2 3009 28-d

James B. Wood

1868.

LAWS

OF

THE STATE

OF

NEW JERSEY,

REVISED AND PUBLISHED UNDER THE AUTHORITY OF

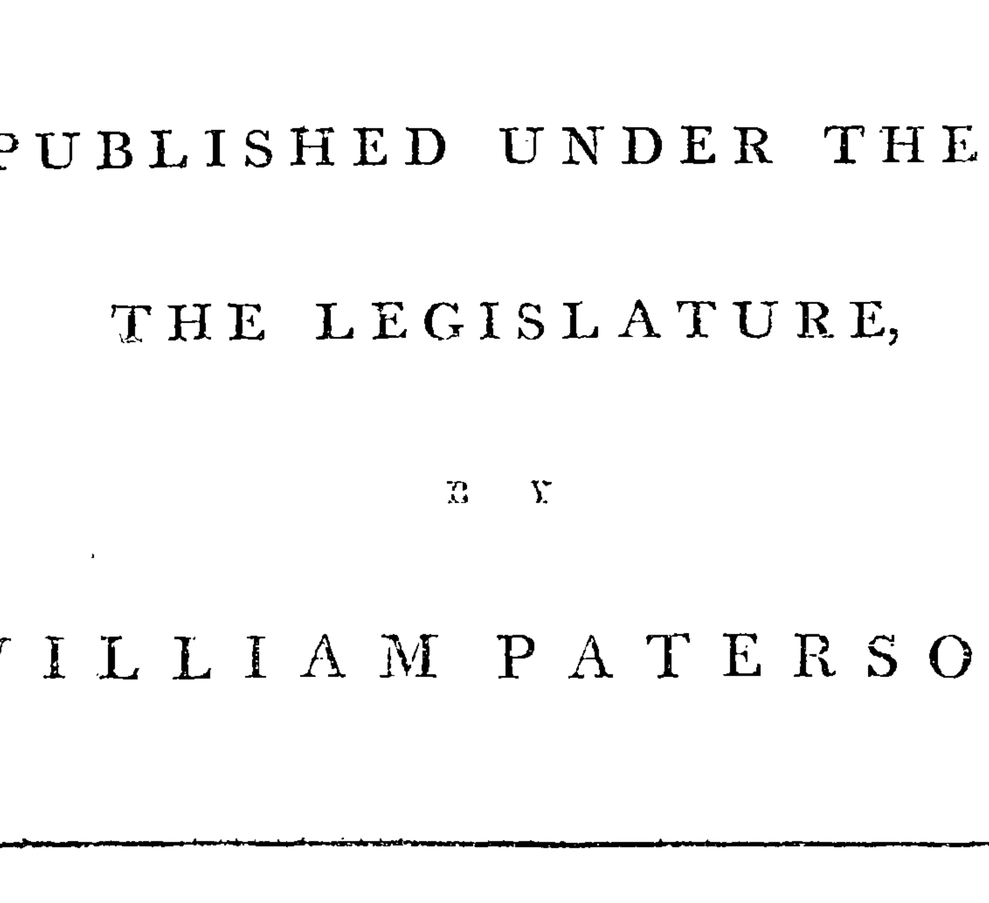
THE LEGISLATURE,

BY

WILLIAM PATERSON.

