times, be lawful for the major part of the Selectmen, for the time being of any town wherein oyster beds shall be, to give permits in writing, to any person to take oysters from their beds, at such times, in such quantities, and for such uses, as they shall think reasonable, and express in their permit: *Provided further,* And it shall also be lawful for any inhabitant of every such town, without such permit to take oysters from their beds, therein, for the use of his or her family, from the first day of September to the first day of June annually.

unless by permission of selectmen.

Penalty for taking other shell fish, excepting by permission, &c.

SEC. 3. *Be it further enacted,* That if any person shall take any other shell fish from their beds, destroy them or wilfully obstruct their growth therein, in any harbor, creek, salt water river, bay or inlet in this State, except as is hereinafter excepted, the person so offending shall forfeit and pay for every bushel of such other shell fish, including the shells so taken or destroyed, the sum of one dollar: *Provided nevertheless,* That the major part of the Selectmen for the time being, of each of the said towns, bordering on any harbor, creek, salt water river, bay or inlet, shall at all times have power to give permits in writing, to any person to take such other shell fish from their beds in their said towns, at such times, in such quantities, and for such uses, as they shall deem reasonable, and express in their permit: *Provided also,* That every inhabitant of each of the said towns without such permit shall have a right to take such other shell fish from their beds therein for the use of his or her family: *And provided further,* That nothing in this Act shall extend to deprive any native Indians of the privilege of digging shell fish for their own consumption, or to prevent any fisherman from taking any quantity of shell fish which he may want for bait, so that it do not exceed seven bushels, including their shells, at any one time.

Vessel, boat, &c. with oysters, &c. on board, without permit, in certain cases, liable to seizure for said fins.

SEC. 4. *Be it further enacted,* That if any vessel, boat, or craft shall be found within the limits of any town, and not owned therein, with any oysters on board, taken in such town without such permit, or within the limits of any

one of the towns and not owned therein, with other shell fish on board, taken in such town without such permit; it shall be lawful for any inhabitant or inhabitants of any town wherein such vessel, boat or craft shall so be found trespassing, to seize and detain the same, not exceeding forty-eight hours, in order that the same, if need be, may be attached or arrested by due process of law, in that time to answer the said fines and forfeitures, with costs of suit:

Provided however, That as soon as the owner or master of any such vessel, boat or craft, shall pay said fines and forfeitures, and before sued, to the Treasurer of the town, to the use thereof, wherein the same shall be incurred, such vessel, boat or craft shall be discharged with the effects therein.

To be discharged on payment of such fines.

[Approved March 19, 1821.]

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CHAPTER CLXXX.

An Act repealing certain Acts therein named.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this Act, the following Acts made and passed by the Legislature of the Province of Massachusetts Bay, and of the Commonwealth of Massachusetts, be, and the same are, as respects this State, hereby repealed. *Provided,* That where any of said Acts have been revised and re-enacted, or come within the purview of any Act or Acts passed during the present session of the Legislature, and such last mentioned Act or Acts, in whole or in part, are not to take effect and go into operation until a future day, in all such cases such of said Acts hereby repealed, shall continue in force until the revised or re-enacted Acts within the purview of which they come, shall go into operation, namely:

An Act for the better rule and government of the Indians in their several places and plantations. Passed in the year sixteen hundred and ninety-three.—An Act for preventing abuses to the Indians. Passed in the year seventeen hundred.—An Act for the better making and measuring of malt. Passed in the year seventeen hundred.—An Act to prevent and make void clandestine and illegal purchases of lands from the Indians. Passed in the year seventeen hundred and one.—An Act for regulating the size of bricks. Passed in the year seventeen hundred and eleven.—An Act directing how meetings of proprietors of lands lying in common, may be called. Passed in the year seventeen hundred and thirteen.—An Act in addition to the Act for preventing abuses to the Indians, made in the twelfth year of King William. Passed in the year seventeen hundred and eighteen.—An Act for preventing abuses in distilling of rum

and other strong liquors, with leaden heads or pipes. Passed in the year one thousand seven hundred and twenty-three.—An Act for explaining an Act, entitled “An Act to prevent and make void clandestine and illegal purchases of lands from the Indians,” so far as relates to the devise or bequest of any real estate by the last will and testament of any Indians. Passed in the year one thousand seven hundred and forty-seven.—An Act to prevent bribery and corruption. Passed in the year one thousand seven hundred and fifty-eight.—An Act against treason and misprision of treason, and for regulating trials in such cases, and for directing the mode of executing judgments against persons attainted of felony. Passed in the year one thousand seven hundred and seventy-seven.—An Act in addition to an Act, entitled, “An Act against treason, misprision of treason, and concealment of treason, and for regulating trials in such cases, and for directing the mode of executing judgments against persons attainted of felony.” Passed June twenty-fifth in the year one thousand seven hundred and seventy-nine.—An Act prescribing the form of the writ of audita querela, and of the proceedings thereupon. Passed May eighteenth in the year one thousand seven hundred and eighty-one.—An Act against blasphemy. Passed July third, in the year seventeen hundred and eighty-two.—An Act directing and regulating the process of outlawry. Passed October second in the year seventeen hundred and eighty-two.—An Act for the repealing of one Act of this Commonwealth, made and passed on third day of May last, entitled, “An Act providing a speedy method of recovering debts and for preventing unnecessary costs attending the same; and for making other provision which may better answer the ends designed by the said Act. Passed October nineteenth in the year one thousand seven hundred and eighty-two.—An Act to compel executors living without the Commonwealth to settle their accounts; and to oblige administrators and guardians not being inhabitants of this Commonwealth, to give bonds with proper sureties for the performance of the duties of their trust. Passed October twenty-third in the year one thousand seven hundred and eighty-two.—An Act for apprehending and sending for trial, persons charged with having committed crimes in some other State, and to authorize the officers of Justice of the other States to continue the execution of their precepts within this State, when necessary. Passed November seventh in the year one thousand seven hundred and eighty-two.—An Act for encouraging the killing of wolves. Passed twenty-first of February in the year one thousand seven hundred and eighty-three.—An Act more effectually to enable Constables and Collectors of taxes, to collect assessments in certain cases. Passed March twentieth in the year one thousand seven hundred and eighty-three.—

An Act to provide for collection of taxes in cases where the Constables or Collectors appointed for that purpose have removed or may remove themselves out of this Commonwealth. Passed July fifth in the year one thousand seven hundred and eighty-three.—An Act for regulating pilotage in the several ports in this Commonwealth. Passed July eleventh in the year one thousand seven hundred and eighty-three.—An Act for the admeasurement of boards, and regulating the tale of shingles, clapboards, hoops and staves, and for other purposes therein mentioned. Passed July twelfth in the year one thousand seven hundred and eighty-three.—An Act prescribing the manner of devising lands, tenements and hereditaments. Passed February sixth in the year one thousand seven hundred and eighty-four.—An Act directing the settlement of the estates of persons deceased, and for the conveyance of real estates in certain cases. Passed March fourth in the year one thousand seven hundred and eighty-four.—An Act directing the mode of transferring real estates by deed, and for preventing fraud therein. Passed March tenth in the year one thousand seven hundred and eighty-four.—An Act empowering the Judges of Probate to appoint guardians to minors and others. Passed March tenth in the year one thousand seven hundred and eighty-four.—An Act for the better managing lands, wharves and other real estate, lying in common. Passed March tenth in the year one thousand seven hundred and eighty-four.—An Act for the speedy assignment of dower, and for the preventing of strip and waste by tenants therein. Passed March eleventh in the year one thousand seven hundred and eighty-four.—An Act for the more easy partition of lands or other real estate. Passed March eleventh in the year one thousand seven hundred and eighty-four.—An Act describing the power of Justices of the Peace in civil actions. Passed March eleventh in the year one thousand seven hundred and eighty-four.—An Act describing the duty and power of Coroners. Passed March twelfth in the year one thousand seven hundred and eighty-four.—An Act defining the general powers and duties, and regulating the office of Sheriffs. Passed March twelfth in the year one thousand seven hundred and eighty-four.—An Act vesting certain powers in Justices of the Peace in criminal cases. Passed March sixteenth in the year one thousand seven hundred and eighty-four.—An Act in addition unto an Act, entitled “An Act for the admeasurement of boards, and regulating the tale of shingles, clapboards, hoops and staves, and for other purposes therein mentioned.” Passed March sixteenth in the year one thousand seven hundred and eighty-four.—An Act for the restraining the taking of excessive usury. Passed March sixteenth in the year one thousand seven hundred and eighty-four.—An Act directing the issuing, extending and serving of executions. Passed March

seventeenth in the year one thousand seven hundred and eighty-four.—An Act prescribing the method of satisfying judgments in favor of this Commonwealth. Passed March seventeenth in the year one thousand seven hundred and eighty-four.—An Act to authorize the Courts of Law to enter up judgment against the goods and estate of deceased persons, when the executor or administrator neglects or refuses to prosecute or defend. Passed March seventeenth in the year one thousand seven hundred and eighty-four.—An Act for the more safe keeping the registry of deeds and conveyances of land, and for appointing the time and manner of choosing Registers. Passed March seventeenth in the year one thousand seven hundred and eighty-four.—An Act to enable the inhabitants of the several towns and plantations within this Commonwealth to ascertain from time to time the amount of monies received by their respective Collectors of public taxes, and what payments they have made to the Treasurer of the Commonwealth. Passed March twenty-third in the year one thousand seven hundred and eighty-four.—An Act for the distribution of insolvent estates. Passed June fifteenth, in the year one thousand seven hundred and eighty-four.—An Act directing the proceedings against forcible entry and detainer. Passed June thirtieth in the year one thousand seven hundred and eighty-four.—An Act regulating bail in civil actions. Passed June thirtieth in the year one thousand seven hundred and eighty-four.—An Act prescribing forms of writs in civil causes, and directing the mode of proceeding therein. Passed October thirtieth in the year one thousand seven hundred and eighty-four.—An Act regulating the exportation of flax seed, potash, pearlash, beef, pork, barrellled fish, and dried fish. Passed November ninth in the year one thousand seven hundred and eighty-four.—An Act against adultery, polygamy and lewdness. Passed February seventeenth in the year one thousand seven hundred and eighty-five.—An Act for providing and regulating of prisons. Passed February twenty-first in the year one thousand seven hundred and eighty-five.—An Act to prevent the destroying and murdering of bastard children. Passed February twenty-sixth in the year one thousand seven hundred and eighty-five.—An Act against selling unwholesome provisions. Passed March ninth in the year one thousand seven hundred and eighty-five.—An Act in addition to an Act prescribing forms of writs in civil causes and directing the mode of proceeding therein. Passed March fourteenth in the year one thousand seven hundred and eighty-five.—An Act directing the process in habeas corpus. Passed March sixteenth in the year one thousand seven hundred and eighty-five.—An Act for preventing common nuisances. Passed June seventh in the year one thousand seven hundred and eighty-five.—An Act against hawkers, pedlars and

petty chapmen. Passed June ninth in the year one thousand seven hundred and eighty-five.—An Act providing a speedy method for doing justice, when through mistake executions are levied on real estate not belonging to the debtors. Passed June fourteenth in the year one thousand seven hundred and eighty-five.—An Act for the filing and recording of wills proved without this government, and for taking affidavits in writing for the probate of wills in certain cases. Passed June twenty-ninth in the year one thousand seven hundred and eighty-five.—An Act giving remedies in equity. Passed November fourth in the year one thousand seven hundred and eighty-five.—An Act regulating the admission of Attornies. Passed November fourth in the year one thousand seven hundred and eighty-five. An Act for regulating the exportation of tobacco and butter and the weight of onions in bunches, and the size of lime casks. Passed November eighth in the year one thousand seven hundred and eighty-five.—An Act for the more effectually preventing of trespasses in divers cases. Passed November twenty-third in the year one thousand seven hundred and eighty-five.—An Act empowering the Selectmen of such towns where there may be fire engines, to appoint engine men, and repealing the laws heretofore made for that purpose. Passed February seventh in the year one thousand seven hundred and eighty-six.—An Act for enforcing the speedy payment of rates and taxes, and directing the process against deficient Constables and Collectors. Passed February sixteenth in the year one thousand seven hundred and eighty-six.—An act for regulating the proceedings in actions of account. Passed February seventeenth in the year one thousand seven hundred and eighty-six.—An act for the choice and appointment of Assessors and for assigning their powers and authority. Passed February twentieth in the year one thousand seven hundred and eighty-six.—An act for the better securing and rendering more effectual, grants and donations to pious and charitable uses. Passed February twentieth in the year one thousand seven hundred and eighty-six.—An Act for regulating fences. Passed February twenty-first in the year one thousand seven hundred and eighty-six.—An Act concerning general and common fields. Passed February twenty-fourth in the year one thousand seven hundred and eighty-six.—An Act to prevent gaming for money, or other property. Passed March fourth in the year one thousand seven hundred and eighty-six.—An Act to prevent tenants in common, joint tenants and coparceners from committing waste, and for making partition of their interests, and also directing how joint tenancies shall be created. Passed March ninth in the year one thousand seven hundred and eighty-six.—An Act for the punishment of fornication, and for the maintenance of bastard children. Passed March fifteenth in the year one thousand seven hun-

dred and eighty-six.—An Act for regulating marriage and divorce. Passed March sixteenth in the year one thousand seven hundred and eighty-six.—An Act for the choice and appointment of Collectors of rates and taxes, and for ascertaining their power and duty. Passed March sixteenth, in the year one thousand seven hundred and eighty-six.—An Act for regulating towns, setting forth their power, and for the choice of town officers, and for repealing all laws heretofore made for that purpose. Passed March twenty-third in the year one thousand seven hundred and eighty-six.—An Act directing the time and manner of appointing county Treasurers. Passed March twenty-third in the year one thousand seven hundred and eighty-six.—An Act for the orderly solemnization of marriages. Passed June twenty-second in the year one thousand seven hundred and eighty-six.—An Act for rendering the decision of civil causes as speedy and as little expensive as possible. Passed July seventh in the year one thousand seven hundred and eighty-six.—An Act for establishing rules and articles for governing the troops stationed in forts and garrisons within this Commonwealth; and also the Militia or any part thereof when called into actual service. Passed October twenty-fourth in the year one thousand seven hundred and eighty-six.—An Act to prevent routs, riots, and tumultuous assemblies, and the evil consequences thereof. Passed October twenty-eighth in the year one thousand seven hundred and eighty-six.—An Act for the limitation of personal actions, and for avoiding suits at law. Passed February thirteenth in the year one thousand seven hundred and eighty-seven.—An Act in addition to the “Act for the more easy partition of real estate.” Passed March the eleventh one thousand seven hundred and eighty-four. Passed February fourteenth in the year one thousand seven hundred and eighty-seven.—An Act for regulating the proceedings on probate bonds in the Courts of Common law, and directing their form in the Supreme Court of Probate. Passed February fifteenth in the year one thousand seven hundred and eighty-seven.—An Act for the more safe keeping the records of the several Courts of Justice, and the records of deeds within this government. Passed February sixteenth in the year one thousand seven hundred and eighty-seven.—An Act establishing the right to, and the form of the writ de homine replegiando, or writ for replevying a man. Passed February nineteenth in the year one thousand seven hundred and eighty-seven.—An Act for the more speedy and effectual suppression of tumults and insurrections in the Commonwealth. Passed February twentieth in the year one thousand seven [hundred] and eighty-seven.—An Act directing the method for laying out highways. Passed February twenty seventh in the year one thousand seven hundred and eighty-seven.—An Act for the due regulation of licens-

ed houses. Passed February twenty-eighth in the year one thousand seven hundred and eighty-seven.—An Act making provision for the repair and amendment of highways. Passed March fifth in the year one thousand seven hundred and eighty-seven.—An Act in addition to an Act made in the year of our Lord one thousand seven hundred and eighty-four, entitled “An Act directing the mode of transferring real estates, by deed, and for preventing fraud therein.” Passed June twenty-eighth in the year one thousand seven hundred and eighty-seven.—An Act for enabling proprietors of private ways and bridges to repair them in equal proportion. Passed November twelfth in the year one thousand seven hundred and eighty-seven.—An Act for the further regulating the assize of barrel beef and pork. Passed November fourteenth in the year one thousand seven hundred and eighty-seven.—An Act authorizing the Justices of the Supreme Judicial Court to license the sale of real estate by married women, in certain cases, and for other purposes in the Act mentioned. Passed November twenty-first in the year one thousand seven hundred and eighty seven.—An Act in addition to an Act passed March sixteenth in the year of our Lord one thousand seven hundred and eighty-six, entitled, “An Act for the choice and appointment of Collectors of rates and taxes, and for ascertaining their power and duty.” Passed March twenty-sixth in the year one thousand seven hundred and eighty-eight.—An Act for suppressing and punishing of rogues, vagabonds, common beggars and other idle, disorderly and lewd persons. Passed March twenty-sixth, in the year one thousand seven hundred and eighty-eight.—An Act to prevent the exportation of green or unmanufactured calf skins, out of this Commonwealth by land or water. Passed March thirty-first, in the year of our Lord one thousand seven hundred and eighty-eight.—An Act empowering the Justices of the Supreme Judicial Court to grant writs of review in certain cases. Passed June eighteenth in the year one thousand seven hundred and eighty-eight.—An Act to prevent fraud and perjury. Passed June nineteenth in the year one thousand seven hundred and eighty-eight.—An Act for the ease of the citizens concerning actions upon penal statutes. Passed June nineteenth in the year one thousand seven hundred and eighty-eight.—An Act to confirm the doings of Justices of the Peace whose commissions have expired, or may hereafter expire and be again renewed. Passed June twentieth in the year one thousand seven hundred and eighty-eight.—An Act in addition to the Act, “for regulating the proceedings on probate bonds in the Courts of Common law, and directing the form in the Supreme Court of Probate.” Passed June twentieth in the year one thousand seven hundred and eighty-eight.—An Act for erecting work houses for the reception and employment of the idle and indigent. Pass-