LAW DEPARTMENT

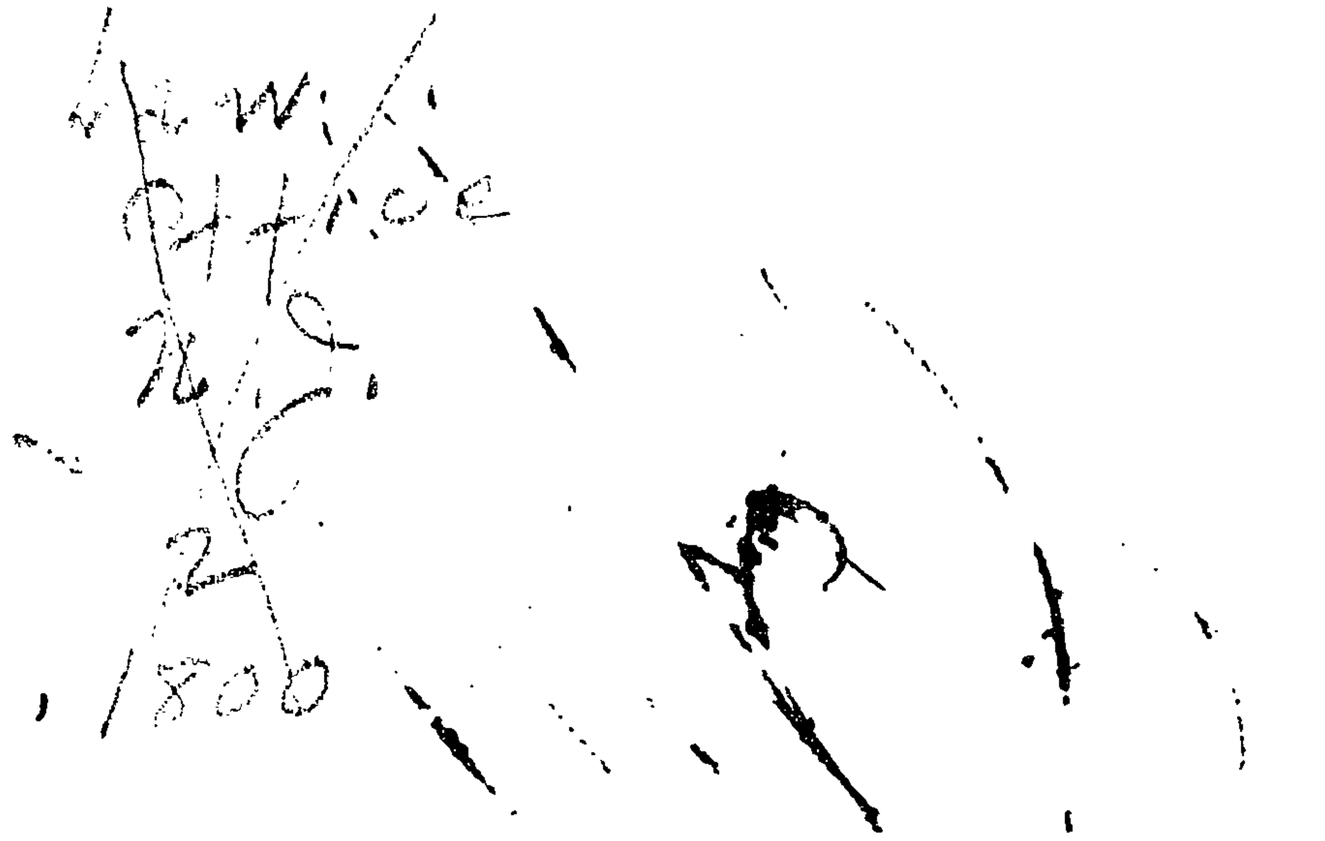
D Gordon



NEW BRUNSWICK:

PRINTED BY ABRAHAM BLAUVELT.

M, DCCC.



THE GRANT OF KING CHARLES THE SECOND, TO JAMES, DUKE OF YORK.

The grant of King Charles II. to the Duke of York, bearing date the 12th of March, 1663-4, in the 16th year of his reign.

CHARLES the second, by the grace of God, King of England, Scotland, France, and Ireland, defender of the faith, &c. To all, to whom these presents shall come greeting: Know ye, that we, for divers good causes and considerations us thereunto moving, have, of our especial grace, certain knowledge, and meer motion, given and granted, and by these presents for us, our heirs and successors, do give and grant unto our dearest brother James, Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining to New Scotland, in America; and from thence extending along the sea coast unto a certain place called Pamaquie or Pemaquid, and so up the river thereof to the farthest head of the same as it tendeth northward; and extending from thence to the river of Kinbequin, and so upwards by the shortest course to the river Canada, northward. And also, all that island or islands, commonly called by the several name or names of Matowacks or Long Island, situate, lying and being towards the west of Cape Codd and the Narrow Higansetts, abutting upon the main land between the two rivers, there called or known by the several names of Connecticut and Hudson's river; together also with the said river called Hudson's river, and all the lands from the west side of Connecticut river to the east side of Delaware bay. And also all those several islands called or known by the names of Martin's Vineyard and Nantukes or otherwise Nantukett; together with all the lands, islands, soiles, rivers, harbours, mines, minerals, quarries, woods, marshes, waters, lakes, fishings, hawkings, huntings and fowling; and all other royalties, profits, commodities and hereditaments to said several islands, lands and premises belonging and appertaining, with their and every of their appurtenances; and all our estate, right, title, interest, benefit, advantage, claim and demand of, in or to the said lands and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders; together with the yearly and other the rents, revenues and profits of all and singular the said premises, and of every part and parcel thereof; TO HAVE AND TO HOLD all and singular the said lands, islands, hereditaments, and premises, with their and every of their appurtenances, hereby given and granted, or herein before mentioned to be given and granted unto our dearest brother James, Duke of York, his heirs and assigns for ever; to the only proper use and behoof of the said James, Duke of York, his heirs and assigns for ever; to be holden of us, our heirs and successors, as of our manor of East Greenwich in our county of Kent, in free and common soccage, and not in capitie, nor by knight service yielding and rendering. And the said James, Duke of York, doth for himself, his heirs and assigns, covenant and promise to yield and render unto our heirs and successors, of and for the same yearly and every year, forty beaver skins when they shall be demanded, or within ninety days after. And we do further of our special grace, certain knowledge and meer motion, for us, our heirs and successors, give and grant unto our said dearest brother James, Duke of York, his heirs, deputies, agents, commissioners and assigns, by these presents, full and

absolute power and authority to correct, punish, pardon, govern and rule all such the subjects of us, our heirs and successors, as shall from time to time adventure themselves into any the parts or places aforesaid ; or that shall or do at any time hereafter inhabit within the same, according to such laws, orders, ordinances, directions and instruments as by our said dearest brother, or his assigns, shall be established ; and in defect thereof, in case of necessity, according to the good discretions of his deputies, commissioners, officers or assigns respectively ; as well in all causes and matters capital and criminal, as civil, both marine and others ; so always as the said statutes, ordinances and proceedings be not contrary to, but as near as conveniently may be, agreeable to the laws, statutes and government of this our realm of England ; and saying and reserving to us, our heirs and successors, the receiving, hearing and determining of the appeal and appeals of all or any person or persons of, in or belonging to the territories or islands aforesaid, in or touching any judgment or sentence to be there made or given. And further, that it shall and may be lawful to and for our said dearest brother, his heirs and assigns, by these presents, from time to time, to nominate, make, constitute, ordain and confirm, by such name or names, stile or stiles, as to him or them shall seem good, and likewise to revoke, discharge, change and alter as well all and singular governors, officers, and ministers, which hereafter shall be by him or them thought fit and needful to be made or used within the aforesaid parts and islands : and also to make, ordain and establish all manner of orders, laws, directions, instructions, forms and ceremonies of government and magistracy fit and necessary for and concerning the government of the territories and islands aforesaid ; so always, that the same be not contrary to the laws and statutes of this our realm of England, but as near as may be agreeable thereunto ; and the same at all times hereafter to put in execution or abrogate, revoke or change, not only within the precincts of the said territories or islands, but also upon the seas in going and coming to and from the same, as he or they in their good discretions shall think to be fitest for the good of the adventurers and inhabitants there. And we do further of our special grace, certain knowledge, and meer motion, grant, ordain and declare, that such governors, officers, and ministers, as from time to time shall be authorised and appointed in manner and form aforesaid, shall and may have full power and authority to use and exercise martial law in cases of rebellion, insurrection and mutiny, in as large and ample manner as our lieutenants, in our counties within our realm of England, have or ought to have, by force of their commission of lieutenancy, or any law or statute of this our realm. And we do further by these presents, for us, our heirs and successors, grant unto our said dearest brother James, Duke of York, his heirs and assigns, that it shall and may be lawful to and for the said James, duke of York, his heirs and assigns, in his or their discretion, from time to time, to admit such and so many person or persons to trade and traffique unto and within the said territories and islands aforesaid, and into every or any part and parcel thereof ; and to have, possess and enjoy any lands or hereditaments in the parts and places aforesaid, as they shall think fit, according to the laws, orders, constitutions and ordinances by our said brother, his heirs, deputies, commissioners and assigns from time to time to be made and established by virtue of, and according to the true intent and meaning of these presents ; and under such conditions, preservations and agreements as our said brother, his heirs or assigns, shall set down, order, direct and appoint and not otherwise as aforesaid. And we do further of our especial grace, certain knowledge, and meer motion for us, our heirs and successors, give and grant unto our said dearest brother, his heirs and assigns, by these presents, that it shall and may be lawful to and for him, them or any of them, at all and every time and times hereafter, out of any our realms or dominions whatsoever to take, lead, carry and transport in and into their voyages, and for and towards the plantations of our said territories and islands, all such and so many of our loving subjects, or any other strangers, being not prohibited or under restraint, that will become our loving subjects and live under our allegiance, as shall willingly accompany them in the said voyages ; together with all such cloathing, implements, furniture and other things usually transported, and not prohibited, as shall be necessary for the inhabitants of the said islands and territories, and for their use and defence thereof, and managing and carrying on the trade with the people there ; and in passing and returning to and fro, yielding and paying to us, our heirs and successors, the customs and duties therefor due and payable, according to the laws and customs of this our realm. And we do also for us, our heirs and successors, grant to our said dearest