ed January tenth in the year one thousand seven hundred and eighty-nine.—An Act to prevent damage by horses going at large. Passed February third in the year one thousand seven hundred and eighty-nine.—An Act directing the mode of prosecuting writs of review, after the death of any or all of the parties in the original suit. Passed February ninth in the year one thousand seven hundred and eighty-nine.—An Act authorizing executors and administrators to make sale of real estate mortgaged to their testators or intestates, and such as they shall take in execution in certain cases. Passed February eleventh in the year one thousand seven hundred and eighty-nine.—An Act authorizing Courts, having criminal jurisdiction, to award in certain cases conditional sentences against offenders. Passed February thirteenth in the year one thousand seven hundred and eighty-nine.—An Act respecting lost goods, and stray beasts. Passed February thirteenth in the year one thousand seven hundred and eighty-nine.—An act for regulating swine. Passed February thirteenth in the year one thousand seven hundred and eighty-nine.—An Act declaring the causes for which cattle may be impounded, the manner how they shall be proceeded with in such cases, and for preventing rescue and pound breach. Passed February fourteenth in the year one thousand seven hundred and eighty-nine.—An Act for limiting, the time within which suits may be prosecuted against executors and administrators and for perpetuating the evidence of notice given by them, and by guardians and others, respecting the sale of real estate. Passed February fourteenth in the year one thousand seven hundred and eighty-nine.—An act directing an equal distribution of the estates of intestates. Passed June eighth in the year one thousand seven hundred and eighty-nine.—An act further to enable Constables and Collectors of taxes to complete their collections in certain cases. Passed June fifteenth in the year one thousand seven hundred and eighty-nine.—An act authorizing the settlement of the claims of executors and administrators in the Probate Court by referees. Passed June twenty-second in the year one thousand seven hundred and eighty-nine.—An act to provide for the instruction of youth, and for the promotion of good education. Passed June twenty-fifth in the year one thousand seven hundred and eighty-nine.—An act in addition to the act regulating the exportation of flax seed and other articles. Passed on the ninth day of November Anno Domini one thousand seven hundred and eighty-four. Passed June twentieth, in the year one thousand seven hundred and eighty-nine.—An act prescribing the form, and directing the mode of process, to be adopted in replevying of cattle or beasts distrained, and also of goods and chattels. Passed June twenty-fourth, one thousand seven hundred and eighty-nine.—An act to provide for the safe-keeping of all prisoners committed under the authority of

the United States in the several gaols within this Commonwealth. Passed February twenty-sixth, in the year one thousand seven hundred and ninety.—An act empowering commissioners appointed to receive and examine the claims of the creditors to insolvent estates, to require of, and administer to them an oath or affirmation, the better to discover the truth of their claims. Passed March third, in the year one thousand seven hundred and ninety.—An act authorizing particular persons, in certain cases, to prosecute and defend suits at law. Passed March sixth, in the year one thousand seven hundred and ninety.—An act in addition to, and to explain an act passed the tenth day of March, in the year of our Lord one thousand seven hundred and eighty-four, entitled, “an act for the better managing of lands, wharves, and other real estate lying in common.” Passed March ninth, in the year one thousand seven hundred and ninety-one.—An act for the preservation and encouragement of the fur trade within this Commonwealth. Passed June tenth, in the year one thousand seven hundred and ninety-one.—An act to ascertain the quality of pot and pearl ashes, and for the more effectual inspection of the same. Passed June seventeenth, in the year one thousand seven hundred and ninety-one.—An act in addition to an act, entitled, “an act for the more safe keeping the Registry of Deeds and conveyances of land, and for appointing the time and manner of choosing Registers.” Passed June eighteenth, in the year one thousand seven hundred and ninety-one.—An act directing the manner in which inquests of office shall be taken to revest real estate in the Commonwealth, or to entitle the Commonwealth thereto. Passed June eighteenth, in the year one thousand seven hundred and ninety-one.—An act in addition to an act, entitled, “an act empowering the Justices of the Supreme Judicial Court to grant writs of review, in certain cases.” Passed June eighteenth in the year one thousand seven hundred and ninety-one.—An act in addition to the several laws now in force providing for the collection of taxes. Passed February third in the year one thousand seven hundred and ninety-two.—An act in addition to, and for repealing and altering part of an act, entitled, “an act for limiting the time within which suits may be prosecuted against executors and administrators, and for perpetuating the evidence of notice given by them, and by guardians and others respecting the sale of real estate.” Passed February fourteenth in the year one thousand seven hundred and ninety-two.—An act to prevent damage by mischievous dogs. Passed February twenty-fifth in the year one thousand seven hundred and ninety-two.—An act providing for the payment of costs in criminal prosecutions, and for preventing unnecessary costs therein. Passed March eighth in the year one thousand seven hundred and ninety-two.—An

act providing for the observation of the Lord's day, and repealing several laws heretofore made for that purpose. Passed March eighth in the year one thousand seven hundred and ninety-two.—An act providing a more easy and simple method than is now in use of barring estates in tail in lands and for making the same liable to the payment of the debts of the tenant in tail. Passed March eighth in the year one thousand seven hundred and ninety-two.—An act for making the certificates of certain officers evidence in criminal cases. Passed March eighth in the year one thousand seven hundred and ninety-two.—An act authorizing Coroners to execute writs and precepts when the office of Sheriff may be vacant. Passed June twenty-eighth in the year one thousand seven hundred and ninety-two.—An act in addition to an act for the due regulation of licensed houses. Passed November seventeenth in the year one thousand seven hundred and ninety-two.—An act admitting inhabitants of towns, and certain other corporations to be witnesses, as well for as against such towns and corporations, in suits at law. Passed February thirteenth, in the year one thousand seven hundred and ninety-three.—An act for giving liberty to plead the general issue, and give the special matter in evidence, in certain cases. Passed February twenty-fifth in the year one thousand seven hundred and ninety-three.—An act for providing hospitals for inoculation, and preventing infection from the small pox, and for repealing several acts heretofore made for that purpose. Passed March fifteenth in the year one thousand seven hundred and ninety-three.—An act in addition to an act, entitled, "An act to ascertain the quality of pot and pearl ashes, and for the more effectual inspection of the same," passed the seventeenth day of June one thousand seven hundred and ninety-one. Passed March twenty-sixth in the year one thousand seven hundred and ninety-three.—An act in addition to an act, entitled, "An act to prevent damage by horses going at large." Passed June twenty-second in the year one thousand seven hundred and ninety-three.—An act ascertaining what shall constitute a legal settlement of any person in any town or district within the Commonwealth, so as to entitle him to support therein in case he becomes poor, and stands in need of relief; and for repealing all laws heretofore made respecting such settlement. Passed February eleventh in the year one thousand seven hundred and ninety-four.—An act to secure to owners their property in logs, masts, spars and other timber, in certain cases. Passed February twenty-second in the year one thousand seven hundred and ninety-four.—An act prescribing the mode of recovering forfeitures of personal property liable thereto by law, and also pecuniary forfeitures. Passed February twenty-second in the year one thousand seven hundred and ninety-four.—An act in addition to an act, entitled, "An act for en-

forcing the speedy payment of rates and taxes, and directing the process against deficient Constables and Collectors." Passed February twenty-sixth in the year one thousand seven hundred and ninety-four.—An act providing for the relief and support, employment and removal of the poor, and for repealing all former laws made for those purposes. Passed February twenty-sixth in the year one thousand seven hundred and ninety-four.—An act in addition to an act for the limitation of personal actions and for avoiding suits at law, passed the thirteenth day of February, one thousand seven hundred and eighty-seven. Passed February twenty-seventh in the year one thousand seven hundred and ninety-four.—An act in addition to an act, entitled, "an act for the distribution of insolvent estates." Passed June twentieth in the year one thousand seven hundred and ninety-four.—An act in addition to an act, entitled, "an act concerning general and common fields," passed in February in the year of our Lord one thousand seven hundred and eighty-six. Passed February eighteenth in the year one thousand seven hundred and ninety-five.—An act in addition to an act, entitled, "an act providing for the payment of costs in criminal prosecutions, and for preventing unnecessary costs therein." Passed February twenty-seventh in the year one thousand seven hundred and ninety-five.—An act making provision for the erecting guide posts upon public roads. Passed February twenty-eighth in the year one thousand seven hundred and ninety-five.—An act to secure to masters and mistresses, as well as to apprentices and minor servants, bound by deed, their mutual privileges. Passed February twenty-eighth in the year one thousand seven hundred and ninety-five.—An act to enable creditors to receive their just demands out of the goods, effects and credits of their debtors, when the same cannot be attached by the ordinary process of law. Passed February twenty-eighth in the year one thousand seven hundred and ninety-five.—An act prescribing the duty of Constables and Collectors in certain cases; previous to the advertisement of non-resident proprietor's lands for sale, for non-payment of taxes, and for perpetuating the evidence of posting notifications previous to such sales. Passed February twenty-eighth in the year one thousand seven hundred and ninety-five.—An act to regulate the sale of goods at public vendue and to repeal all laws heretofore made for that purpose.—Passed June sixteenth in the year one thousand seven hundred and ninety-five.—An act establishing and regulating the fees of the several officers and other persons hereafter mentioned; and for repealing the laws heretofore made for that purpose. Passed February thirteenth in the year one thousand seven hundred and ninety-six.—An act relating to the place of trial, standing mute, and challenges in certain capital cases. Passed February

fifteenth in the year one thousand seven hundred and ninety six.—An act directing that pews and rights in houses of public worship shall be considered as real estate, and for registering the same. Passed February twenty-third in the year one thousand seven hundred and ninety-six.—An act for regulating elections. Passed February twenty-fourth in the year one thousand seven hundred and ninety-six.—An act directing proceedings in actions of debt on judgments. Passed February twenty-sixth in the year one thousand seven hundred and ninety-six.—An act for appointing commissioners of sewers, and making provision for the better improvement of low lands in certain cases. Passed February twenty-sixth in the year one thousand seven hundred and ninety-six.—An act to enable Sheriffs, deputy Sheriffs and Constables to require aid in the execution of their respective offices in criminal cases. Passed February twenty-sixth, in the year one thousand seven hundred and ninety-six.—An act for recording births and deaths by the Clerks of towns and districts. Passed March twenty-sixth in the year one thousand seven hundred and ninety-six.—An act to prevent the destruction of oysters and other shell fish in this Commonwealth. Passed February twenty-sixth in the year one thousand seven hundred and ninety-six.—An act for the support and regulation of mills. Passed February twenty-seventh in the year one thousand seven hundred and ninety-six.—An act relating to actions of ejectment and disclaimer and for preventing strip and waste pending such actions. Passed February twenty-seventh in the year one thousand seven hundred and ninety-six.—An act to repeal all the existing excise acts, and to provide for the expenses of justice in the several counties. Passed February twenty-seventh in the year one thousand seven hundred and ninety-six. An act to amend the act directing the manner in which inquests of office shall be taken to revest real estate in the Commonwealth or to vest title the Commonwealth thereto. Passed June eleventh in the year one thousand seven hundred and ninety-six.—An act in further addition to an act, entitled, “an act concerning general and common fields.” Passed June fifteenth in the year one thousand seven hundred and ninety-six.—An act for regulating ferries. Passed February fourteenth in the year one thousand seven hundred and ninety-seven.—An act for regulating drains and common shores. Passed February twentieth in the year one thousand seven hundred and ninety-seven.—An act in addition to the several acts now in force respecting highways. Passed February twenty-eighth in the year one thousand seven hundred and ninety-seven.—An act to regulate the going at large of sheep and rams and he-goats at certain seasons of the year. Passed March seventh in the year one thousand seven hundred and ninety-seven.—An act to prevent fraud in fire wood, bark or coal, exposed to sale

Passed March seventh in the year one thousand seven hundred and ninety-seven.—An act for the amendment of an act, entitled, “an act for regulating swine,” made and passed on the thirteenth day of February, in the year of our Lord one thousand seven hundred and eighty-nine. Passed March seventh in the year one thousand seven hundred and ninety-seven.—An act for the limitation of actions against Sheriffs for the misconduct and negligence of their deputies. Passed March eighth in the year one thousand seven hundred and ninety-seven.—An act for keeping watches and wards in towns, and for preventing disorders in streets and public places. Passed March tenth in the year one thousand seven hundred and ninety-seven.—An act for the extinguishment of fire and to direct the proceedings thereat. Passed March tenth in the year one thousand seven hundred and ninety-seven.—An act in addition to an act, entitled, “an act providing for the due observation of the Lord’s day, and repealing the several laws heretofore made for that purpose. Passed March eleventh in the year one thousand seven hundred and ninety-seven.—An act to prevent the spreading of contagious sickness. Passed June twenty-second in the year one thousand seven hundred and ninety-seven.—An act for removing doubts which have arisen in the construction of an act passed in the year of our Lord one thousand seven hundred and eighty-four, entitled, “an act describing the power of Justices of the Peace.” Passed June twenty-second in the year one thousand seven hundred and ninety-seven.—An act to exempt the people called Quakers, from paying taxes for the support of public worship. Passed twenty-third of June in the year one thousand seven hundred and ninety-seven.—An act in addition to an act, entitled “an act directing the method for laying out highways.” Passed June twenty-third in the year one thousand seven hundred and ninety-seven.—An act prescribing the mode of taking depositions, and administering oaths and affirmations. Passed February third in the year one thousand seven hundred and ninety-eight.—An act relating to suits against defendants out of the State, also to giving notice to defendants sued. Passed February seventeenth in the year one thousand seven hundred and ninety-eight.—An act in addition to an act, entitled, “an act for suppressing rogues, vagabonds, common beggars and other idle, disorderly and lewd persons.” Passed February twenty-seventh in the year one thousand seven hundred and ninety-eight.—An act in addition to an act, entitled, “an act to enable creditors to receive their just demands out of the goods, effects and credits of their debtors when the same cannot be attached by the ordinary process of law.” Passed June sixteenth in the year one thousand seven hundred and ninety-eight.—An act more effectually to prevent the pernicious practice of gaming. Passed June twenty-seventh in the year one

thousand seven hundred and ninety-eight.—An act in addition to the several laws regulating elections. Passed June twenty-ninth in the year one thousand seven hundred and ninety-eight.—An act to prevent profane cursing and swearing. Passed June twenty-ninth in the year one thousand seven hundred and ninety-eight.—An act in addition to an act made and passed in the year of our Lord one thousand seven hundred and ninety-one, entitled, “An act directing the manner in which inquests of office shall be taken to revest real estate in the Commonwealth or to entitle the Commonwealth thereto.” Passed February sixth in the year one thousand seven hundred and ninety-nine.—An act in addition to an act, entitled, “an act to prevent damage by mischievous dogs,” passed February twenty-fifth, one thousand seven hundred and ninety-two. Passed February nineteenth in the year one thousand seven hundred and ninety-nine.—An act enabling proprietors of aqueducts to manage the same. Passed February twenty-first in the year one thousand seven hundred and ninety-nine.—An act providing for the safe keeping the records of the several Notaries Public in this Commonwealth. Passed February twenty-sixth in the year one thousand seven hundred and ninety-nine.—An act specifying the evidence to accompany accounts exhibited for the support of the poor of the Commonwealth. Passed February twenty-sixth in the year one thousand seven hundred and ninety-nine.—An act in addition to an act, entitled, “an act for giving remedies in equity.” Passed March first in the year one thousand seven hundred and ninety-nine.—An act authorizing the Courts of General Sessions of the Peace to liberate poor convicts from prison, and to dispose of them in service, for payment of costs of prosecution. Passed June eighteenth in the year one thousand seven hundred and ninety-nine.—An act to explain an act, entitled, “an act against hawkers pedlars and petty chapmen.” Passed June twenty-first in the year one thousand seven hundred and ninety-nine.—An act entitled, “an act to prevent fraud in fire wood, bark or coal exposed to sale,” made and passed March seventh one thousand seven hundred and ninety-seven. Passed June twenty-second in the year one thousand seven hundred and ninety-nine.—An act to regulate the weighing of beef and pork. Passed June twenty-second in the year one thousand seven hundred and ninety-nine.—An act to restrain unincorporated banking associations and to prevent the issuing small bank notes. Passed June twenty-second in the year one thousand seven hundred and ninety-nine.—An act in addition to an act, entitled, “an act for enforcing the speedy payment of rates, and directing the process against deficient Constables and Collectors.” Passed February twenty-fifth in the year one thousand eight hundred.—An act giving remedy in law against executors and administrators of de-

ceased debtors, in joint contracts. Passed February twenty-sixth in the year one thousand eight hundred.—An act in addition to an act, entitled, “an act to prevent the spreading of contagious sickness.” Passed February twenty-sixth in the year one thousand eight hundred.—An act for the due regulation of weights and measures. Passed February twenty-sixth in the year one thousand eight hundred.—An act empowering towns to restrain cattle from running at large within their several limits. Passed February twenty-sixth, in the year one thousand eight hundred.—An act to encourage the manufacture of leather, boots, half boots, shoes, pumps, sandals, slippers, and golo shoes, and to prevent fraud therein. Passed February twenty-sixth, in the year one thousand eight hundred.—An act to regulate the manufacture of nails within this Commonwealth, and to repeal all laws heretofore made for that purpose. Passed February twenty-eighth, in the year one thousand eight hundred.—An act in addition to an act, entitled, “an act to provide for the instruction of youth, and for the promotion of good education.” Passed February twenty-eighth, in the year one thousand eight hundred.—An act to regulate the inspection of beef intended to be exported from this Commonwealth. Passed March fourth, in the year one thousand eight hundred.—An act in addition to an act, entitled, “an act to prevent common nuisances.” Passed March fourth, in the year one thousand eight hundred.—An act in addition to an act, entitled, “an act for the support and regulation of mills.” Passed March fourth, in the year one thousand eight hundred.—An act to empower Assessors in certain cases to renew warrants to Constables and Collectors. Passed March fourth, in the year one thousand eight hundred.—An act to ascertain the quality of butter, and for the more effectual inspection of the same. Passed March fourth, in the year one thousand eight hundred.—An act providing for the public worship of God, and other purposes therein mentioned, and for repealing the laws heretofore made relating to this subject. Passed March fourth, in the year one thousand eight hundred.—An act to ascertain the quality of hogs lard, and making further provision for the inspection of butter. Passed June seventeenth, in the year one thousand eight hundred.—An act to authorize the use of the vibrating steelyard. Passed June seventeenth, in the year one thousand eight hundred.—An act in addition to an act, entitled, “an act for the support and regulation of mills.” Passed February twenty-eighth, in the year one thousand seven hundred and ninety-eight.—An act in addition to an act, entitled, “an act for the due regulation of weights and measures.” Passed February twenty-sixth, in the year one thousand eight hundred and one.—An act for the suppression of lotteries not authorized by law, and to prevent the sale of any tickets in such lotteries. Passed February twenty-eighth, in the