est brother James, Duke of York, his heirs and assigns, and to all and every such governor or governors, or other officers or ministers as by our said brother, his heirs or assigns, shall be appointed, to have power and authority of government and command in or over the inhabitants of the said territories or islands, that they and every of them shall and lawfully may from time to time, and at all times hereafter for ever, for their several defence and safety, encounter, expulse, repell and resist, by force of arms as well by sea as by land, and all ways and means whatsoever, all such person and persons as without the special license of our said dearest brother, his heirs, or assigns, shall attempt to inhabit within the several precincts and limits of our said territories and islands. And also, all and every such person and persons whatsoever, as shall enterprize or attempt at any time hereafter the destruction, invasion, detriment or annoyance to the parts, places or islands aforesaid or any part thereof. And lastly, our will and pleasure is, and we do hereby declare and grant, that these our letters patent, or the enrollment thereof, shall be good and effectual in the law to all intents and purposes whatsoever, notwithstanding the not reciting or mentioning of the premises or any part thereof, or the metes or bounds thereof, or of any former or other letters patent or grants heretofore made or granted of the premises, or of any part thereof, by us or of any of our progenitors, unto any other person or persons whatsoever, bodies politic or corporate, or any act, law or other restraint, incertainty or imperfection whatsoever to the contrary in any wise notwithstanding; although express mention of the true yearly value or certainty of the premises, or any of them, or of any other gifts or grants by us, or by any of our progenitors or predecessors heretofore made to the said James, Duke of York, in these presents is not made, or any statute, act, ordinance, provision, proclamation or restriction, heretofore had, made, enacted, ordained or provided, or any other matter, cause or thing whatsoever to the contrary thereof in any wise notwithstanding. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the twelfth day of March, in the sixteenth year of our reign.

By the King.
HOWARD.

John Gordon

THE RELEASE OF JAMES DUKE OF YORK, TO JOHN LORD BERKLEY, AND SIR GEORGE CARTERET.

Release of the Duke of York to Berkley and Carteret, bearing date the 24th of June, 1664, in the 16th of Charles II.

THIS *INDENTURE* made the four and twentieth day of June, in the sixteenth year of the reign of our sovereign lord, Charles the second, by the grace of God of England, Scotland, France and Ireland, king, defender of the faith, &c. annoque Domini, 1664. Between his royal highness, James, Duke of York, and Albany, earl of Ulster, lord high admiral of England and Ireland, constable of Dover castle, lord warden of the Cinque ports, and governor of Portsmouth, of the one part: John lord Berkley, baron of Stratton, and one of his majesty's most honourable privy council, and sir George Carteret of Saltrum, in the county of Devon, knight, and one of his majesty's most honourable privy council, of the other part: whereas his said majesty king Charles the second, by his letters patent under the great seal of England, bearing date on or about the twelfth day of March, in the sixteenth year of his said majesty's reign, did, for the consideration therein mentioned, give and grant unto his said royal highness James, Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining to New Scotland in America; and from thence extending along the sea coast unto a certain place called Pemaquie or Pemaquid, and so by the river thereof to the furthest head of the same as it tendeth northward; and extending from thence to the river of Kimbequin, and so upwards by the shortest course to the river Canada northwards; and also all that island or islands commonly called by the several name or names of Matowacks or Long Island, situate and being towards the west of Cape Codd and the Narrow Higansetts, abutting upon the main land between the two rivers, there called or known by the several names of Connecticut, and Hudson's river; together also with the said river called Hudson's river, and all the land from the west side of Connecticut river to the east side of Delaware bay: and also several other islands and lands in the said letters patent mentioned, together with the rivers, harbors, mines, minerals, quarries, woods, marshes, waters, lakes, fishing, hawkings, huntings, and fowling, and all other royalties, profits, commodities and hereditaments to the said several islands, lands and premises belonging and appertaining; TO HAVE AND TO HOLD the said lands, islands, hereditaments and premises, with their and every of their appurtenances, unto his said royal highness James, Duke of York, his heirs and assigns for ever; to be holden of his said majesty, his heirs and successors as of the manor of East Greenwich in the county of Kent, in free and common soccage, yielding and rendering unto his said majesty, his heirs and successors of and for the same, yearly and every year, forty beaver skins, when they shall be demanded, or within ninety days after; with divers other grants, clauses, provisos, and agreements, in the said recited letters patent contained, as by the said letters patent, relation being thereunto had, it doth and may more plainly and at large appear. Now this indenture witnesseth, that his said royal highness James, Duke of York, for and in consideration of a competent sum of good and lawful money of England to his said royal highness James, Duke of York in hand paid by the said John lord Berkley and sir George Carteret, before the sealing and delivery of these presents, the