year one thousand eight hundred and one.—An act in further addition to an act, entitled, “an act to ascertain the quality of butter, and for the more effectual inspection of the same,” and to the act entitled, “an act to ascertain the quality of hogs lard, and making further provision for the inspection of butter.” Passed March third, in the year one thousand eight hundred and one.—An act in addition to the several acts for regulating elections. Passed March seventh, in the year one thousand eight hundred and one.—An act respecting boats and lighters employed in transporting stones, gravel or sand, within this Commonwealth. Passed March seventh, in the year one thousand eight hundred and one.—An act for regulating the manufacture and sale of bread. Passed March seventh in the year one thousand eight hundred and one.—An act in addition to an act, entitled, “an act to secure to owners their property in logs, masts, spars and other timber, in certain cases. Passed June sixteenth in the year one thousand eight hundred and one.—An act providing for the appointment of agents for demanding and receiving fugitives from justice, and for defraying the expense of transporting them from other States in the Union to this Commonwealth. Passed June the eighteenth in the year one thousand eight hundred and one.—An act directing the proceedings for the speedy removal of nuisances. Passed June nineteenth in the year one thousand eight hundred and one.—An act in addition to an act, entitled, “an act to regulate the inspection of beef, intended to be exported from this Commonwealth.” Passed June nineteenth in the year one thousand eight hundred and one.—An act more effectually to secure fire engines from being injured. Passed February eighth in the year one thousand eight hundred and two.—An act for carrying into execution, more effectually the bye-laws of the several towns within this Commonwealth. Passed March third in the year one thousand eight hundred and two.—An act to authorize the Governor in certain cases to offer a reward for the apprehending and securing persons escaping from prison, and for other purposes. Passed March eighth in the year one thousand eight hundred and two.—An act to regulate the inspection of pork intended to be exported from this Commonwealth. Passed March eleventh in the year one thousand eight hundred and two.—An act in addition to an act, enabling proprietors of private ways and bridges to repair them in equal proportions. Passed March eleventh in the year one thousand eight hundred and two.—An act for preserving and authenticating the records of Justices in certain cases. Passed March eleventh in the year one thousand eight hundred and two.—An act in addition to an act, entitled, “an act authorizing the Courts of General Sessions of the Peace to liberate poor convicts from prison, and to dispose of them in service for payment of costs of prosecu-

tion." Passed June fourth in the year one thousand eight hundred and two.—An act in addition to an act, passed in the year of our Lord eighteen hundred, entitled, "an act in addition to an act to provide for the instruction of youth and the promotion of good education. Passed June twenty-third in the year one thousand eight hundred and two.—An act in addition to an act, entitled, "an act in addition to an act, passed the nineteenth of June one thousand eight hundred and one, to regulate the inspection of beef intended to be exported from this Commonwealth." Passed June twenty-third in the year one thousand eight hundred and two.—An act in further addition to an act, entitled, "an act for supporting and punishing rogues, vagabonds, common beggars and other idle, disorderly and lewd persons." Passed June twenty-third in the year one thousand eight hundred and two.—An act in addition to an act, entitled, "an act directing the mode of transferring real estates by deed, and for preventing frauds therein." Passed June twenty-third in the year one thousand eight hundred and two.—An act in addition to and for the amendment of an act, entitled, "an act to regulate the manufacture of nails within this Commonwealth," passed the twenty-eighth day of February one thousand eight hundred. Passed March fourth in the year one thousand eight hundred and three.—An act in addition to an act, entitled, "an act in addition to several acts for regulating elections," and for repealing the first section of said act. Passed March seventh in the year one thousand eight hundred and three.—An act in addition to an act, entitled, "an act to exempt the people called Quakers from paying taxes for the support of public worship," passed the twenty-third day of June, in the year of our Lord one thousand seven hundred and ninety-seven. Passed March eighth one thousand eight hundred and three.—An act to prevent the wilful destruction and casting away of ships and cargoes. Passed March eighth in the year one thousand eight hundred and three.—An act in addition to, and amendment of an act, entitled, "an act directing the method of laying out highways." Passed March eighth in the year one thousand eight hundred and three.—An act to regulate the manufacture of chocolate in this Commonwealth, to prevent deception in the quality and exportation hereof, and to repeal a law for that purpose, passed March the eighth one thousand eight hundred and three. Passed June twenty-second in the year one thousand eight hundred and three.—An act respecting conditional pardons. Passed March sixth in the year one thousand eight hundred and four.—An act in addition to an act, entitled, "an act regulating bail in civil actions." Passed March seventh in the year one thousand eight hundred and four.—An act regulating the taking of mackerel and to prevent the destruction of the same. Passed March eighth in the year one thousand eight hundred

and four.—An act in addition to an act, entitled, “an act for the due regulation of weights and measures.” Passed March ninth, in the year one thousand eight hundred and four.—An act in addition to an act, entitled, “an act to empower towns to restrain cattle from running at large within their several limits.” Passed November twenty-first in the year one thousand eight hundred and four.—An act to restrain the issue of printed promissory notes of certain denominations, and for other purposes. Passed February eighteenth, in the year one thousand eight hundred and five.—An act in addition to an act, entitled, “an act providing a more easy and simple method than is now in use of barring estates tail in lands and for making the same liable to the payment of the debts of the tenant in tail.” Passed February eighteenth, in the year one thousand eight hundred and five.—An act to provide for the proof of fire arms manufactured within this Commonwealth. Passed March eighth, in the year one thousand eight hundred and five.—An act directing the mode of attaching on mesne process, and selling by execution shares of debtors in incorporated companies. Passed March eighth, in the year one thousand eight hundred and five.—An act in addition to an act, entitled, “an act to secure to owners their property in logs, masts, spars, and other timber, in certain cases.” Passed March fourteenth, in the year one thousand eight hundred and five.—An act providing for the regular discharge of mortgages made to the Commonwealth. Passed March fifteenth, in the year one thousand eight hundred and five.—An act in addition to an act, entitled, “an act, in addition to an act, entitled an act, in addition to the several Acts for regulating elections, and for repealing the first section of said act.” Passed March fifteenth, in the year one thousand eight hundred and five.—An act against forgery and counterfeiting. Passed March fifteenth, in the year one thousand eight hundred and five.—An act providing for the punishment of the crimes of murder and manslaughter, felonious maims and assaults, and duelling, and for the prevention thereof. Passed March fifteenth, in the year one thousand eight hundred and five.—An act in addition to an act to regulate the inspection and exportation of pork, passed March the eleventh, one thousand eight hundred and two, and to repeal a part of the same. Passed March fifteenth, in the year one thousand eight hundred and five.—An act defining the general powers and duties of turnpike corporations. Passed March sixteenth, in the year one thousand eight hundred and five.—An act providing for the punishment of incendiaries, and the perpetrators of other malicious mischiefs. Passed March sixteenth; in the year one thousand eight hundred and five.—An act against sodomy and bestiality. Passed March sixteenth, in the year one thousand eight hundred and five.—An act to prevent the circulation of private notes, bills, orders

and checks under five dollars. Passed March sixteenth, in the year one thousand eight hundred and five.—An act providing for the punishment of the crimes of robbery and other felonies, and for the prevention thereof. Passed March sixteenth in the year one thousand eight hundred and five.—An act for limiting the times within which writs of error shall be brought for the reversion of any judgments. Passed February fifteenth in the year one thousand eight hundred and six.—An act prescribing the manner of proving private acts, and resolves of this Commonwealth in Courts of Law. Passed February fifteenth, in the year one thousand eight hundred and six.—An act to prevent damage from firing crackers, quibs, serpents and rockets, within this Commonwealth. Passed March fourth, in the year one thousand eight hundred and six.—An act in addition to an act, entitled, “an act regulating marriage and divorce.” Passed March seventh, in the year one thousand eight hundred and six.—An act to increase the fees of Grand and Petit Jurors and witnesses, in criminal cases. Passed March seventh, in the year one thousand eight hundred and six.—An act in addition to an act, entitled, “an act authorizing the Courts of General Sessions of the Peace to liberate poor convicts from prison, and dispose of them in service for payment of costs of prosecution.” Passed March seventh, in the year one thousand eight hundred and six.—An act to enable the proprietors of Social Libraries to manage the same. Passed March eighth, in the year one thousand eight hundred and six.—An act in addition to an act, entitled, “an act empowering the Selectmen of such towns where there may be fire engines, to appoint engine men, and repealing the laws heretofore made for that purpose.” Passed March eighth in the year one thousand eight hundred and six.—An act regulating the descent and distribution of intestate estates. Passed March twelfth in the year one thousand eight hundred and six.—An act providing for the punishment of the crime of rape, and for the prevention thereof. Passed March thirteenth in the year one thousand eight hundred and six.—An act for preventing public stage plays, interludes and other theatrical entertainments, in certain cases. Passed March thirteenth in the year one thousand eight hundred and six.—An act to exempt certain goods and chattels of debtors from attachment and execution. Passed March thirteenth, in the year one thousand eight hundred and six.—An act for regulating the proceedings of suits upon Sheriffs’ bonds, for the use of any person or persons who are or may be entitled to the benefit of the same. Passed March thirteenth, in the year one thousand eight hundred and six.—An act providing for the punishment of the crimes of burglary and other breaking and entering of buildings. Passed March thirteenth, in the year one thousand eight hundred and six.—An act to provide for the inspection of hops for exportation.

Passed June twenty-fourth, in the year one thousand eight hundred and six.—An act in addition to the several acts relating elections. Passed June twenty-fourth, in the year one thousand eight hundred and six.—An act in addition to an act, entitled, “an act describing the duty and power of Coroners,” and for repealing an act passed the seventh day of March, eighteen hundred and six. Passed February sixth in the year one thousand eight hundred and seven.—An act in addition to an act, entitled, “an act to enable the proprietors of Social Libraries to manage the same.” Passed February twenty-fourth in the year one thousand eight hundred and seven.—An act enlarging the powers and duties of the guardians of persons who spend or waste their estates by excessive drinking, idleness, gaming or debauchery. Passed February twenty-eighth, in the year one thousand eight hundred and seven.—An act in addition to an act, entitled, “an act to secure to owners their property in logs, masts, spars, and other timber, in certain cases.” Passed February twenty-eighth, in the year one thousand eight hundred and seven.—An act in addition to an act, entitled, “an act establishing Courts of General Sessions of the Peace,” passed the third day of July, in the year of our Lord seventeen hundred and eighty-two. Passed June nineteenth, in the year one thousand eight hundred and seven.—An act respecting the offices and duties of the Attorney General, Solicitor General and County Attornies. Passed June twentieth, one thousand eight hundred and seven.—An act to prevent fraud and deception in curing and packing smoked alewives and herrings, and to regulate the size and quality of the boxes, and the exportation thereof from the Commonwealth. Passed February ninth, in the year one thousand eight hundred and eight.—An act to explain and amend the laws respecting Courts of General Sessions of the Peace. Passed February twenty-third, in the year one thousand eight hundred and eight.—An act in addition to an act, entitled, “an act defining the general powers and duties of turnpike corporations.” Passed March ninth, in the year one thousand eight hundred and eight.—An act in addition to an act, entitled, “an act describing the power of Justices of the Peace in civil actions,” passed the eleventh day of March, seventeen hundred and eighty-four. Passed March twelfth, in the year one thousand eight hundred and eight.—An act in addition to several acts for the due regulation of licensed houses. Passed March twelfth, in the year one thousand eight hundred and eight.—An act regulating the selections, the empannelling, and the services of Grand, Traverse, and Petit Jurors, and repealing such laws or clauses of laws touching these subjects so far as they are provided for by this act. Passed March twelfth in the year one thousand eight hundred and eight.—An act to empower the several towns in this Commonwealth to excuse such of their inhabitants as are engine men from serving

as jurors in any Court within this Commonwealth. Passed November eleventh, in the year one thousand eight hundred and eight. An act in addition to an act defining the general powers and duties, and regulating the office of Sheriff. Passed February twenty-fourth, in the year one thousand eight hundred and nine.—An act providing for the appointment of Inspectors, and regulating the manufactory of gun powder. Passed March first, in the year one thousand eight hundred and nine.—An act authorizing the several Courts of Common Pleas in this Commonwealth to allow accounts and order payment for services and expenses incident to said Courts. Passed March first, in the year one thousand eight hundred and nine.—An act defining the general powers and duties of manufacturing corporations. Passed March third, in the year one thousand eight hundred and nine.—An act in addition to an act directing the process of habeas corpus. Passed March fourth, in the year one thousand eight hundred and nine.—An act in addition to an act, entitled, “an act for providing and regulating of prisons.” Passed March fourth in the year of our Lord one thousand eight hundred and nine. An act to authorize Judges of Probate to remove executors, administrators and guardians in certain cases. Passed March fourth in the year one thousand eight hundred and nine.—An act requiring the several incorporated banks in this Commonwealth to adopt the stereotype steel plate in certain cases, and for other purposes. Passed March fourth in the year one thousand eight hundred and nine.—An act supplementary to the act, for providing and regulating of prisons. Passed June twentieth in the year one thousand eight hundred and nine.—An act to enforce the payment of Bank notes. Passed June twentieth in the year one thousand eight hundred and nine.—An act to regulate the manufacture and inspection of stone lime and lime casks. Passed February twenty-seventh in the year one thousand eight hundred and ten.—An act limiting the time of payment of costs allowed in criminal prosecutions, and for other purposes. Passed March third in the year one thousand eight hundred and ten.—An act for regulating, governing and training the Militia of this Commonwealth. Passed March sixth in the year one thousand eight hundred and ten.—An act to diffuse the benefit of inoculation for the cow pox. Passed March sixth in the year one thousand eight hundred and ten.—An act in addition to an act, entitled, “an act providing for the appointment of Inspectors and regulating the manufactory of gun powder.” Passed March sixth in the year one thousand eight hundred and ten.—An act to prevent fraud and deception in the packing of pickled fish, and to regulate the size and quality of the casks, and the sale and exportation thereof within and from this Commonwealth, and to repeal all laws heretofore made on this subject. Passed March

sixth in the year one thousand eight hundred and ten.—An act in addition to an act, entitled, “an act for the more speedy and effectual suppression of tumults and insurrections in the Commonwealth.” Passed March sixth in the year one thousand eight hundred and ten.—An act directing the place where actions by or against a county may be commenced and prosecuted. Passed March sixth in the year one thousand eight hundred and ten.—An act in further addition to an act, entitled, “an act providing for the appointment of Inspectors, and regulating the manufactory of gun powder.” Passed February twenty-fifth in the year one thousand eight hundred and eleven.—An act granting relief to defendants in actions of scire facias, in certain cases. Passed February twenty-sixth in the year one thousand eight hundred and eleven.—An Act to direct officers in the levy of executions. Passed February twenty-sixth in the year one thousand eight hundred and eleven.—An act to provide for the location of certain reserved lands. Passed February twenty-sixth in the year one thousand eight hundred and eleven.—An act in addition to an act, entitled, “an act for providing and regulating of prisons.” Passed February twenty-eighth in the year one thousand eight hundred and eleven.—An act further regulating divorces. Passed February twenty-eighth in the year one thousand eight hundred and eleven.—An act for the relief of persons who are scrupulous about taking oaths. Passed February twenty-eighth in the year one thousand eight hundred and eleven.—An act in addition to an act, entitled, “an act to regulate the manufacture and inspection of stone lime and lime casks, passed the twenty-seventh day of February in the year of our Lord one thousand eight hundred and ten.” Passed February twenty-eighth in the year one thousand eight hundred and eleven.—An act to enforce the satisfaction and payment of executions and warrants of distress, against certain corporations. Passed February twenty-eighth in the year one thousand eight hundred and eleven.—An act respecting public worship and religious freedom. Passed June eighteenth in the year one thousand eight hundred and eleven.—An act providing for the appointment of Clerks of the Courts in the several counties, and for the safe keeping of the Judicial records and files, and for other purposes. Passed June eighteenth in the year one thousand eight hundred and eleven.—An act regulating the choice of town officers and town meetings. Passed June eighteenth in the year one thousand eight hundred and eleven.—An Act supplementary to the acts respecting school districts. Passed June twenty-first, in the year one thousand eight hundred and eleven.—An act to prohibit certain officers of Courts from buying promissory notes and other demands for the purpose of making a gain or profit in the collection thereof. Passed June twenty-fourth, in the year one thousand eight hundred and eleven.—An act

to direct the time and manner of exhibiting the accounts of County Treasurers, and the estimates for county taxes. Passed June twenty-fifth, in the year one thousand eight hundred and eleven.—An act directing the manner of conveyance to be used by counties in purchasing and disposing of lands. Passed June twenty-fifth, in the year one thousand eight hundred and eleven.—An act to regulate prisons within this Commonwealth. Passed June twenty-seventh, in the year one thousand eight hundred and eleven.—An act defining the duties of Sheriffs, Coroners and Constables, in certain cases. Passed February thirteenth, in the year one thousand eight hundred and twelve.—An act subjecting the real estate of banking corporations to be taken in execution and sold at public auction, for the payment of their debts. Passed February thirteenth, in the year one thousand eight hundred and twelve.—An act providing for the safe keeping of the records in the offices of Register of Deeds and of the Register of Probate, in the several counties within this Commonwealth. Passed February twenty-ninth, in the year one thousand eight hundred and twelve.—An act in addition to an act, entitled, “an act to regulate prisons within this Commonwealth.” Passed February twenty-ninth, in the year one thousand eight hundred and twelve.—An act appropriating certain fines for the repairing of highways and bridges. Passed February twenty-ninth, in the year one thousand eight hundred and twelve.—An act supplementary to the act respecting the evidence of notice by administrators and others, of the sale of real estate. Passed June twenty-second, in the year one thousand eight hundred and twelve.—An act respecting bailable offences. Passed June twenty-second, in the year one thousand eight hundred and twelve.—An act imposing a tax on the banks within this Commonwealth. Passed June twenty-third, in the year one thousand eight hundred and twelve.—An act in addition to an act, entitled, “an act to repeal all the existing excise acts, and to provide for the expenses of Justice in the several counties.” Passed February sixteenth, in the year one thousand eight hundred and thirteen.—An act in addition to an act, entitled, “an act for the speedy assignment of dower, and for the preventing of strip and waste of tenants therein.” Passed February twenty-third, in the year one thousand eight hundred and thirteen.—An act in further addition to an act, entitled, “an act directing the method for laying out highways.” Passed February twenty-seventh, in the year one thousand eight hundred and thirteen.—An act in addition to an act, entitled, “an act regulating, governing and training the Militia of this Commonwealth.” Passed February twenty-seventh, in the year one thousand eight hundred and thirteen.—An act authorizing certain punishments in cases therein mentioned. Passed February twenty-seventh, in the year one thousand eight hundred and thirteen.—An act directing the