the receipt whereof the said James, Duke of York, doth hereby acknowledge, and thereof doth acquit and discharge the said John lord Berkley and sir George Carteret for ever by these presents, hath granted, bargained, sold, released and confirmed, and, by these presents, doth grant, bargain, sell, release and confirm unto the said John lord Berkley and sir George Carteret, their heirs and assigns for ever, all that tract of land adjacent to New England, and lying and being to the westward of Long Island and Manhattens Island, and bounded on the east, part by the main sea, and part by Hudson's river, and hath upon the west, Delaware bay or river, and extendeth southward to the main ocean as far as Cape May at the mouth of Delaware bay; and to the northward as far as the northermost branch of the said bay or river of Delaware, which is forty one degrees and forty minutes of latitude, and crosseth over thence in a straight line to Hudson's river in forty one degrees of latitude; which said tract of land is hereafter to be called by the name or names of, New Caeserea or New Jersey: and also all rivers, mines, minerals, woods, fishings, hawking, hunting, and fowling, and all other royalties, profits, commodities, and hereditaments whatsoever, to the said lands and premises belonging or in any wise appertaining, with their and every of their appurtenances, in as full and ample manner as the same is granted to the said Duke of York by the before recited letters patent, and all the estate, right, title, interest, benefit, advantage in, claim and demand of the said James, Duke of York, of, or to the said and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders thereof: all which said tract of land and premises were by indenture, bearing date the day before the date hereof, bargained and sold by the said James, Duke of York, unto the said John lord Berkley and sir George Carteret, for the term of one whole year to commence from the first day of May last past, before the date thereof, under the rent of a pepper corn, payable as therein is mentioned, as by the said deed more plainly may appear: by force and virtue of which said indenture of bargain and sale, and of the statute for transfering of uses into possession, the said John lord Berkley and sir George Carteret are in actual possession of the said tract of land and premises, and enabled to take a grant and release thereof, the said lease being made to that end and purpose; TO HAVE AND TO HOLD all and singular the said tract of land and premises, with their, and every of their appurtenances, and every part and parcel thereof, unto the said John lord Berkley and sir George Carteret, their heirs and assigns for ever, to the only use and behoof of the said John lord Berkley and sir George Carteret their heirs and assigns for ever; yielding and rendering therefor unto the said James, Duke of York, his heirs and assigns, for the said tract of land and premises, yearly and every year, the sum of twenty nobles of lawful money of England, if the same shall be lawfully demanded at or in the inner temple hall London, at the feast of St. Michael the arch angel yearly. And the said John lord Berkley and sir George Carteret for themselves and their heirs, covenant and grant to and with the said James, Duke of York, his heirs and assigns, by these presents, that they the said John lord Berkley and sir George Carteret, their heirs and assigns, shall and will well and truly pay or cause to be paid unto the said James, Duke of York, his heirs and assigns, the said yearly rent of twenty nobles at such time and place, and in such manner and form as before in these presents is expressed and delivered. In witness whereof the parties aforesaid to these presents have interchangeably set their hands and seals, the day and year first above written.

JAMES.

Signed, sealed, and delivered
in the presence of

WILLIAM COVENRYE,
THOMAS HEYWOOD.

The lease, which it was thought unnecessary to insert, bears date the 23d of June, 1664.

CONSTITUTION
OF
NEW-JERSEY.

WHEREAS all the constitutional authority, ever possessed by the kings of Great Britain over these Colonies, or their other dominions, was, by compact, derived from the people, and held of them for the common interest of the whole society; allegiance and protection are, in the nature of things, reciprocal ties, each equally depending upon the other, and liable to be dissolved by the other's being refused or withdrawn. And whereas George the third, king of Great Britain, has refused protection to the good people of these Colonies; and, by assenting to sundry acts of the British Parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them in the most cruel and unnatural manner, for no other cause than asserting their just rights; all civil authority under him is necessarily at an end, and a dissolution of government in each Colony has consequently taken place.

AND WHEREAS in the present deplorable situation of these Colonies, exposed to the fury of a cruel and relentless enemy, some form of government is absolutely necessary, not only for the preservation of good order, but also the more effectually to unite the people, and enable them to exert their whole force in their own necessary defence; and as the honorable the Continental congress, the supreme council of the American Colonies, has advised such of the Colonies as have not yet gone into the measure, to adopt for themselves respectively such government, as shall best conduce to their own happiness and safety, and the well being of America in general; we, the representatives of the Colony of New Jersey, having been elected by all the counties in the freest manner, and in congress assembled, have, after mature deliberation, agreed upon a set of charter rights, and the form of a constitution, in manner following, *Videlicet:*

Government, in whom vested.

I. THAT the government of this province shall be vested in a governor, legislative council, and general assembly.

Time of election of the first legislature.

II. THAT the said legislative council and assembly shall be chosen, for the first time, on the second Tuesday of August next; the members whereof shall be the same in number and qualifications as is herein after mentioned; and shall be and remain vested with all the powers and authority to be held by any future legislative council and assembly of this Colony, until the second Tuesday in October, which will be in the year of our Lord, one thousand, seven hundred and seventy seven.

Time of annual elections of members for subsequent legislatures; their number, and qualifications.

III. THAT on the said second Tuesday in October, yearly and every year for ever, (with the privilege of adjourning from day to day as occasion may require) the counties shall severally choose one person to be a member of the legislative council of this Colony, who shall be and have been, for one whole year next before

fore the election, an inhabitant and freeholder in the county, in which he is chosen, and worth at least one thousand pounds, proclamation money, of real and personal estate within the same county: that, at the same time, each county shall also choose three members of assembly; provided, that no person shall be entitled to a seat in the said assembly, unless he be and have been, for one whole year next before the election, an inhabitant of the county he is to represent, and worth five hundred pounds, proclamation money, in real and personal estate in the same county: that, on the second Tuesday next after the day of election, the council and assembly shall separately meet; and that the consent of both houses shall be necessary to every law, provided, that seven shall be a quorum of the council for doing business; and that no law shall pass, unless there be a majority of all the representatives of each body personally present and agreeing thereto. PROVIDED ALWAYS, That if a majority of the representatives of this province, in council and general assembly convened, shall, at any time or times hereafter, judge it equitable and proper to add to or diminish the number or proportion of the members of the assembly for any county or counties in this Colony, then, and in such case, the same may, on the principles of more equal representation, be lawfully done, any thing in this charter to the contrary notwithstanding; so that the whole number of representatives in assembly shall not at any time be less than thirty nine.

When to meet.

The legislature empowered to equalise the representation.

IV. THAT all inhabitants of this Colony, of full age, who are worth fifty pounds, proclamation money, clear estate in the same, and have resided within the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for representatives in council and assembly; and also for all other public officers that shall be elected by the people of the county at large.

Qualifications of electors for members of the legislature.

V. THAT the assembly when met, shall have power to choose a speaker, and other their officers; to be judges of the qualifications and elections of their own members; sit upon their own adjournments; prepare bills to be passed into laws; and to empower their speaker to convene them, whenever any extraordinary occurrence shall render it necessary.

Powers of the general assembly.

VI. THAT the council shall also have power to prepare bills to pass into laws, and have other like powers as the assembly, and in all respects be a free and independent branch of the legislature of this Colony; save only, that they shall not prepare or alter any money bill, which shall be the privilege of the assembly; that the council shall from time to time, be convened by the governor or vice president, but must be convened at all times when the assembly sits; for which purpose, the speaker of the house of assembly shall always immediately after an adjournment give notice to the governor, or vice president, of the time and place to which the house is adjourned.

Powers of the legislative council.

VII. THAT the council and assembly jointly at their first meeting, after each annual election, shall, by a majority of votes, elect some fit person within the Colony to be a governor for one year, who shall be constant president of the council, and have a casting vote in their proceedings; and that the council themselves shall choose a vice president, who shall act as such in the absence of the governor.

Governor, how to be chosen.

VIII. THAT the governor, or, in his absence, the vice president of the council shall have the supreme executive power, be chancellor of the colony, and act as captain general and commander in chief of all the militia, and other military force in this Colony; and that any three or more of the council shall, at all tims, be a privy council to advise the governor in all cases, where he may find it necessary to consult them; and that the governor be ordinary or surrogate general.

Powers of the governor.

Privy council: their number, part of whom to consist.

IX. THAT the governor and council (seven whereof shall be a quorum) be the court of appeals in the last resort in all causes of law as heretofore; and that they possess the power of granting pardons to criminals after condemnation, in all cases of treason, felony or other offences.

Court of appeal, how composed, and their powers.

X. THAT captains, and all other inferior officers of the militia, shall be chosen by

Militia officers how to be chosen.

by the companies in the respective counties; but field and general officers, by the council and assembly.

Great seal, by whom made.

XI. That the council and assembly shall have power to make the great seal of this Colony, which shall be kept by the governor, or, in his absence, by the vice president of the council, to be used by them as occasion may require; and it shall be called, the great seal of the Colony of New-Jersey.

Judges, attorney general, secretary, treasurer, and clerks, how appointed, and their duration in office.

XII. That the judges of the supreme court shall continue in office for seven years, the judges of the inferior court of common pleas in the several counties, justices of the peace, clerks of the supreme court, clerks of the inferior courts of common pleas, and quarter sessions, the attorney general and provincial secretary, shall continue in office for five years, and the provincial treasurer shall continue in office for one year; and that they shall be severally appointed by the council and assembly in manner aforesaid, and commissioned by the governor, or, in his absence, by the vice president of the council. Provided always, That the said officers severally shall be capable of being re-appointed at the end of the terms severally before limited; and that any of the said officers shall be liable to be dismissed, when adjudged guilty of misbehaviour by the council on an impeachment of the assembly.

Capable of being re-appointed, and liable to be dismissed for misbehaviour.

Sheriffs and coroners, when and by whom to be elected.

XIII. That the inhabitants of each county, qualified to vote as aforesaid, shall, at the time and place of electing their representatives, annually elect one sheriff, and one or more coroners; and that they may re-elect the same person to such offices, until he shall have served three years, but no longer; after which, three years shall elapse before the same person is capable of being elected again. When the election is certified to the governor or vice president, under the hands of six freeholders of the county for which they were elected, they shall be immediately commissioned to serve in their respective offices.