mode and time of making returns of the several incorporated Banks in this Commonwealth to his Excellency the Governor and the honorable Council. Passed February twenty-seventh in the year one thousand eight hundred and thirteen.—An act in addition to and for repealing the first section of an act, entitled, “an act regulating the selection, the empannelling and the services of Grand, Traverse and Petit Jurors, and repealing all laws, or clauses of laws, touching these subjects, so far as they are provided for by this act.” Passed February twenty-seventh in the year one thousand eight hundred and thirteen.—An act against perjury, and subornation of perjury. Passed February twenty-seventh, in the year one thousand eight hundred and eighteen [thirteen.]—An act in addition to an act, entitled, “an act to prevent damage by mischievous dogs. Passed February twenty-seventh, in the year one thousand eight hundred and thirteen.—An act in addition to, and explanation of an act, entitled, “an act establishing and regulating the fees of the several officers, and other persons hereafter mentioned, and for repealing the laws heretofore made for that purpose.” Passed June tenth, in the year one thousand eight hundred and thirteen.—An act in addition to an act, entitled, “an act subjecting the real estates of banking corporations to be taken and sold at public auction for the payment of their debts.” Passed June twelfth in the year one thousand eight hundred and thirteen.—An act regulating the sale of indian and rye meal. Passed June sixteenth in the year one thousand eight hundred and thirteen.—An act more effectually to secure the rights of suffrage. Passed June sixteenth in the year one thousand eight hundred and thirteen.—An act declaring the true intent and meaning of an act, entitled, “an act to provide for the safe keeping all prisoners committed under the authority of the United States in the several gaols within this Commonwealth.” Passed February seventh in the year one thousand eight hundred and fourteen. An act in further addition to an act, entitled, “an act defining the general power and duty of turnpike corporations.” Passed February twenty-fourth in the year one thousand eight hundred and fourteen.—An act in addition to an act, entitled, “an act exempting certain goods and chattels of debtors from attachment and execution.” Passed February twenty-sixth in the year one thousand eight hundred and fourteen.—An act concerning suits in behalf of the Commonwealth. Passed February twenty-eighth in the year one thousand eight hundred and fourteen.—An act in addition to an act, entitled, “an act, in addition to an act defining the general powers and duties, and regulating the office of Sheriff, and for extending the provisions thereof to Coroners.” Passed February twenty-eighth in the year one thousand eight hundred and fourteen.—An act in addition to an act, entitled, “an act imposing a tax on the Banks

within this Commonwealth." Passed February twenty-eighth in the year one thousand eight hundred and fourteen.—An act in addition to an act, entitled, "an act to provide for the proof of fire arms, manufactured within this Commonwealth." Passed February twenty-eighth in the year one thousand eight hundred and fourteen.—An act to prevent frauds in elections. Passed February twenty-eighth in the year one thousand eight hundred and fourteen.—An act in addition to an act to regulate the sale of goods at public vendue. Passed June fourteenth in the year one thousand eight hundred and fourteen.—An act in addition to the several acts imposing a tax on banks. Passed June fourteenth in the year one thousand eight hundred and fourteen.—An act in further addition to an act, entitled, "an act for regulating, governing and training the Militia of this Commonwealth." Passed October seventeenth in the year one thousand eight hundred and fourteen.—An act to establish the pay and rations of the Militia while in actual service, and the allowance to be made to them for arms, equipments, and clothing when furnished by themselves. Passed October eighteenth in the year one thousand eight hundred and fourteen.—An act in addition to the several acts authorizing the sale of real estates by executors, administrators and guardians. Passed October nineteenth in the year one thousand eight hundred and fourteen.—An act to authorize the appointment of Surgeons in certain cases. Passed October nineteenth in the year one thousand eight hundred and fourteen.—An act in addition to an act, entitled, "an act for regulating, governing and training the Militia of this Commonwealth." Passed February eighteenth in the year one thousand eight hundred and fifteen.—An act to protect minors, and to secure the rights of parents, guardians and masters. Passed February twenty-seventh in the year one thousand eight hundred and fifteen.—An act in addition to the several acts, regulating the building and repairing of school houses. Passed February twenty-eighth in the year one thousand eight hundred and fifteen.—An act to regulate the custody of shipwrecked goods, and to preserve them for their owners. Passed March second in the year one thousand eight hundred and fifteen.—An act in further addition to an act, entitled, "an act for the support and regulation of mills." Passed March second in the year one thousand eight hundred and fifteen.—An act to protect the sepulchres of the dead. Passed March second in the year one thousand eight hundred and fifteen.—An act in addition to the several acts defining the general powers and duties of turnpike corporations. Passed March second in the year one thousand eight hundred and fifteen.—An act authorizing the establishment of law libraries. Passed March second in the year one thousand eight hundred and fifteen.—An act providing compensation to Militia officers, in certain

cases. Passed March second, in the year one thousand eight hundred and fifteen.—An act in addition to an act, entitled, “an act respecting lost goods and stray beasts.” Passed June thirteenth, in the year one thousand eight hundred and fifteen.—An act in addition to the several acts now in force to regulate the inspection of beef and pork to be exported. Passed June fourteenth, in the year one thousand eight hundred and fifteen.—An act, in addition to an act, entitled, “an act respecting boats and lighters employed in transporting stones, gravel or sand, within this Commonwealth.” Passed June fifteenth, in the year one thousand eight hundred and fifteen.—An act in addition to an act, entitled, “an act to regulate the sale of goods at public vendue, and to repeal all laws heretofore made for that purpose.” Passed June fifteenth, in the year one thousand eight hundred and fifteen.—An act requiring certain public inspectors to make annual returns. Passed January twentieth, in the year one thousand eight hundred and sixteen.—An act to regulate the practice of law in certain cases. Passed February first, in the year one thousand eight hundred and sixteen.—An act in further addition to an act, entitled, “an act to secure to owners their property in logs, masts, spars, and other timber, in certain cases.” Passed February second, in the year one thousand eight hundred and sixteen.—An act to regulate the quality of paper for books of public records. Passed February ninth, in the year one thousand eight hundred and sixteen.—An act in addition to an act, entitled, “an act for the punishment of rape, and for the prevention of the same.” Passed February tenth, in the year one thousand eight hundred and sixteen.—An act in addition to an act, entitled, “an act to regulate the weight of beef and pork.” Passed February thirteenth, in the year one thousand eight hundred and sixteen.—An act in addition to the several acts now in force to regulate the inspection of butter and lard to be exported. Passed February fifteenth, in the year one thousand eight hundred and sixteen.—An act to alter the number of members composing division courts martial. Passed February fifteenth, in the year one thousand eight hundred and sixteen.—An act in addition to the several laws now in force providing for the collection of taxes. Passed February fifteenth, in the year one thousand eight hundred and sixteen.—An act enforcing the right of this Commonwealth to loans from the Banks within the same. Passed February sixteenth, in the year one thousand eight hundred and sixteen.—An act relative to the timber lodged on lands adjoining the Saco river, and the waters connected with the same. Passed February sixteenth, in the year one thousand eight hundred and sixteen.—An act in addition to an act, entitled, “an act in addition to an act, entitled an act providing for the due observation of the Lord’s day, and repealing the several laws heretofore made for that purpose.”

Passed February sixteenth in the year one thousand eight hundred and sixteen.—An act for the suppression and punishment of cheats. Passed February sixteenth in the year one thousand eight hundred and sixteen.—An act in addition to the several acts for giving remedies in equity. Passed February sixteenth in the year one thousand eight hundred and sixteen.—An act to enforce the rendition of an account of fees of office. Passed June fifteenth in the year one thousand eight hundred and sixteen.—An act extending the powers of the Justices of the Supreme Judicial Court in certain cases. Passed June nineteenth in the year one thousand eight hundred and sixteen.—An act in addition to the act for regulating, governing and training the Militia of this Commonwealth. Passed June twentieth in the year one thousand eight hundred and sixteen.—An act in further addition to an act, entitled, “an act for the relief of poor prisoners who are committed by execution for debt.” Passed November twenty-fifth in the year one thousand eight hundred and sixteen.—An act to authorize the use of the vibrating steelyard. Passed December fourth in the year one thousand eight hundred and sixteen.—An act to authorize the Supreme Judicial Court to grant leave to claimants upon insolvent estates to institute suits in certain cases. Passed December fourth in the year one thousand eight hundred and sixteen.—An act concerning dower. Passed December eleventh in the year one thousand eight hundred and sixteen.—An act concerning Banks. Passed December thirteenth in the year one thousand eight hundred and sixteen.—An act in addition to the several acts concerning probate bonds. Passed December thirteenth in the year one thousand eight hundred and sixteen.—An act authorizing Judges of Probate to make allowances to widows of persons deceased, whose estates are insolvent. Passed December thirteenth in the year one thousand eight hundred and sixteen.—An act in addition to an act for the due regulation of licensed houses. Passed December fourteenth in the year one thousand eight hundred and sixteen.—An act to extend the powers and duties of Sheriffs, Coroners and Constables, in certain cases. Passed June thirteenth in the year one thousand eight hundred and seventeen.—An act in addition to the several laws now in force respecting school districts.—Passed June thirteenth in the year one thousand eight hundred and seventeen.—An act in addition to the several acts concerning the curing, packing and exportation of smoked and pickled fish. Passed June sixteenth in the year one thousand eight hundred and seventeen.—An act establishing the compensation of certain officers of the Militia. Passed June seventeenth in the year one thousand eight hundred and seventeen.—An act regulating the hunting of deer. Passed January twenty-seventh in the year one thousand eight hundred and eighteen.—An act explanatory of an act, entitled, “an

act for the orderly solemnization of marriages." Passed January twenty-seventh in the year one thousand eight hundred and eighteen.—An act in addition to an act, entitled, "an act in addition to the several laws now in force providing for the collection of taxes." Passed February second in the year one thousand eight hundred and eighteen. An act for the due regulation of licensed houses in the town of Bath. Passed February second in the year one thousand eight hundred and eighteen.—An act to repeal certain acts prohibiting the passing of Bank notes in certain cases. Passed February third in the year one thousand eight hundred and eighteen.—An act in addition to the several laws now in force to secure to owners their property in logs, masts, spars and other timber. Passed February ninth in the year one thousand eight hundred and eighteen.—An act for giving further remedies in equity. Passed February tenth in the year one thousand eight hundred and eighteen.—An act establishing the compensation of witnesses. Passed February tenth in the year one thousand eight hundred and eighteen.—An act concerning Constables. Passed February tenth in the year one thousand eight hundred and eighteen. An act to prevent the destruction of certain useful birds at unseasonable times of the year. Passed February twelfth in the year one thousand eight hundred and eighteen.—An act in addition to an act, entitled, "an act exempting certain goods and chattels of debtors from attachment and execution." Passed February thirteenth in the year one thousand eight hundred and eighteen. An act to define the powers, duties and restrictions of Insurance Companies. Passed February sixteenth in the year one thousand eight hundred and eighteen.—An act in addition to an act, entitled, "an act relative to timber lodged on lands adjoining the Saco river, and the waters connected with the same." Passed February nineteenth in the year one thousand eight hundred and eighteen.—An act regulating the sale of salt and grain. Passed February nineteenth in the year one thousand eight hundred and eighteen.—An act in explanation of an act, entitled, an act for the orderly solemnization of marriages. Passed February twelfth in the year one thousand eight hundred and eighteen.—An act for facilitating trials in civil causes. Passed February twentieth in the year one thousand eight hundred and eighteen.—An Act in further addition to the act, entitled, "an act empowering towns to restrain cattle from running at large within their several limits." Passed February twentieth in the year one thousand eight hundred and eighteen.—An act to encourage the destruction of bears, wolves and other mischievous animals. Passed February twentieth in the year one thousand eight hundred and eighteen.—An act further to provide for the payment of costs in criminal prosecutions. Passed February twentieth in the year one

thousand eight hundred and eighteen.—An act in addition to an act regulating bail in civil actions. Passed February twentieth in the year one thousand eight hundred and eighteen.—An act in addition to an act, entitled, “an act to enable creditors to receive their just demands out of the goods, effects and credits of their debtors, when the same cannot be attached by the ordinary process of law.” Passed February twentieth in the year one thousand eight hundred and eighteen.—An act for the better regulating of prisons. Passed February twentieth in the year one thousand eight hundred and eighteen.—An Act regulating the packing and selling of paper within this Commonwealth, and for repealing an Act heretofore made on that subject. Passed February twenty-third in the year one thousand eight hundred and eighteen.—An act to prevent the destruction of white pine and other forest trees in this Commonwealth. Passed February twenty-third in the year one thousand eight hundred and eighteen.—An act in addition to an act, entitled, “an act prescribing the mode of taking depositions and administering oaths and affirmations.” Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act directing the mode of selling real estate lying within this Commonwealth, belonging to persons living without the same. Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act in addition to an act, entitled, “an act defining the general powers and duties of manufacturing corporations.” Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act concerning poor prisoners and other persons. Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act concerning plates for printing Bank notes. Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act authorizing the proprietors of churches, meeting-houses, and other houses of public worship, to regulate and manage their property and interests therein. Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act to regulate the jurisdiction and proceedings of the Courts of Probate. Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act regulating the management and drawing of lotteries in certain cases within this Commonwealth. Passed February twenty-fourth in the year one thousand eight hundred and eighteen.—An act in addition to the act, entitled, “an act for the more effectually preventing of trespasses in divers cases.” Passed June twelfth in the year one thousand eight hundred and eighteen.—an act directing the Judge of Probate within and for the county of York to hold Probate Courts in the town of Limerick. Passed June twelfth in the year one thousand eight hundred and eighteen.—An act in further addition to an act, entitled, “an act concern-

ing general and common fields." Passed June twelfth in the year one thousand eight hundred and eighteen.—An act to prevent the destruction of pickerel in the ponds and streams within this Commonwealth. Passed February third in the year one thousand eight hundred and nineteen.—An act to amend an act, entitled, "an act concerning plates for printing Bank notes." Passed February eighth in the year one thousand eight hundred and nineteen.—An act in addition to an act entitled, "an act empowering the Judges of Probate to appoint guardians to minors and others." Passed February eleventh in the year one thousand eight hundred and nineteen.—An act in addition to an act, entitled, "an act for the due regulation of licensed houses." Passed February twelfth in the year one thousand eight hundred and nineteen.—An act explanatory of an act, entitled "an act in addition to the several laws now in force, to secure to owners their property in logs, masts, spars, and other timber. Passed February seventeenth in the year one thousand eight hundred and nineteen.—An act to prevent the waste and destruction of timber and cord wood. Passed February eighteenth in the year one thousand eight hundred and nineteen.—An act in further addition to an act giving remedies in equity. Passed February eighteenth in the year one thousand eight hundred and nineteen.—An act in addition to an act, entitled, "an act against forgery and counterfeiting." Passed February nineteenth in the year one thousand eight hundred and nineteen.—An act in addition to the acts concerning the sale of real estate, by administrators, executors and guardians. Passed February nineteenth in the year one thousand eight hundred and nineteen.—An act for the encouragement of agriculture and manufactures. Passed February twentieth in the year one thousand eight hundred and nineteen.—An act in addition to the several acts now in force directing the manner of levying executions [on] real estate. Passed February twentieth, in the year one thousand eight hundred and nineteen.—An act in addition to the several acts now in force respecting highways. Passed February twentieth, in the year one thousand eight hundred and nineteen.—An act to encourage trade and navigation within this Commonwealth. Passed February twentieth, in the year one thousand eight hundred and nineteen.—An act making further provision for the punishment of robbery, manslaughter, and felonious assaults. Passed February nineteenth, in the year one thousand eight hundred and nineteen.—An act respecting packed pickled fish. Passed June seventeenth, in the year one thousand eight hundred and nineteen.—An act in addition to an act, entitled, "an act for the providing and regulating of prisons." Passed June eighteenth, in the year one thousand eight hundred and nineteen.—An act in furtherance of good discipline in the colleges of this Commonwealth. Passed June nineteenth in the year

one thousand eight hundred and nineteen.—An Act regulating damages on inland bills of exchange. Passed June nineteenth in the year one thousand eight hundred and nineteen.—An act in addition to the acts relative to highways. Passed June nineteenth in the year one thousand eight hundred and nineteen.—An act in addition to an act, entitled, “an act to prevent the destruction of pickerel in the ponds and streams within this Commonwealth.” Passed June nineteenth in the year one thousand eight hundred and nineteen.—An act in addition to an act, entitled, “an act directing the mode of attaching on mesne process and selling by execution, shares [of] debtors in incorporated companies.” Passed February first in the year one thousand eight hundred and twenty.—An act laying a tax upon retailers of spiritous liquors and other persons. Passed February twenty-first in the year one thousand eight hundred and twenty.—An act securing to mechanics and others payment for their labor and materials expended in erecting and repairing houses and other buildings with their appurtenances. Passed February twenty-first in the year one thousand eight hundred and twenty.—An act in addition to an act, entitled, “an act directing the settlement of the estates of persons deceased, and for the conveyance of real estate in certain cases.” Passed February twenty-fourth in the year one thousand eight hundred and twenty.—An act regulating the time for inspecting military stores, parading the troops, and fixing the compensation of certain Staff officers. Passed February twenty-fourth in the year one thousand eight hundred and twenty.—An act in addition to an act, entitled, “an act relating to the punishment of convicts who may be sentenced to solitary imprisonment and confinement to hard labor.” Passed February twenty-fifth in the year one thousand eight hundred and twenty.—An act providing for the support of State paupers. Passed February twenty-fifth in the year one thousand eight hundred and twenty.

SEC. 2. *Be it further enacted*, That all other acts and parts of acts passed by the Legislature of the Commonwealth of Massachusetts, and adopted by the Constitution of this State, the titles whereof are not particularly set forth in the first section of this act be, and the same are as respects this State hereby repealed, so far as the same come within the purview of, or are inconsistent with any of the acts passed by this Legislature at the present session thereof. *Provided*, That all the acts aforesaid shall be and remain in force so far as respects the trial and punishment of all offences therein mentioned, which have been committed before the passing of this act, or before the virtual repeal of all or any of the acts aforesaid, by the passing of other acts relating to the same subject matter by this Legislature, and saving also to all persons, all rights of action in virtue of any of the acts hereby

repealed: and all actions and causes of actions commenced in virtue of or founded on said acts, or any of them, in the same manner as though this act or any acts revising and virtually repealing said former acts had never been passed. And whereas many of the acts hereby repealed contain sections or clauses repealing former acts, or parts thereof which ought not to be again in force and operation.

This repealing act not to revive any former laws, &c.

SEC. 3. *Be it therefore further enacted,* That this act shall not be construed to [revive] or give any legal effect to any of the acts or parts of acts repealed, in the manner above mentioned by any of the acts hereby repealed.

[Approved March 21, 1821.]

APPENDIX.

An Act to incorporate the President, Directors and Company of the State Bank.

Bank incorp-
rated.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same That William Gray, Henry Dearborn, David Tilden, Russel Sturgis, John Brazer, and David Townsend, their associates, successors, and assigns, shall be and hereby are created a corporation, by the name of the President, Directors, and Company of the State Bank, and shall so continue from the first day of October next, until the first Monday in October which will be in the year of our Lord one thousand eight hundred and thirty-one, and by that name shall be, and hereby are made capable in law, to sue and be sued, plead and be impleaded, defend and be defended in any Courts of Record, or any other place whatever; and also to make, have and use a common seal, and the same at pleasure again to break, alter and renew; and also to ordain, establish and put in execution, such bye-laws, ordinances, and regulations, as to them shall appear necessary and convenient for the government of the said corporation, and the prudent management of their affairs: *Provided,* Such bye-laws, ordinances and regulations, shall in no wise be contrary to the Constitution and laws of this Commonwealth; and the said corporation shall be always subject to the rules, restrictions, limitations and provisions herein prescribed.

Amount of capital stock.

SEC. 2. *And be it further enacted,* That the capital stock of the said corporation shall consist of a sum not more than three millions of dollars, in gold and silver, to be, besides such part

as this Commonwealth shall subscribe, in manner hereinafter mentioned, divided into shares of one hundred dollars each, which shall be paid in at five equal instalments; the first on the fifteenth day of October next, the second on the fifteenth day of April next, and the third on the fifteenth day of October, which will be in the year of our Lord one thousand eight hundred and twelve, the fourth on the fifteenth day of April, and the fifth on the fifteenth day of October, which shall be in the year of our Lord one thousand eight hundred and thirteen. And the stockholders, at their first meeting, shall, by a majority of votes, determine the mode of transferring and disposing of said stock, and the profits thereof, which being entered in the books of said corporation shall be binding on the stockholders, their successors and assigns until they shall otherwise determine; and the said corporation are hereby made capable in law, to have, hold, purchase, receive, possess, enjoy and retain to them, their successors and assigns, lands, rents, tenements, and hereditaments, to the amount of one hundred thousand dollars, and no more at any one time, with power to bargain, sell, and dispose of the same, and to loan and negotiate their monies and effects, by discounting on banking principles, on such security as they shall think advisable: *Provided however*, That nothing herein contained shall restrain or prevent the said corporation from taking and holding real estate in mortgage, or on executions, to any amount, as security for, or in payment of any debts due to the said corporation: *And provided further*, That no monies shall be loaned, or discounts made, nor shall any bills or promissory notes be issued from said bank, until the capital subscribed and actually paid in and existing in gold and silver in their vaults, shall amount to six hundred thousand dollars, nor until the said capital stock actually in said vaults shall have been inspected and examined by three commissioners to be appointed by the Governor for that purpose, whose duty it shall be, at the expense of said corporation, to examine and count the monies paid and actually existing in said vaults, and to ascertain by the oath of the directors of said Bank, or some of them, that said capital hath been bona fide paid in by the stockholders of said Bank, and towards payment for their respective shares, and not for any other purpose, and it is intended therein to remain as a part of said capital, and to return a certificate thereof to the Governor.

Time of paying instalments.

Corporation may hold real estate.

Proviso.

Sec. 3. *And be it further enacted*, That the following rules, limitations, and provisions, shall form and be the fundamental articles of the said corporation:—

First. That the total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed twice the amount of their capital stock actually paid in, exclusive of the sums due on account of deposits; nor shall there be due to the said cor-

Rules, limitations and provisions.

poration at any one time more than double the amount of the capital stock actually paid in as aforesaid. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their, or any of their heirs, executors or administrators, in any Court proper to try the same, by any creditor or creditors of said corporation; and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for, and chargeable with said excess. Such of said directors who may have been absent when said excess was contracted, or created, or who may have dissented from the resolution, or act, whereby the same was contracted, or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence, or dissent, to the Governor and Council, and to the stockholders at a general meeting, which they shall have power to call for that purpose.

Monies not to be used in trade.

Second. That the said corporation shall not vest, use, or improve any of their monies, goods, chattels, or effects in trade or commerce; but may sell all kinds of personal pledges lodged in their hands by way of security, to an amount sufficient to reimburse the sum loaned.

Third. That the lands, tenements, and hereditaments, which the said corporation shall hold, shall be only such as shall be requisite for the convenient transaction of their business.

Persons eligible as President.

Fourth. None but a member of the said corporation, being a citizen of this Commonwealth, and resident therein, shall be eligible for a director; and the directors shall choose one of their own number to act as President; and the cashier before he enters upon the duties of his office shall give bond with two sureties, to the satisfaction of the board of directors, in a sum not less than fifty thousand dollars, with conditions for the faithful discharge of the duties of his office.

Fifth. No director of any other Bank shall be eligible to the office of director of this Bank, although he may be a stockholder therein; and any director, accepting any office in any other Bank, shall be deemed to have vacated his place in this Bank.

Annual meeting of stockholders to be held.

Sixth. That for the well ordering the affairs of the said corporation, a meeting of the stockholders shall be held at such places as they shall direct, on the first Monday in October annually, and at any other time during the continuance of the said corporation, and at such place, as shall be appointed by the President and directors for the time being, by public notification, given fourteen days previous thereto, at which annual meeting there shall be chosen by ballot twelve direct-

ors, to continue in office the year ensuing their election; and the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the following proportions, that is to say: for one share one vote, and every two shares above one, shall give a right to one vote more: *Provided*, No one member shall have more than ten votes; and absent members may vote by proxy, being authorized in writing.

Seventh. The stockholders may make the President such compensation as to them shall appear reasonable. President may be paid.

Eighth. No less than seven directors shall constitute a board for the transaction of business, of whom the President shall always be one, (except in case of sickness or necessary absence, in which case the directors present may choose a chairman for the time being in his stead.)

Ninth. All bills issued from the Bank aforesaid, and signed by the President, shall be binding on the corporation; but it shall not be lawful for them to issue any bills of a less denomination than five dollars. Bills not to be issued less than five dollars.

Tenth. The directors shall make half yearly dividends of all the profits, rents, premiums, and interest of the Bank aforesaid. Dividends.

Eleventh. The directors shall have power to appoint a Cashier, Clerks, and such other officers for carrying on the business of said Bank, with such salaries as to them shall seem meet.

Twelfth. In case the officers of said corporation in the usual banking hours at said Bank, shall refuse or delay payment in gold or silver of any note or bill of said corporation there presented for payment, the said corporation shall be liable to pay as additional damages at the rate of twenty-four per cent. per annum, for the time during which such payment shall be refused or delayed.

Thirteenth. In case any loss or deficiency of the capital stock shall arise from the official mismanagement of the directors, the persons who are stockholders at the time of such mismanagement shall, in their private and individual capacities be respectively liable to pay the same: *Provided however*, That in no case shall any one stockholder be liable to pay a sum exceeding the amount of the stock actually then held by him.

Fourteenth. The holders of the shares or stock in said corporation when this Act may expire, shall be chargeable in their private and individual capacities, and shall be holden for the payment and redemption of all bills, which may have been issued by said corporation, and which may then remain unpaid, in proportion to the stock which they may respectively hold. Individual property liable for the bank's debts.

SEC. 4. *And be it further enacted*, That the said Bank shall be established and kept in the town of Boston aforesaid,

Obligation to
loan to the
Commonwealth.

SEC. 5. *And be it further enacted,* That whenever the Legislature shall require it, the said corporation shall loan to the Commonwealth any sum of money which may be required, not exceeding three hundred thousand dollars, at any one time, reimbursable by five annual instalments, or at any shorter period, at the election of the Commonwealth, with the annual payment of interest, at a rate not exceeding five per centum per annum: *Provided however,* That the Commonwealth shall never at any one time stand indebted to said corporation, without their consent, for a larger sum than six hundred thousand dollars.

Special committee empowered.

SEC. 6. *And be it further enacted,* That any committee specially appointed by the Legislature for the purposes shall have a right to examine into the doings of said corporation, and shall have free access to all their books and vaults, and if upon such an examination it shall be found, and after a full hearing of said corporation thereon, be determined by the Legislature that said corporation have exceeded the powers herein granted them, or failed to comply with any of the rules, restrictions, and conditions, in this Act provided, their incorporation shall thereupon be declared forfeited and void.

Manner of
calling a meet-
ing of stock-
holders.

SEC. 7. *And be it further enacted,* That the persons herein before named, or any three of them, are authorized to call a meeting of the members and stockholders of said corporation, as soon as may be, at such time and place as they may see fit, (by advertising the same for three weeks successively in the Boston Patriot and Independent Chronicle,) for the purpose of making, ordaining, and establishing such bye-laws, ordinances, and regulations, for the orderly conducting the affairs of the said corporation, as the said stockholders shall deem necessary, and for the choice of the first board of directors, and such other officers as they shall see fit to choose.

Directors re-
quired to
transmit to au-
thority.

SEC. 8. *And be it further enacted,* That it shall be the duty of the directors of said Bank to transmit to the Governor and Council of this Commonwealth, for the time being, once in six months at least, and as much oftener as they may require, accurate and just statements of the amount of the capital stock of said corporation, and of debts due to the same, of the monies deposited therein, of the notes in circulation, and of the gold, silver, and copper coin, and the bills of other Banks on hand, which statement shall be signed by the directors, and attested by the Cashier, and shall be verified by oath before some person competent to administer the same.

SEC. 9. *And be it further enacted,* That in addition to the capital stock aforesaid of three millions of dollars, the Commonwealth may be interested in the said corporation to the amount of one million five hundred thousand dollars, whenever provision shall be made therefor by law, and the Commonwealth from the time of making any payment towards the capital of said Bank, shall be entitled to their proportionate

share of the profits and dividends arising from the amount thereof from said Bank.

SEC. 10. *And be it further enacted,* That the said corporation shall be liable to pay to any bona fide holder, the original amount of any note of said Bank, altered in the course of its circulation to a larger amount, notwithstanding such alteration. Counterfeit notes.

SEC. 11. *And be it further enacted,* That the said corporation, from and after the first Monday of October, in the year of our Lord one thousand eight hundred and twelve, shall pay, by way of tax, to the Treasurer of this Commonwealth, for the use of the same, within ten days after each semi-annual dividend, the half of one per cent. on the amount of the original stock, which shall at the time of said dividend have been actually paid in: *Provided however,* That the same tax, payable in manner aforesaid, shall be required by the Legislature of all Banks that shall be hereafter incorporated within this Commonwealth, from and after the said first Monday of October: *And provided further,* That nothing herein contained shall be construed to impair the right of the Legislature to lay a tax or excise upon any Bank already incorporated, under the authority of this Commonwealth, whenever they may think proper so to do. Tax. Provis.

SEC. 12. *And be it further enacted,* That one tenth part of the whole funds of said Bank shall always be appropriated to loans to be made to citizens of this Commonwealth, not resident in the town of Boston, and wherein the directors shall wholly and exclusively regard the agricultural and manufacturing interest, which loans shall be made in sums not less than one hundred dollars, nor more than five hundred dollars, and upon the personal bond of the borrower, with collateral security by a mortgage of real estate to the satisfaction of the directors of said Bank, for a term not less than one year, and on condition of paying the interest annually on such loans, subject to such forfeitures and right of redemption as is by law provided in other cases. Proportion appropriated for loans.

SEC. 13. *And be it further enacted,* That the Treasurer of the Commonwealth for the time being, shall, ex officio be a director of said Bank, in addition to the directors by law to be chosen by the stockholders. And that the Legislature shall have a right from time to time to appoint a number of directors of the said Bank in proportion as the sums paid from the Treasury of the Commonwealth, shall bear to the whole amount of the stock actually paid into the said Bank, if at any time hereafter they shall judge fit to exercise that right. State treasurer to be director ex-officio.

[This Act passed June 27, 1811.]

EXTRACT OF

An Act for erecting and establishing two new Counties in the easterly part of the County of York.

WHEREAS the great extent of the County of York makes it convenient that two new Counties should be erected and established in the easterly part thereof :

County of
York, how
bounded.

SEC. 1. **BE** it enacted by the Lieutenant Governor, Council and House of Representatives, That the county of York aforesaid shall be, and it hereby is declared to be bounded on the east by a line to run from the sea northwesterly upon the easterly line of the township of Biddeford as far as Narragansett number one, from thence northeasterly on said Narragansett to the easternmost corner thereof, from thence northwesterly on said Narragansett to the northernmost corner thereof, from thence southwesterly upon said Narragansett to Saco river, from thence up said Saco river as far as Pearson town extends thereon, and from thence to run north two degrees west on a true course as far as the utmost northern limits of this province, all the other boundary lines of said county to remain the same as heretofore.

New county of
Cumberland,
how bounded.

SEC. 2. *And be it further enacted,* That the westernmost of the two new counties aforesaid shall be, and it is hereby declared to be bounded on the west by the easterly line of the county of York above described, on the north by the utmost northern limits of this province, on the southeast by the sea or western ocean and by Casco bay, from the easterly point of which bay, viz. from Smallpoint the line shall run northwesterly upon said Casco bay to Newmeadows creek or river, and up said creek or river as far as Stevens' carrying place at the head of said creek or river, thence across said carrying place to Merrymeeting bay and Androscoggin river, from thence it shall run up said Androscoggin river thirty miles, and from thence north two degrees west on a true course to the utmost northern limits of this province, including all the islands in Casco bay aforesaid, and on the sea coast of the said new county ; and all the towns, districts and lands within the said bounds, together with the islands aforesaid, shall, from and after the first day of November one thousand seven hundred and sixty, be and remain one entire and distinct county by the name of *Cumberland*, of which Falmouth shall be the shire or county town ; and the inhabitants of said county of Cumberland shall have, use, exercise and enjoy all such powers, privileges and immunities as by law the inhabitants of any other county within this province have, use, exercise and enjoy.

New county of
Lincoln.

SEC. 6. *And be it further enacted,* That the most eastern county shall be bounded in the following manner, that is to say, on the west by the county of Cumberland aforesaid, on the east by the province of Nova Scotia, on the south and southeast by the sea or western ocean, and on the north by the utmost northern limits of this province, including all the

islands to the eastward of the county of Cumberland aforesaid; and all the towns, districts and lands within said bounds, together with the islands aforesaid, shall, from and after the first day of November one thousand seven hundred and sixty, be and remain one entire and distinct county by the name of Lincoln, of which Pownalborough shall be the shire or county town; and the inhabitants of the said county of Lincoln shall have, use, exercise and enjoy all such powers, privileges and immunities as by law the inhabitants of any other county within this province have, use, exercise and enjoy.

[Passed A. D. 1760.]

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EXTRACT OF

An Act for erecting and establishing two new counties in the county of Lincoln, and declaring the boundaries of the county of Lincoln in future. Addit. Acts. March 3, 1791. June 17, 1791.

WHEREAS the great extent of the county of Lincoln makes it convenient that two new counties should be erected and established in the easterly part thereof: Preamble.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the county of Lincoln aforesaid, be and hereby is declared to be bounded easterly by a line beginning at Penobscot Bay, in the boundary line between the town of Thomastown and the town of Camden; thence running northwesterly by the east line of Thomastown, Warren and Union, to the northeast corner of Union; thence north, twenty-two degrees and one half of a degree east, until it intersects the north line of the Waldo Patent; thence north, to the high lands; all the other boundary lines of said county to remain the same as heretofore: *Provided*, That no island lying to the eastward of a line to be drawn due south from the most easterly part of the county of Lincoln, as declared to be bounded by this Act, shall be considered as belonging to the said county of Lincoln. Lincoln county, how bounded. Proviso.

SEC. 2. *And be it further enacted*, That the westernmost of the two new counties aforesaid, shall be and it is hereby declared to be bounded westerly by the easterly line of the county of Lincoln above described, easterly by a line beginning at the bounds making the northeast corner of Goldsborough and southeast corner of township Number Seven; thence running northerly by the east line of Number Seven, and by the east line of Number Ten, to the southeast corner of township Number Sixteen; from thence due north to the high lands, including all the islands on the sea coast of the said new county, lying between lines drawn due south from the easterly part of the county of Lincoln, as before prescribed, and the northeasterly corner of Gouldsborough aforesaid; and all the towns, districts and lands within said bounds shall, from and after the first day of May, one thousand seven hundred and ninety, be and remain one entire and distinct coun- Hancock county how bounded.

ty, by the name of *Hancock*, of which *Penobscot* shall be the shire or county town; and the inhabitants of said county of *Hancock* shall have, use, exercise and enjoy all such powers, privileges and immunities as by law the inhabitants of any other county, within this Commonwealth, have, use, exercise and enjoy.

Washington
county, how
bounded.

SEC. 3. *And be it further enacted*, That the easternmost of the two new counties aforesaid, shall be bounded in the following manner, viz. westerly by the easterly line of the county of *Hancock* aforescribed, on the south and southeast by the sea or western ocean, on the north by the utmost northern limits of this Commonwealth, and easterly by the river *Saint Croix*, comprehending all the lands within this Commonwealth to the eastward of the line of the county of *Hancock* aforesaid, including all the islands on the sea coast of the said easternmost county; and all the town, districts and lands within said bounds, together with the islands aforesaid, shall, from and after the first day of May, in the year of our Lord one thousand seven hundred and ninety, be and remain one entire and distinct county, by the name of *Washington*, of which *Machias* shall be the shire or county town. And the inhabitants of the said county of *Washington* shall have, use, exercise and enjoy, all such powers, privileges and immunities, as by law the inhabitants of any other county within this Commonwealth, have, use, exercise and enjoy.