Constables and commissioners of appeal in cases of taxation, how to be chosen.

XIV. That the townships, at their annual town meetings for electing other officers, shall choose constables for the districts respectively; and also three or more judicious freeholders of good character, to hear and finally determine all appeals relative to unjust assessments in cases of public taxation; which commissioners of appeal shall, for that purpose, sit at some suitable time or times to be by them appointed, and made known to the people by advertisements.

Style of laws.

Commissions and writs, how to run.

Indictments, how to conclude.

XV. That the laws of this Colony shall begin in the following style, viz. Be it enacted *by the Council and General Assembly of this Colony, and it is hereby enacted by the authority of the same.* That all commissions, granted by the governor or vice president, shall run thus----"The Colony of New-Jersey to A. B. &c. greeting:" and that all writs shall likewise run in the name of the Colony: and that all indictments shall conclude in the following manner, viz. "Against the peace of this Colony, the government and dignity of the same."

Criminals, their privileges.

XVI. That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

Estates of persons destroying themselves, not to be forfeited; but to descend.

XVII. That the estates of such persons as shall destroy their own lives shall not, for that offence, be forfeited; but shall descend in the same manner as they would have done had such persons died in a natural way; nor shall any article, which may occasion accidentally the death of any one, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

Free exercise of religion.

XVIII. That no person shall ever within this colony be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretence whatsoever, compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person within this Colony, ever be obliged to pay tithes, taxes or any other rates, for the purpose of building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately or voluntarily engaged himself to perform.

XIX. That

XIX. That there shall be no establishment of any one religious sect in this province in preference to another; and that no protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any protestant sect, who shall demean themselves peaceably under the government as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the legislature, and shall fully and freely enjoy every privilege and immunity enjoyed by others their fellow subjects.

No establishment of one religious sect in preference to another.

XX. That the legislative department of this Colony may, as much as possible, be preserved from all suspicion of corruption, none of the judges of the supreme or other court, sheriffs, or any other person or persons possessed of any post of profit under the government, other than justices of the peace, shall be entitled to a seat in assembly; but that, on his being elected and taking his seat, his office or post shall be considered as vacant.

What officers shall be excluded from holding seats in the general assembly.

XXI. That all the laws of this province, contained in the edition lately published by Mr. Allinson, shall be and remain in full force, until altered by the legislature of this Colony, (such only excepted, as are incompitable with this charter) and shall be, according as heretofore, regarded in all respects by all civil officers, and others, the good people of this province.

What legislative acts to be in force.

XXII. That the common law of England, as well as so much of the statute law, as have been heretofore practised in this Colony, shall still remain in force, until they shall be altered by a future law of the legislature; such parts only excepted, as are repugnant to the rights and privileges contained in this charter; and that the inestimable right of *trial* by jury shall remain confirmed, as a part of the law of this Colony, without repeal, for ever.

Common and statute law of England, how far to be in force.

Trial by jury confirmed.

XXIII. That every person, who shall be elected as aforesaid, to be a member of the legislative council, or house of assembly, shall, previous to his taking his seat in council or assembly, take the following oath or affirmation, viz. "I, A. B. do solemnly declare, that, as a member of the legislative council or assembly (as the case may be) of the Colony of New-Jersey, I will not assent to any law, vote or proceeding, which shall appear to me injurious to the public welfare of said Colony; nor that shall annul or repeal that part of the third section in the charter of this Colony, which establishes, that the elections of members of the legislative council and assembly shall be annual; nor that part of the twenty second section in said charter, respecting the trial by jury; nor that shall annul, repeal, or alter any part or parts of the eighteenth or nineteenth sections of the same." And any person or persons, who shall be elected as aforesaid, is hereby empowered to administer to the said members the said oath or affirmation.

Oath to be taken by the members of the legislature.

PROVIDED ALWAYS, *and it is the true intent and meaning of this Congress*, That if a reconciliation between Great Britain and these Colonies should take place, and the latter be again taken under the protection and government of the crown of Great Britain, this charter shall be null and void, otherwise to remain firm and inviolable.

Proviso.

IN PROVINCIAL CONGRESS, NEW-JERSEY,
Burlington, July 2, 1776.

BY ORDER of CONGRESS,

SAMUEL TUCKER, *President.*

Extract from the Minutes,
WILLIAM PATERSON, *Secretary.*

DECLARATION

OF

INDEPENDENCE.

IN CONGRESS, *Thursday, July* 4, 1776.

A DECLARATION by the Representatives of the UNITED STATES of AMERICA in Congress assembled.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station, to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes, which impel them to the separation.