[This Act passed June 25, 1789.]

—OO—

An Act setting off part of the County of *Hancock*, and annexing it to the County of *Lincoln*.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all the lands contained within the following bounds, namely, beginning at *Little-Duck-Trap*, so called, thence running northwesterly on the northeasterly line of the town of *Camden*, to the northerly corner of said *Camden*; thence continuing on the same course, with the northeasterly line of said *Camden*, until it intersects the dividing line between the counties of *Lincoln* and *Hancock*; thence running southerly to *Union*; thence southeasterly on the east line of *Union*, *Warren* and *Thomastown*, to *Penobscot bay*; thence northerly by said bay to *Little-Duck-Trap*, the first mentioned bound, with all the inhabitants thereon, shall be and hereby are set off from the county of *Hancock*, and annexed to the county of *Lincoln*.

Boundaries.

Part of Hancock
annexed
to Lincoln.

Proviso.

Provided nevertheless, That there shall be the same proceedings and doings with respect to all actions and suits commenced, or which may be commenced, and all crimes committed, or which may be committed, and all assessments made, before the first day of May next, which would have been had if this Act had not passed,

SEC. 2. *And it is further enacted,* That the foregoing Act shall be in force from and after the first day of May next,
 [This Act passed March 3, 1791.]

—:00:—

An Act to divide the County of Lincoln, and to constitute the northerly part thereof a separate County, by the name of the County of Kennebec.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the county of Lincoln shall be divided by a Line of division. line beginning on the westerly line of the county of Hancock, at a place from which a line running west northwest shall strike the northeasterly corner of the town of Harlem; from thence running southeasterly by the easterly line of said town to the southeasterly corner thereof; thence southwesterly on a straight line to the northeasterly corner of Pittston; thence by the easterly line of said Pittston to the southeasterly corner thereof; thence westerly by the southerly line of said Pittston to the southwest corner of said town last mentioned; thence northwesterly by the westerly line of said Pittston to the mouth of Purgatory-Stream, (so called,) which empties itself into Cobbesecontee-Stream, (so called,) thence west northwest to the east line of the town of Monmouth; thence southerly by the east line of said Monmouth to the southeasterly corner thereof; thence westerly by the southerly line of said Monmouth to the westerly corner of said town; thence west to the easterly line of the town of Greene; thence southerly by the easterly line of said Greene to the southeasterly corner thereof; and thence westerly by the southerly line of said Greene to Androscoggin river, or the dividing line between the counties of Cumberland and Lincoln; and that the county of Lincoln aforesaid, be and the same is hereby declared to be bounded northerly and westerly by the line aforesaid.

SEC. 2. *And be it further enacted, by the authority aforesaid,* Constituting clause. That all and every part and parcel of the late county of Lincoln, situated on the northerly and westerly side of the aforesaid dividing line, and extending northerly and westerly, so as to comprehend all the territory lying between the counties of Cumberland and Hancock, and on the northerly and westerly side of the dividing line aforesaid, shall be and the same hereby is formed and erected into an entire and distinct county by the name of Kennebec, of which Augusta shall be the shire or county town: Augusta the shire town. And the inhabitants of the said county of Kennebec shall have and possess, use, exercise and enjoy all the powers, rights and immunities which by the Constitution and laws of this Commonwealth, the inhabitants of any county within the same have, possess; use, exercise enjoy, and are entitled to.

[This Act passed February 21, 1799.]

An Act to alter the line between the Counties of Lincoln and Kennebec.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the limits of the said counties of Lincoln and Kennebec be, and they hereby are so far changed and altered, as to include all the town of Litchfield, with the inhabitants, in the county of Lincoln, and that the land and inhabitants in the town of Litchfield, which are now included in the county of Kennebec, shall hereafter be subject to all duties and taxes, and possess all the privileges and rights which the other land and inhabitants in said county of Lincoln possess.

[This Act passed Feb. 25, 1811.]

—:0:—

An Act altering the line between the counties of Kennebec and Lincoln.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That from and after the passing of this Act, the county line between the counties of Kennebec and Lincoln be, and it is hereby altered, so as to include the town of Malta wholly within the said county of Kennebec, and the town of Whitefield wholly within the said county of Lincoln.

[This Act passed February 29, 1812.]

—:0:—

June 14, 1805,
Feb. 27, 1807.

AN Act to incorporate a part of the Counties of York and Cumberland, into a separate County by the name of Oxford.

Boundaries.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the counties of York and Cumberland shall be divided by a line, beginning at a place called the Crooked Ripples, on Androscoggin River, at the south east corner of the town of Turner, from thence to run westerly on the dividing line between the towns of Turner and Minot, to the most north-easterly corner of said town of Minot, from thence southwesterly on the line between the towns of Minot and Hebron, to the southwesterly corner of said Hebron, thence northwesterly on the line between the towns of Hebron and Otisfield, to the town of Norway, thence westerly and northerly on the lines between the towns of Otisfield and Norway, to the south-easterly corner of the town of Waterford, thence westerly on the line between said Waterford and Otisfield, to the north-easterly corner of the town of Bridgetown, thence westerly on the northerly line of said Bridgetown to the the north west corner thereof, thence southerly on the westerly side line of said Bridgetown, to the southwest corner thereof, thence westerly on the north line of the town of Baldwin, and Prescott's Grant, to Saco River, thence down the middle of said

Saco River, to the mouth of the river called the Great Ossipee, thence westerly by a line drawn on the middle of the river last mentioned, to the line of the State of New-Hampshire; and the counties of York and Cumberland, aforesaid, be, and the same are hereby declared to be bounded northerly by the line aforesaid.

SEC. 2. *And be it further enacted*, That all and every part and parcel of the late counties of York and Cumberland, situated on the northerly side of the line before described, and extending northerly and westerly, so as to comprehend all the territory lying between the State of New-Hampshire and the county of Kennebec, and on the northerly side of the dividing line aforesaid, excepting the towns of Wilton, Temple, Avon, and township Number Three, on Sandy River, northerly of Avon, which towns shall be considered as belonging to the county of Kennebec, shall be, and the same is hereby formed and erected into an entire and distinct county, by the name of *Oxford*, of which *Paris* shall be the shire or county town; and the inhabitants of the said county of Oxford shall hold, possess, use, exercise and enjoy all the powers, rights, and immunities, which by the Constitution and laws of this Commonwealth, the inhabitants of any county within the same do hold, possess, use, exercise, enjoy, and are entitled to.

[This Act passed March 4, 1805.]

— 000 —

An Act in addition to an Act, entitled, "an Act to incorporate a part of the counties of York and Cumberland into a separate county by the name of *Oxford*." March 4, 1805.
Feb. 27, 1807.

BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That all official Acts done before the first day of May, in the year of our Lord one thousand eight hundred and five, by civil and all other officers of the counties of York and Cumberland, then living in those parts of said counties which are now incorporated into a separate county by the name of *Oxford*, be, and are hereby confirmed and made valid to all intents and purposes, as though the said county of Oxford had not been incorporated.

[This Act passed June 14, 1805.]

— 000 —

An Act to divide the county of Kennebec, and to constitute the northerly part thereof into a county by the name of the county of *Somerset*.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the county of Kennebec shall be divided by a line, beginning on the westerly line of the county of *Hancock*, at

the northeasterly corner of township Number Four, north of the Waldo Patent; thence running westerly on the northerly line of said township and the town of Unity, to the northwest corner of the town of Unity aforesaid; thence due west, to the easterly line of the town of Clinton; thence northerly by said Clinton, to the northeast corner thereof; thence westerly by the northerly line of Clinton, to Kennebec river; thence down the middle of said river, to the line between the towns of Waterville and Fairfield; thence westerly between the towns last mentioned, to the southwesterly corner of said Fairfield; thence westerly on a straight line, to the southeasterly corner of the town of Mercer; thence westerly, on the southerly line of said town of Mercer, to the easterly line of the town of New-Sharon; thence northwesterly, on the northeasterly line of the town of New-Sharon aforesaid, to the easterly line of the town of Farmington; thence northerly and westerly, on the easterly and northerly line of said town of Farmington, to the easterly line of the town of Temple; thence northerly and westerly, on the easterly and northerly line of the town of Temple, to the easterly line of the county of Oxford: and the bounds of the county by this Act created, on the east, shall be the line heretofore established between the counties of Hancock and Kennebec; and on the west, by the line between the counties of Kennebec and Oxford; and on the north, by the line on the high land; being the boundary between the District of Maine and the Province of Lower Canada.

SEC. 2. *Be it further enacted*, That all and every part and parcel of the late county of Kennebec, included within the lines before described, shall be, and the same is hereby formed and erected into an entire and distinct county, by the name of *Somerset*; of which Norridgewock shall be the shire, or county town. And the inhabitants of the said county of Somerset shall hold, possess, use, exercise and enjoy, all the powers, rights and immunities, which by the Constitution and laws of this Commonwealth, the inhabitants of any county within the same do hold, possess, use, exercise, enjoy, and are entitled to.

[This Act passed March 1, 1809.]

—:00:—

An Act to alter and establish a part of the line between the Counties of Kennebec and Somerset.

BE *it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That from and after the passing of this Act, a part of the line between the counties of Kennebec and Somerset shall be as follows: viz. beginning at the northwest corner of township Number Four, (now Kingville,) and running due west until it strikes the line of the town of Clinton, at a monument of stones there to be erected.

[Approved by the Governor, February 26, 1813.]

An Act to ascertain and establish a part of the west line of the county of Somerset, and for other purposes.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That from and after the passing of this Act, the west line of the tract of land, called Bingham's Tract or Patent, or otherwise called the Million Acres, lying on both sides of Kennebec River, until it intersects the north line of said Bingham's Tract, including the whole of said Million Acres, shall be, and hereby is established, and declared to be the west line of said county of Somerset.

[Passed February 2, 1819.]

—:00:—

An Act in further addition to an Act, entitled, "An Act to divide the county of Kennebec, and to constitute the northerly part thereof into a county, by the name of the county of Somerset." March 1, 1809.
June 30, 1809.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the doings of the person appointed by the Judge of Probate for the county of Somerset to discharge the duties of Register of Probate for said county, until a Register was appointed by the Governor and Council and qualified, shall be held as good and valid to all intents and purposes whatever, as if the same had been appointed by the Governor and Council. Doings of the Register, pro tem. valid.

SEC. 2. *Be it further enacted,* That the person appointed by the Justices of the Court of Common Pleas of said county, on the twenty-ninth day of June last, to be Clerk of said Court, shall, to all intents and purposes, from that time be considered as the legal Clerk of said Court, and all his acts and doings from that time shall be considered as good and valid in law, as if he had been appointed by said Court at any time thereof, or by the Supreme Judicial Court. Doings of the clerk valid.

[Passed June 14, 1810.]

—:00:—

An Act for dividing the county of Hancock and establishing a new county by the name of Penobscot.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all that territory in the county of Hancock, which lies north of the Waldo Patent, on the west side of Penobscot river, and north and west of the following lines on the east side of said river: Beginning at said river, at the south line of Orrington, thence running easterly, on the southerly lines of Orrington, Brewer and the Gore east of Brewer, to the west line of the Bingham purchase; thence northerly by said Bingham purchase to the northwest corner thereof;

thence easterly on the north line of said Bingham purchase, to the county of Washington, be, and hereby is constituted a new county by the name of Penobscot, whereof Bangor shall be the shire town, until otherwise ordered by the General Court: And the inhabitants of said county of Penobscot, shall have and possess, use and enjoy all the powers, rights and immunities, which by the Constitution and Laws of this Commonwealth, any other inhabitants are entitled to.

[Approved by the Governor, February 15, 1816.]

—:00:—

An Act to establish a College in the town of Brunswick, in the District of Maine, within this Commonwealth.

College established.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That there be erected and established in the town of Brunswick, in the District of Maine, a College for the purpose of educating youth, to be called and known by the name of Bowdoin College, to be under the government and regulation of two certain bodies politic and corporate, as hereafter in this Act is provided.

Persons incorporated as trustees.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the Rev. Thomas Brown, Rev. Samuel Dean, D.D. John Frothingham, Esq. Rev. Daniel Little, Rev. Thomas Lancaster, Hon. Josiah Thacher, and David Mitchell, Esquires, Rev. Tristram Gilman, Rev. Alden Bradford, Thomas Rice, Esq. and Mr. William Martin, together with the President and Treasurer of the said College, for the time being, to be chosen as in this Act is hereafter directed, be and hereby are created a body politic and corporate, by the name of *The President and Trustees of Bowdoin College*, and that they and their successors, and such others as shall be duly elected members of the said corporation, shall be and remain a body politic and corporate, by that name forever.

Their power.

SEC. 3. *And be it further enacted by the authority aforesaid,* That for the more orderly conducting the business of the said corporation, the President and Trustees shall have full power and authority, from time to time, to elect a Vice-President and Secretary of the said corporation, and to declare the tenures and duties of their respective offices; and also to remove any Trustee from the same corporation, when, in their judgment, he shall be rendered incapable by age, or otherwise, of discharging the duties of his office, or shall neglect or refuse to perform the same; and to fill up all vacancies in the said corporation, by electing such persons for Trustees as they shall judge best: *Provided nevertheless,* That the number of the said Trustees, including the President and Treasurer of the said College, for the time being, shall never be greater than thirteen, nor less than seven.

Proviso.

SEC. 4. *And be it further enacted,* That the said corpora-

tion may have one common seal, which they may change, break, or renew, at their pleasure; and that all deeds signed and delivered by the Treasurer, and sealed with their seal, by order of the President and Trustees, shall, when made in their corporate name, be considered in law as the deeds of the said corporation; and that the said corporation may sue and be sued in all actions, real, personal, or mixed; and may prosecute and defend the same to final judgment and execution, by the name of *The President and Trustees of Bowdoin College*; and that the said corporation shall be capable of holding, having and taking in fee simple, or any less estate, by gift, grant, devise, or otherwise any lands, tenements, or other estate, real or personal; *Provided nevertheless*, That the annual clear income of the same shall not exceed the sum of *ten thousand pounds*.

All transactions in their name to be legal.

Provide.

SEC. 5. *And be it further enacted, by the authority aforesaid*, That the said corporation shall have full power and authority to determine at what times and places their meetings shall be holden, and on the manner of notifying the Trustees to convene at such meetings, and also from time to time, to elect a President and Treasurer of the said College, and such Professors, Tutors, Instructors, and other officers of the said College, as they shall judge most for the interest thereof, and to determine the duties, salaries, emoluments and tenures of their several offices aforesaid: (The said President, for the time being, when elected and inducted into his office, to be, *ex officio*, President of the said corporation,) and also to purchase, or erect and keep in repair such houses and other buildings as they shall judge necessary for the said College; and also to make and ordain, as occasion may require, reasonable rules, orders, and bye-laws, not repugnant to the laws of this Commonwealth, with reasonable penalties, for the good government of said College; and also to determine and prescribe the mode of ascertaining the qualifications of the students requisite to their admission; and also to confer such degrees as are usually conferred by Universities established for the education of youth; and a majority of the members of said corporation, present at any legal meeting, shall decide all questions which may properly come before the said Trustees: *Provided nevertheless*, That no corporate business shall be transacted at any meeting, unless seven, at least, of the Trustees are present: *And provided further*, That the said corporation shall confer no degrees other than those of Bachelor of Arts and Master of Arts, until after the first day of January, which will be in the year of our Lord one thousand eight hundred and ten.

Authorized to appoint meetings, officers, &c.

Provide.

SEC. 6. *And be it further enacted, by the authority aforesaid*, That the clear rents, issues and profits of all the estate, real and personal, of which the said corporation shall be seized or possess, shall be appropriated to the endowment of the

Appropriation.

said College, in such manner as shall most effectually promote virtue and piety, and the knowledge of such of the languages and of the useful and liberal arts and sciences, as shall hereafter be directed, from time to time, by the said corporation. And more effectually to provide for the wise and regular government of said College, and for the prudent administration of the funds belonging to it, by establishing a supervising body with proper powers ;

SEC. 7. *Be it further enacted by the authority aforesaid,*

No transaction of the corporation to have any effect, unless agreed to by the overseers.

That no election made by the said corporation, either of Trustees to fill up vacancies, or of President or Treasurer of the said College, nor any vote or order of the said corporation to remove any Trustee or any officer of the said College, or to purchase or erect any house or other building for the said College, or to determine what officers shall be established for the said College, or the duties, salaries, emoluments or tenures of such officers, or for the appropriation of any of their funds or monies, or for the acceptance of any estate, when the donation thereof was made upon condition, or for determining the qualifications for the students requisite to their admission, or for the conferring of any degrees, or for the making, altering, amending or repealing any rules, orders or bye-laws for the government of the said College, shall have any force, effect or validity, until the same shall have been agreed to by the Overseers of the said Bowdoin College hereafter in this Act created.

SEC. 8. *And be it further enacted, by the authority aforesaid,*

Josiah Thacher, Esq. authorized.

That the Hon. JOSIAH THACHER, Esq. be and he is hereby authorized and empowered to fix the time and place for holding the first meeting of the said Trustees, and to notify each of said Trustees thereof, in writing.

And for the establishing of the supervising body with proper powers above mentioned ;

SEC. 9. *Be it further enacted by the authority aforesaid,*

overseers incorporated.

That Edward Cutts, Thomas Cutts, Symon Frye, David Sewall and Nathaniel Wells, Esquires, Rev. Moses Hemmenway, D. D. Rev. Silas Moody, Rev. John Thompson, Rev. Nathaniel Webster, Rev. Paul Coffin, Rev. Benjamin Chadwick, Rev. Samuel Eaton, Rev. Samuel Foxcroft, Rev. Caleb Jewett, Rev. Alfred Johnson, Rev. Elijah Kellog, Rev. Ebenezer Williams, Rev. Charles Turner, Daniel Davis, Samuel Freeman, Joshua Fabyan, William Gorham, Stephen Longfellow, Joseph Noyes, Isaac Parsons, Robert Southgate, John Wait, Peleg Wadsworth, and William Wedgery, Esquires, Rev. Ezekiel Emerson, Jonathan Ellis, Jonathan Bowman, Edmund Bridge, Daniel Cony, Henry Dearborn, Dummer Sewall, Samuel Thompson, John Dunlap, Francis Winter, Nathaniel Thwing, Alexander Campbell, and Paul Dudley Sargeant, Esquires, together with the President of the College, and the Secretary of the Corporation, first created in

this Act, for the time being, be and they are hereby created a body politic and corporate by the name of *The Overseers of Bowdoin College*, and that they, their successors, and such others as shall be duly elected into the said corporation of Overseers, shall be and remain a body politic and corporate, by that name forever.

SEC. 10. *And be it further enacted by the authority aforesaid,* That the members of said corporation of Overseers may have one common seal, which they may change, break and renew at their pleasure, and that they may sue or be sued, prosecute and defend unto final judgment and execution, by the name of *The Overseers of Bowdoin College*. _____ may have a seal, and prosecute and defend.

SEC. 11. *And be it further enacted by the authority aforesaid,* That for the orderly conducting the business of the said last mentioned corporation, the members thereof shall have full power from time to time, as they shall determine, to elect a President, Vice-President and Secretary, and to fix the tenures and duties of their respective offices; and also, to determine at what times and places their meetings shall be holden, and upon the manner of notifying the Overseers to convene at such meetings; and also to remove any Overseer from the said corporation when in their judgment, he shall be rendered incapable, by age or otherwise, or shall neglect or refuse to discharge the duties of his office, and also to fill up all vacancies in the said corporation of Overseers, by electing such persons for Overseers as they shall judge best qualified therefor; and a majority of the members present, at any legal meeting, shall decide all questions which may properly come before the said Overseers: *Provided nevertheless,* That the number of the said Overseers including the President of the College, and the Secretary of the Corporation last above created, shall never be greater than forty-five, nor less than twenty-five. Corporation empowered for the orderly conducting the business.

SEC. 12. *And be it further enacted by the authority aforesaid,* That the Overseers of said Bowdoin College shall have power to agree or disagree to any election, vote, order or act of the President and Trustees of said College, where the agreement of said Overseers is made necessary by this Act to give force, effect and validity to such election, vote, order or act; and they are hereby directed to notify the said President and Trustees of such agreement or disagreement, in convenient time thereafter; and the said Overseers are also empowered to call upon any Treasurer of the said College, his executors and administrators, to render to them a just and true account of all the doings of such Treasurer, in his said office, as often as the said Overseers shall direct: *Provided nevertheless,* That no corporate business shall be transacted at any meeting of the Overseers aforesaid, unless fifteen of them, at least, are present. Overseers shall have power to agree or not, respecting any transactions of the president and trustees.

SEC. 13. *And be it further enacted by the authority aforesaid,* That the Treasurer of the said College shall, before he en- Proviso. Treasurer to give bond.

ter upon the execution of the duties of his office, give bond to the said Overseers, in such penalty, and with such sureties, as they shall approve of, conditioned for the faithful discharge of the duties of the said office, and for rendering a just and true account of his doings therein, when required, and that all the monies, securities, and other property of the President and Trustees of Bowdoin College, together with all the books in which his accounts and proceedings, as Treasurer, were entered and kept, that appertain to his office of Treasurer as aforesaid, shall, upon demand made upon him, his executors or administrators, be paid and delivered over to his successor in that office; and all monies to be recovered by virtue of any suits at law, upon such bond, shall be paid over to the President and Trustees aforesaid, and subjected to the appropriations above directed in this Act.

Places of trustee and overseer cannot be held together.

SEC. 14. *And be it further enacted by the authority aforesaid,* That no Trustee of the said College, excepting the President and Secretary, first above mentioned, shall be an Overseer of the said College; and if any Trustee, (excepting as aforesaid,) shall be chosen an Overseer, he shall cease to be a Trustee immediately, upon his accepting the place of an Overseer; and if any Overseer of the said College, (excepting as aforesaid,) shall hereafter be elected a Trustee, he shall cease to be an Overseer, upon his accepting the place of a Trustee.

David Sewall, Esq. authorized to call first meeting.

SEC. 15. *And be it further enacted by the authority aforesaid,* That the Hon. DAVID SEWALL, Esq. be, and he hereby is authorized and empowered to fix the time and place of the first meeting of the Overseers of said Bowdoin College, and to notify the said Overseers thereof by publishing the same three weeks successively in each of the Portland newspapers; the last publication to be made three weeks, at least, before the time fixed for the said meeting.

Legislature to alter or restrain powers of the corporation.

SEC. 16. *And be it further enacted by the authority aforesaid,* That the Legislature of this Commonwealth may grant any further powers to, or alter, limit, annul or restrain any of the powers by this Act vested in the said corporation, as shall be judged necessary to promote the best interest of the said College.

Lands granted to the trustees to be at their disposal.

SEC. 17. *And be it further enacted by the authority aforesaid,* That there be and hereby is granted five townships of land, of the contents of six miles square each, to be laid out and assigned from any of the unappropriated lands belonging to this Commonwealth, in the District of Maine, the same to be vested in the Trustees of Bowdoin College, and their successors forever, for the use, benefit and purpose of supporting the said College, to be by them holden in their corporate capacity, with full power and authority to settle, divide and manage the same townships, or any part thereof, or to sell, convey and dispose of the same in such way and manner as shall best promote the welfare of said College, the same to be laid

out under the direction of the committee for the sale of eastern lands, and a plan or plans thereof returned into the Secretary's office: *Provided*, The Trustees aforesaid, or their assigns, shall cause to be settled fifteen families in each of said townships within twelve years from the passing this Act: *And provided also*, There shall be reserved in each township Proviso. three lots of three hundred and twenty acres each, for the following uses, *viz.* one lot for the first settled Minister—one lot for the use of the Ministry—and one lot for the use of schools in each of said townships.

[This Act passed June 24, 1794.]

—:00:—

An Act to modify and limit the terms and conditions of the Act for separation, relative to Bowdoin College, and encourage Literature, and the Arts and Sciences.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That provided the Legislature of the Commonwealth of Massachusetts shall agree thereto, the President and Trustees and the Overseers of Bowdoin College, having already assented thereto, the terms and conditions mentioned in the Act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled, "An Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and independent State," be and they hereby are so far modified, limited or annulled, as that the said President and Trustees, and the Overseers of Bowdoin College shall have, hold and enjoy their powers and privileges in all respects, subject however, to be altered, limited, restrained or extended by the Legislature of the State of Maine, as shall by the said Legislature be judged necessary to promote the best interests of said Institution.

[This Act passed June 16, 1820.]

—:10:—

An Act to alter the law establishing Bowdoin College.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That the number of Trustees provided for in an Act to establish a College in the town of Brunswick, including the President of said College, shall never be less than twenty, nor more than twenty-five, and no corporate business shall be transacted at any meeting, unless thirteen at least of the Trustees are present; and the number of Overseers provided for in said Act, including the President of said College, shall never be less than forty-five, nor more than sixty; and the Secretary of the corporation of Trustees shall not be an Overseer, and the Treasurer of said College shall not be a Trustee nor an Overseer.

Board of trustees to consist of not more than 25 nor less than 20.

Thirteen to constitute a quorum.

Board of overseer. not more than sixty nor less than forty-five.

Vacancies to be filled according to the charter at annual meeting in September.

Governor and Council in six months to appoint twelve trustees and fifteen overseers, and to fill vacancies in overseers' board occasioned by choosing an overseer as trustee.

SEC. 2. *Be it further enacted,* That all vacancies which shall hereafter exist in the corporation of Trustees, or in the corporation of Overseers, shall be filled in manner prescribed by an Act to establish a College in the town of Brunswick, at the annual meetings of said corporations respectively in the month of September, and at no other time: *Provided,* That the Governor and Council, be, and they hereby are authorized, and empowered within six months after the passing of this Act, to appoint twelve persons to be Trustees, and fifteen persons to be Overseers of said College, and to fill such vacancies in the corporation of Overseers as shall be created by any Overseer or Overseers being appointed by the Governor and Council, a Trustee or Trustees.

[This Act passed March 19, 1821.]

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An Act to encourage Literature and the useful Arts and Sciences.

Grant to Bowdoin College.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That there be and hereby is granted to the President and Trustees and Overseers of Bowdoin College, the sum of three thousand dollars annually from and after the fourteenth day of February which shall be in the year of our Lord eighteen hundred and twenty-four, until the term of seven years therefrom, shall be complete and ended, to be paid in semi-annual payments out of the Treasury of this State from monies arising from the tax on certain Banks not otherwise appropriated.

and to Maine Literary and Theological Institution.

SEC. 2. *Be it further enacted,* That the sum of one thousand dollars annually, be, and hereby is granted to the Maine Literary and Theological Institution from and after the fourteenth day of February which shall be in the year of our Lord one thousand eight hundred and twenty-one, for the term of seven years, to be paid out of the Treasury of this State in the manner provided in the first section of this Act.

One fourth to be appropriated to indigent students.

SEC. 3. *Be it further enacted,* That at least one fourth part of the sums to be received by said College and said Literary and Theological Institution, shall be appropriated for and towards the partial or total reduction of the tuition fees of such students not exceeding one half the number of any class who may apply therefor, according to the judgment of the said corporations respectively.

Tax on Cumberland bank and bank of Portland appropriated.

SEC. 4. *Be it further enacted,* That the President, Directors and Company of the Cumberland Bank, and the President, Directors and Company of the Bank of Portland, shall pay the sums reserved to be paid as a tax on said Banks, to the State of Maine, into the Treasury of this State, to create a fund for the purposes aforesaid, for the term of seven years from the twenty-fourth day of February, Anno Domini

eighteen hundred and twenty-four, and so long as the present charters of said Banks, and the tax thereon may by law continue.

SEC. 5. *And be it further enacted*, That the President, Directors and Company of the Waterville Bank, shall pay the sums reserved to be paid as a tax on said Bank to the State of Maine, into the Treasury of this State, to create a fund for the purposes aforesaid, from and after the passing of this Act, until the fourteenth day of February, which shall be in the year of our Lord eighteen hundred and thirty-one, and so long as the present charter of said Bank and the tax thereon may by law continue: *Provided however*, That if the said sums shall be so paid by said Banks, the sums hereby granted shall be paid by the Treasurer of the State to said College and said Literary and Theological Institution respectively as above granted, in satisfaction of the grants aforesaid: *Provided also*, That this grant shall be null and void whenever the sum of four thousand dollars, shall not be annually received from the Banks aforesaid into the Treasury thereof from the tax upon them aforesaid.

[This Act passed June 28, 1820.]

—OO—

An Act to establish a Medical School in this State.

SEC. 1. **BE** it enacted by the Senate and House of Representatives in Legislature assembled, That there be and hereby is established, under the control, superintendance and direction of the President and Trustees and Overseers of Bowdoin College, a Medical School for the instruction of students in Medicine, Anatomy, Surgery, Chemistry, Mineralogy and Botany.

SEC. 2. *Be it further enacted*, That the said President and Trustees and Overseers of Bowdoin College, be and they hereby are authorized to appoint, and it shall be their duty to appoint, as soon as may be, learned Professors of Medicine, Anatomy, Surgery, Chemistry, Mineralogy and Botany, who shall deliver regular lectures in their respective branches at such times as the corporations shall prescribe.

SEC. 3. *Be it further enacted*, That there be and hereby is granted to the President and Trustees and Overseers of Bowdoin College for the benefit of the said Medical School and for procuring the necessary books, plates, preparations and apparatus, the sum of fifteen hundred dollars, to be paid out of the Treasury of this State, out of any monies not otherwise appropriated by law; and the further sum of one thousand dollars annually until the Legislature shall otherwise order and direct.

[This Act passed June 27, 1820.]

An Act to establish a Literary Institution in the District of Maine, within this Commonwealth.

Institution established.

SEC. 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That there be erected and established in the District of Maine, in the township hereafter mentioned, a Literary Institution, for the purpose of educating youth, to be called and known by the name of **THE MAINE LITERARY AND THEOLOGICAL INSTITUTION**, to be under the government and regulation of a body politic, as in this Act is hereafter described.

Persons incorporated.

SEC. 2. *Be it further enacted,* That Daniel Merrill, Caleb Blood, Sylvanus Boardman, Thomas Green, Robert Low, Benjamin Titcomb, Thomas Francis, Ranson Norton, Daniel McMaster, Hon. James Campbell, Samuel Stinson, John Hovey, David Nelson, Alford Richardson, John Haynes, Samuel Baker, Joseph Bailey, Phineas Pillsbury, Hezekiah Prince, Moses Dennett and John Neal, together with the President and Treasurer of the said Institution for the time being, to be chosen as in this Act is hereafter directed, be, and hereby are erected a body politic and corporate, by the name of *The President and Trustees of the Maine Literary and Theological Institution*; and that they and their successors, and such others as shall be duly elected members of the said corporation, shall be and remain a body politic and corporate, by that name forever,

May choose officers.

SEC. 3. *Be it further enacted,* That for the more orderly conducting the business of the said corporation the President and Trustees shall have full power and authority, from time to time, as they shall determine, to elect a Vice-President, Treasurer and Secretary of said corporation, and to declare the tenure and duties of their respective offices, and also to remove any Trustee from the said corporation, when in their judgment he shall be rendered incapable by age or otherways of discharging the duties of his office, and to fill up all vacancies in the said corporation by electing such persons for Trustees as they shall judge best: *Provided nevertheless,* That the number of the said corporation including the President of the said Institution, and the Treasurer for the time being, shall never be greater than thirty-one nor less than twenty-one.

Proviso.

SEC. 4. *Be it further enacted,* That the said corporation may have one common seal, which they may change, break or renew at their pleasure; and that all deeds signed and delivered by the Treasurer, and sealed with their seal, by the order of the corporation, shall, when made in their corporate name, be considered in law, as the deed of the said corporation; and that the said corporation may sue and be sued, in all actions real, personal and mixed, and may prosecute and defend the same to final judgment and execution, by the name of *The President and Corporation of the Maine Liter-*

ary and Theological Institution; and that the said corporation shall be capable of holding and taking in fee simple, or any less estate, by gift, grant, devise or otherwise, any lands, tenements or other estates real or personal: *Provided nevertheless*, That the annual clear income of the same shall not exceed the sum of thirty thousand dollars. Proviso.

SEC. 5. *Be it further enacted*, That the said corporation shall have full power and authority to determine at what times and places their meetings shall be holden, and on the manner of notifying the Trustees, to convene at such meetings, and also from time to time, to elect a President and Treasurer of said Institution, and such Professors, Tutors, Instructors, and other officers of the said Institution, as they shall judge most for the interest thereof; and to determine the duties, salaries, emoluments and tenures of their several officers aforesaid: The said President for the time being, when elected and inducted into his office, to be *ex-officio*, President of the said corporation; and the said corporation are further empowered to purchase or erect and keep in repair, such houses and other buildings, as they shall judge necessary for the said Institution, and also to make and ordain, as occasion may require, reasonable rules, orders and bye-laws, not repugnant to the laws of this Commonwealth, with reasonable penalties for the good government of said Institution, and also to determine and prescribe the mode of ascertaining the qualifications of the students requisite to their admission: *Provided nevertheless*, That no corporate business shall be transacted at any meeting, unless thirteen at least of the corporation are present. May purchase buildings.

SEC. 6. *Be it further enacted*, That the clear rents, issues and profits of all the estate, real and personal, of which the said corporation shall be seized or possessed, shall be appropriated to the endowment of the said Institution, in such manner as shall most effectually promote virtue and piety, and a knowledge of such of the languages, and of the liberal arts and sciences, as shall be hereafter directed from time to time by the said corporation. Estate, how appropriated.

SEC. 7. *Be it further enacted*, That the Hon. JOHN WOODMAN, Esq. be, and he is hereby authorized and empowered to fix the time and place for holding the first meeting of the said corporation, of which he shall give notice by an advertisement in a Portland and one other eastern newspaper, at least fourteen days previous to the time of said meeting. First meeting.

SEC. 8. *Be it further enacted*, That the Treasurer of said corporation shall, before he enters upon the execution of the duties of his office, give bonds to the said corporation, in such sums and with such sureties as they shall approve of, conditioned for the faithful discharge of the said office, and for rendering a just and true account of his doings therein, when required; and that all the money, securities and other proper- Treasurer to give bonds.

ty of the said corporation, together with all the books in which his accounts and proceedings as Treasurer were entered and kept, that shall be in his hands at the expiration of his office, shall, upon demand made upon him, his executors or administrators, be paid and delivered over to his successor in that office, and all monies recovered by virtue of any suit at law, upon such bond, shall be paid over to the corporation aforesaid, and subjected to the appropriation above directed in this Act.

SEC. 9. *Be it further enacted,* That the Legislature of this Commonwealth may grant any further powers to, or alter, limit, annul or restrain any of the powers by this Act vested in the said corporation, as shall be judged necessary to promote the best interests of the said Institution; and the said corporation shall be holden to render an account to the Legislature, whenever they shall see fit to require it, of all their proceedings, and the manner of disposing of the funds of said Institution.

Township
granted.

SEC. 10. *Be it further enacted,* That there be, and hereby is granted a township of land six miles square, to be laid out and assigned from any of the unappropriated lands belonging to this Commonwealth, in the District of Maine, under the same restrictions, reservations and limitations, as other grants, for similar purposes, are now usually made; the same to be vested in the corporation of said Institution, and their successors forever, for the use, benefit and purpose of supporting said Institution, to be by them holden in their corporate capacity, with full power and authority to settle, divide and manage the same tract of land or township, or any part thereof, or to sell, convey or dispose of the same for settlement only, and to no one person a larger quantity than one thousand acres, in such way and manner as shall best promote the welfare of said Institution; the same to be laid out under the direction of the committee for the sale of eastern lands, and a plan thereof returned to the Secretary's office, within three years after the expiration of the present war with Great Britain.

[Approved by the Governor, Feb. 27, 1813.]

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An Act in addition to an Act, entitled, "An Act to establish a Literary Institution in the District of Maine, within this Commonwealth."

Particular lo-
cation.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Maine Literary and Theological Institution be, and they are hereby authorized and empowered to locate and establish their buildings in any town within the counties of Kennebec or Somerset; any thing contained in the first section of the act, entitled, "An act to establish a Literary In-

stitution in the District of Maine, within this Commonwealth," to the contrary notwithstanding.

[Approved by the Governor, June 15, 1816.]

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An Act to enlarge the powers of the Maine Literary and Theological Institution.

SEC. 1. **BE** it enacted be the Senate and House of Representatives, in Legislature assembled, That the President and Trustees of the Maine Literary and Theological Institution are hereby authorized and empowered to confer such degrees as are usually conferred by Universities established for the education of youth: *Provided*, That the said corporation shall confer no degrees other than those of Bachelor of Arts and Master of Arts, until after the first day of January, which will be in the year of our Lord eighteen hundred and thirty. *And provided also*, That the said corporation shall not make or have any rule or bye-law requiring that any member of the Trustees shall be of any particular religious denomination. *Provided*, That no Student belonging, or who may hereafter belong to said Institution, sustaining a fair moral character, shall be deprived of any privileges of said Institution, or be subjected to the forfeiture of any aid which has been granted by said Institution, for the purpose of enabling him to prosecute his studies, or be denied the usual testimonials on closing his studies, or be denied admission to said Institution on the ground that his interpretations of the scriptures differ from those which are contained in the articles of faith adopted, or to be adopted by said Institution.

Authorized to confer degrees.

Proviso.

Legislature may alter the charter.

SEC. 2. *And be it further enacted by the authority aforesaid*, That the Legislature of this State shall have the right to grant any further powers to alter, limit or restrain any of the powers vested in said corporation, as shall be judged necessary to promote the best interests thereof.

[This Act passed June 19, 1820.]

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An Act to change the name of the Maine Literary and Theological Institution.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this Act, the name of the said Maine Literary and Theological Institution shall cease, and the same shall henceforth be called and known by the name of *Waterville College*; any law to the contrary notwithstanding: And nothing in this act contained shall be construed to impair or annul any of the rights, powers or privileges of the said corporation.

Name to be Waterville College.

[This Act passed February 5, 1821.]

EXTRACT OF

An Act to cede to the United States the Jurisdiction of certain lands for the erection of Light Houses.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, [SEC. 2. *Be it further enacted,*] That the jurisdiction of a quantity of land not exceeding twelve acres, and the right of this Commonwealth therein, be, and hereby is granted to the United States, to be located on an island called Franklin Island, near the mouth of George's river, in this Commonwealth, as shall be most suitable and convenient for the erection and accommodation of a light house on said Franklin Island; which quantity of land shall be laid out, at the time of erecting said light house, and a description thereof in writing, shall be recorded in the Registry of Deeds for the county of Lincoln. *Provided always,* That this Commonwealth shall and doth hereby reserve to itself a concurrent jurisdiction in and over the land hereby ceded in the fullest manner, as is provided in the first section of this Act. *And provided also,* That if the said United States shall at any time hereafter make any compensation to any of the United States, of any cession, made for the like purposes of this grant, similar compensation shall be required of the United States, for the present grant, according to its value.

[This Act passed June 24, 1806.]

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An Act to cede to the United States the Jurisdiction of a tract of land on White Head Island, in Penobscot Bay, for a Light House.

Land ceded on condition.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That there be, and there hereby is ceded to the United States of America, the jurisdiction of ten acres of land, on such part of an Island called White Head Island, at the entrance of Penobscot Bay, as may be most convenient and suitable, for the purpose of erecting a light house; and a description thereof in writing shall be entered in the Registry of Deeds in the county of Lincoln: *Provided however,* That if the said United States shall neglect, for the term of four years from the date of this cession, to erect a light house on some part of the said ten acres; and, after the same shall be erected, shall neglect to keep the same in good repair, and in a condition useful to navigation, then this cession shall be void: *Provided also,* That this Commonwealth shall retain, and doth hereby retain, a concurrent jurisdiction with the United States, in and over the same ten acres, so far as that all civil and criminal processes, issued under the authority of this Commonwealth, or of any officers thereof, may be ex-

Concurrent jurisdiction retained.

cuted on any part of the same ten acres ceded as aforesaid, or in any buildings that may be erected thereon, in the same way and manner as if the jurisdiction had not been ceded as aforesaid.

[This Act passed June 18, 1803.]

—00—

An Act providing for the cession of one hundred acres of land on Quaddy Head to the United States of America.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That a lot of land containing one hundred acres, Land ceded. situate on West Quaddy Head, so called, and lying nearest to the light house, which is or may be erected on that place, be, and the same is hereby ceded and granted to the United States of America, to be used and improved by such person as may from time to time have the employment of keeper of such light house.

SEC. 2. *Be it further enacted,* That this cession and grant is on this express condition, that this Commonwealth shall have concurrent jurisdiction with the United States in and over the aforesaid tract of land, so far as that all civil processes, and criminal processes, issued under the authority of this Commonwealth, may be executed therein, as though this cession and grant had not been made. Condition.

[This Act passed February 25, 1807.]

—000—

An Act for granting to the United States of America the jurisdiction of part of the Island of Seguin.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That there be and hereby is granted to the United States of America, the jurisdiction of ten acres of land, and the property of this Commonwealth therein, most convenient Land granted the United States. for a light house, part of the island of Seguin, situated near the mouth of the river Kennebec, in this Commonwealth, for the purpose of erecting a light house on the same ten acres; which quantity of land shall be laid out at the time of erecting said light house, and a description thereof, in writing, entered in the Registry of Deeds, in the county wherein the same shall be situated.

SEC. 2. *Provided nevertheless: And be it further enacted by* Proviso. *the authority aforesaid,* That if the said United States shall neglect, for the term of four years from the date of this grant, to erect a light house on some part of the same ten acres, and after the same shall be erected, shall neglect to keep the same in good repair, and a state useful to navigation, then this grant shall be void: *Provided also,* That this Commonwealth shall

retain, and hereby does retain a concurrent jurisdiction with the said United States, in and over the same ten acres, so far as that all civil and criminal processes, issued under the authority of this Commonwealth, or any officers thereof, may be executed on any part of the same ten acres, granted as aforesaid, or in any buildings thereon to be erected, in the same way and manner as if the jurisdiction had not been granted as aforesaid: *And provided also further*, That if the said United States shall, at any time hereafter, make any compensation to any of the United States, for any cession made for the purposes of this grant, like compensation to be made to this Commonwealth by the United States, for the present grant, according to its value.

[This Act passed February 19, 1794.]

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Feb. 19, 1794.

An Act to cede to the United States the jurisdiction of the remaining part of the Island of Seguin.

Preamble.

WHEREAS it has been found that the land heretofore ceded to the United States on the island of Seguin, for the accommodation of a Light House, and on which one has been erected, does not embrace all the objects to be desired, and which have been found necessary and convenient :

Remaining part of Seguin ceded.

BE it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the remaining part of the said island of Seguin, in the Commonwealth of Massachusetts, containing about ten acres, be ceded to the United States, and during the continuance of the use and appropriation aforesaid, the jurisdiction of the whole of said island: *Saving and provided always*, That all civil and criminal processes issued under the authority or by any officer of this Commonwealth, shall have full force and effect within the limits of said island, and any building which shall be there erected, this cession of jurisdiction notwithstanding.

Proviso.

[This Act passed March 8, 1797.]

—:00:—

An Act ceding to the United States of America, the jurisdiction of a part of House-Island, and the extreme end of Spring-Point opposite thereto, near the entrance of Portland Harbor.

House Island ceded.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That there be, and hereby is ceded to the United States of America, the jurisdiction of the southwest end of House-Island, near the entrance of Portland harbor, the northeast boundary of which land, is a line commencing at a large brown rock, six rods from high water mark; thence south thirty-seven degrees east five rods across the narrow part of said Island; also, five acres of land situated on the extreme end of Spring-Point, opposite said House-Island, for

the purpose of erecting of batteries, and other works for the defence of Portland harbor, which lands shall be laid out, at or before the time of erecting of such public works, and a description thereof in writing, entered in the Registry of Deeds in the county of Cumberland.

SEC. 2. *Be it further enacted,* That this Commonwealth shall have concurrent jurisdiction with the United States in and over the said lands, so far that all civil and criminal processes, issued under the authority of this Commonwealth, or any officer thereof, may be executed on any part of said granted premises, or in any building thereon to be erected, in the same way and manner, as if the jurisdiction had not been granted as aforesaid. Jurisdiction of the Commonwealth.

[This Act passed March 12, 1808.]

—xxx—

An Act to cede to the United States the jurisdiction of Boon Island, near the harbor of York, in the District of Maine.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the jurisdiction of Boon Island, be and hereby is granted to the United States of America, for the purpose of erecting a Light House on the same: *Provided however,* That if the United States neglect, for the term of four years from the date of this grant, to erect a Light House, and keep the same in good repair, and in a state useful to navigation, then this grant shall be void: *Provided also,* That this Commonwealth shall retain, and does hereby retain a concurrent jurisdiction with the said United States in and over the said Island, so far as that all civil and criminal processes, issued under the authority of this Commonwealth, or any officers thereof, may be executed on any part of the said Island, or in any buildings which may be erected thereon, in the same way and manner as if the jurisdiction had not been granted as aforesaid: *And provided also,* That if the said United States shall at any time hereafter, make any compensation to any of the United States for any cession made for the like purposes of this grant, like compensation shall be required by this Commonwealth of the United States for the present grant, according to its value. Proviso.

[This Act passed February 26, 1811.]

—xxx—

An Act to cede to the United States part of the Island of Petit Manan, near Naraguagus River, whereon to erect a Light House.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That so much of the soil of the land of Petit Manan as lies to the southward of the bar which connects the southern with the Cession of land to United States.

Proviso.

northern part of said island, being the property of this Commonwealth, be, and hereby is ceded to the United States of America, for the purpose of erecting a Light House on the same: *Provided*, That this Commonwealth shall retain, and does hereby retain concurrent jurisdiction with the United States, in and over said land, so far as that all civil and criminal processes, issued under the authority of this Commonwealth, or any officer thereof, may be executed on any part of said land, or in any building which may be erected thereon, and for the punishment of all crimes and misdemeanors against the laws of this Commonwealth, committed upon said land, in the same way and manner as if this grant had not been made. [Approved by the Governor, June 11, 1817.]

—xxx—

An Act empowering the Supreme Judicial Court to take cognizance of matters heretofore cognizable by the late Superior Court.:

Preamble.

WHEREAS by the laws heretofore made by the General Assembly of the late Province, Colony and State of Massachusetts Bay, a Superior Court of Judicature, Court of Assize and General Gaol Delivery was constituted, and sundry powers and authorities are given to the same Court by particular laws. And whereas by the constitution and frame of government of the Commonwealth of Massachusetts, the style and title of the same Court is now the Supreme Judicial Court of the Commonwealth of Massachusetts. And the constitution aforesaid having provided that the laws heretofore made and adopted, should continue and be in force until they shall be altered or repealed by the Legislature; whence some doubts may arise whether the Supreme Judicial Court shall have cognizance of those matters which by particular laws were expressly made cognizable by the Superior Court of Judicature, Court of Assize and General Gaol Delivery;

BE it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the Court which hath been or shall be hereafter appointed and commissioned according to the Constitution as the Supreme Judicial Court of this Commonwealth, shall have cognizance of all such matters as have heretofore happened, or that shall hereafter happen, as by particular laws were made cognizable by the late Superior Court of Judicature, Court of Assize and General Gaol Delivery, unless where the Constitution and frame of government hath provided otherwise.

[This Act passed February 20, 1781.]

—xxx—

An Act to render valid the Votes and proceedings of certain Town Meetings which have been assembled by virtue of a warrant signed by a town clerk, by order of the Selectmen.

BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That all warrants heretofore signed by a town Clerk, by order of the Selectmen of any town, or a major

The Supreme Judicial Court to take cognizance of all matters cognizable by the late Superior Court of Judicature, &c. un-
less.

Warrants issued by town clerk, to be valid.

part of them, and all proceedings of the legal voters of such towns which have been had in pursuance of such warrants, be and hereby are ratified and confirmed, in the same manner as if the said warrants had been signed by the Selectmen.
[Passed March 6, 1792.]

—XXX—

An Act to render valid the doings of the Coroners of the Counties of Hancock and Lincoln.

WHEREAS the coroners of the counties of Hancock and Lincoln have neglected to give bonds as the law requires, and yet have served divers writs and precepts, and performed other official duties: Preamble.

BE it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all writs and processes which have issued from good and lawful authority, directed to the Coroners of said counties, and which have been served and executed by them; and all inquests by them taken shall be as good and valid, as if the said Coroners had given bonds to the acceptance of the Court of Common Pleas, as required by law; any law to the contrary notwithstanding. *Provided*, That nothing herein contained shall be construed to affect any action now pending for the neglect or omission of any such Coroner. Doings rendered good and valid.
[This Act passed June 17, 1800.] Proviso.

—XXX—

An Act to render valid the doings of the Deputy Sheriffs within and for the county of Hancock.

WHEREAS divers writs and precepts have been served and executed by some of the deputy Sheriffs, within and for the said county of Hancock, since the resignation of *Richard Hunnewell, Esq.* late Sheriff of said county, and before the appointment of his successor in office: Preamble.

BE it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all writs and precepts served and executed by any deputy Sheriff under the said Hunnewell, within and for said county, from and after the resignation of the said Hunnewell, and before the first day of January Anno Domini one thousand and eight hundred, shall be considered as duly and legally served and executed; and the same are hereby rendered legal and valid, in every respect, so far as relates to the service or execution of said writs or precepts. *Provided*, The same have been legally and duly executed in every other respect but what relates to the resignation of the said Hunnewell. The doings of deputy sheriffs under Richard Hunnewell. Esq. rendered valid till before January 1, 1800.

[This Act passed March 4, 1800.] Proviso.

An act to confirm the doings of the Justices of the Peace whose commissions have expired, or may hereafter expire and be again renewed.

Preamble.

WHEREAS by the constitution of this Commonwealth, the commissions of Justices of the Peace expire at the end of seven years; and whereas it has heretofore happened, and may hereafter so happen, that much business which has been or may be begun by them, in the execution of the duties of their office, and the business so begun by them has not been or may not be completed and carried into full execution before the expiration of the said term of their commissions; and as doubts have arisen, whether such actions, doings and proceedings can survive and remain valid after the expiration of the term of such former commissions, and be again re-assumed and proceeded upon, after such commissions have or shall be renewed:

Proceedings of Justices confirmed and rendered valid.

BE it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all such actions, doings and proceedings of Justices of the Peace within this Commonwealth, which have been re-assumed and carried into execution since the renewal of their said commissions, be and they hereby are confirmed and rendered valid, to all legal intents, as fully as if the commissions, under authority whereof they originated, had continued in force, until the final issue of such actions and proceedings aforesaid.

[This Act passed June 20, 1788.]

—:00:—

An Act empowering the Court of Sessions for the county of Washington to erect a Gaol in the town of Eastport.

Court of sessions may assess polls and estates.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Justices of the Court of Sessions, for the county of Washington, shall from time to time assess the polls and estates within the said county, in such sums as may be necessary to erect and keep in repair a good and sufficient gaol in the town of Eastport in said county, and establish the place in said town, where said gaol shall stand, and to direct and order the building and repairing said gaol according to their discretion: *Provided*, Said Court of Sessions shall not assess any greater sum of money to defray the charges of erecting and keeping said gaol in repair, than they shall be authorized by the General Court to assess.

Proviso.

Sheriff may remove prisoners.

SEC. 2. **Be** it further enacted, That said gaol, when so erected as aforesaid, shall be one of the common gaols for the said county of Washington, and the Sheriff of said county, by his deputy or otherwise, may remove criminals for trials from one of the gaols in said county to the other at his discretion, with habeas corpus, or any order from any of the Courts held in that county: *Provided*, Said criminals are not also committed on mesne process or execution.

Proviso.

[This Act passed June 16, 1809.]

An Act to authorize the laying out a Road, and building a Bridge, over Presumpscot River, at Staples' Point, in the town of Falmouth.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Court of Sessions for the county of Cumberland be, and hereby are authorized and empowered to lay out a public highway across Presumpscot river, at Staples' Point so called, in the town of Falmouth: *Provided*, The said Court, after a full hearing, should be of the opinion that the public good requires it, in the same way and manner, as though said Presumpscot river were not navigable. Highway.

SEC. 2. *Be it further enacted*, That the Court of Sessions be, and they hereby are authorized and empowered to discontinue the support now afforded to the bridge across said Presumpscot river, and appropriate the same, or as much as they may deem necessary for the building and supporting a bridge across said river, at Staples' Point, so called, in the town of Falmouth: *Provided*, They may adjudge the same to be for the public good, any law to the contrary notwithstanding.

SEC. 3. *Be it further enacted*, That if the said Court shall lay out said road, and cause said bridge to be built, said bridge shall not be made of a less width than twenty-five feet, with a suitable draw, for the passage of vessels through the same.

[Approved by the Governor, February 20, 1819.]

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An Act to confirm the proceedings of the Justices of the Courts of Sessions for the several counties of Lincoln, Washington, and Somerset.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the proceedings of the Justices of the Court of Sessions holden at Warren, within and for the county of Lincoln, on the third Monday of January last be, and the same are hereby made valid in law in as full and complete a manner as though a term of said Court had been holden at Topsham, within and for said county, on the first Monday of September last, any thing in the law establishing said Court to the contrary notwithstanding. Proceedings of court of sessions.

SEC. 2. *Be it further enacted*, That the proceedings of the Justices of the Court of Sessions holden at Machias, within and for the county of Washington, on the twenty-fourth day of December last, so far as it relates to their passing upon the county Treasurer's accounts and making an estimate for a county tax for said county, be, and the same are hereby made valid, any law to the contrary notwithstanding.

SEC. 3. *Be it further enacted,* That the proceedings of the Justices of the Court of Sessions holden at Norridge-wock, within and for the county of Somerset, in the month of September last, and at the adjournments of said Court, since that time, be, and the same are hereby made valid in law, any irregularity in the meeting or adjournment of said Court by the Sheriff notwithstanding.

[This Act passed February 29, 1812.]

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An Act to render valid the doings of the Court of Sessions, in the county of Hancock.

BE *it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same;* That the proceedings of the Justices of the Court of Sessions, for the county of Hancock, at the several Sessions of said Court, holden at Castine, in said county, subsequent to the first day of April, one thousand eight hundred and twelve, be, and the same hereby are made valid in law, in as full and ample a manner, as though the Sessions of said Court had been holden on the several days prescribed by an Act passed the twenty-ninth day of February, one thousand eight hundred and twelve, entitled, "An Act to fix the times of holding the Court of Sessions, in the respective counties in this Commonwealth," any provision contained in said Act to the contrary, notwithstanding.

[Approved by the Governor, June 10, 1813.]

Proceedings
made valid.

END OF THE APPENDIX.

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