We hold these truths to be self-evident; that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.----That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments, long established, should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms, to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity, which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders, which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction, of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which

denounces

denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these Colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, FREE AND INDEPENDENT STATES; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as FREE AND INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was by order of Congress engrossed and signed by the following members:

JOHN HANCOCK.

NEW-HAMPSHIRE. *Josiah Bartlett,* *William Whipple,* *Matthew Thornton.*	PENNSYLVANIA. *George Taylor,* *James Wilson,* *George Ross.*
MASSACHUSETTS-BAY. *Samuel Adams,* *John Adams,* *Robert Treat Paine,* *Elbridge Gerry.*	DELAWARE. *Cæsar Rodney,* *George Read.*
RHODE-ISLAND, &c. *Stephen Hopkins,* *William Ellery.*	MARYLAND. *Samuel Chase,* *William Paca,* *Thomas Stone,* *Charles Carroll, of Carrollton.*
CONNECTICUT. *Roger Sherman,* *Samuel Huntington,* *William Williams,* *Oliver Wolcott.*	VIRGINIA. *George Wythe,* *Richard Henry Lee,* *Thomas Jefferson,* *Benjamin Harrison,* *Thomas Nelson, jun.* *Francis Lightfoot Lee,* *Carter Braxton.*
NEW-YORK. *William Floyd,* *Philip Livingston,* *Francis Lewis,* *Lewis Morris.*	NORTH-CAROLINA. *William Hooper,* *Joseph Hewes,* *John Penn.*
NEW-JERSEY. *Richard Stockton,* *John Witherspoon,* *Francis Hopkinson,* *John Hart,* *Abraham Clark.*	SOUTH-CAROLINA. *Edward Rutledge,* *Thomas Heyward, jun.* *Thomas Lynch, jun.* *Arthur Middleton.*
PENNSYLVANIA. *Robert Morris,* *Benjamin Rush,* *Benjamin Franklin,* *John Morton,* *George Clymer,* *James Smith,*	GEORGIA. *Button Gwinnett,* *Lyman Hall,* *George Walton.*

THE CONSTITUTION

OF THE

UNITED STATES

OF

AMERICA.

WE, the people of the UNITED STATES, *in order to form a more perfect union, establish justice, insure domestic tranquility, 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.

ARTICLE I.

SECTION I.

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, where vested.

SECTION II.

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, how chosen.

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.

Their qualifications.

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 including 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. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until 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

Rule of apportioning representatives and direct taxes.

laware one----Maryland six----Virginia ten----North-Carolina five----South-Carolina five----and Georgia three.

Vacancies, how filled.

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

To choose their speaker, &c. and to have the sole power of impeachment.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SECTION III.

Senate, how composed and chosen.

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.

Rotation of senators.

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.

Their qualifications.

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.

President of the senate.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

Senate to choose their own officers.

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.

Powers of the senate.

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.

Judgment on impeachment, how far to extend.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy an office of honor, 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.

SECTION IV.

Elections of senators, and representatives how regulated.

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.

Congress to assemble annually.

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.

SECTION V.

Powers and duties of each house.

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 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 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.

Adjournment.

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.

SECTION

SECTION VI.

Compensation, privileges, and incapacities of the senators and representatives.

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 and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

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.

SECTION VII.

Revenue bills to originate in the house of representatives.

Manner of passing bills, orders, and resolutions.

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.

Every bill, which shall have passed the house of representativs 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.

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.

SECTION VIII.

The congress shall have power,

Powers of congress.

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 on the credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

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

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

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

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;

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;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land or water;

To

To raise and support armies ; but no appropriation of money, to that use, shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions ;

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 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 ;----And

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 office thereof.

SECTION IX.

Limitations of the powers of congress.

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 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

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.

No bill of attainder, or ex post facto law shall be passed.

No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

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 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.

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.

SECTION X.

Limitations of the powers of the individual States.

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.

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 controul 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 a war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I.

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:

The executive power to be vested in a president.

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.

Manner of electing the president, and vice president.

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 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 should remain two or more, who have equal votes, the senate shall choose from them, by ballot, the vice president.

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.

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.

Who may be elected president.

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.

On the death, resignation, &c. of the president, the powers and duties of the said office devolve on the vice president.

The president shall, at stated times, receive, for his services, a compensation, which shall neither be encreased 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.

Presidents compensation.

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

"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.

Oath.

SECTION II.

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 the respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

Powers of the president.

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 think proper, in the president alone, in the courts of law, or in the heads of departments.

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.

SECTION III.

Duties of the president.

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.

SECTION IV.

How the president and all civil officers may be removed from office.

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, how vested.

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.

SECTION II.

Extent of the judicial power.

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 the citizens thereof, and foreign States, citizens or subjects.

Of the original and appellate jurisdiction of the supreme court.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be 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.

The trial of all crimes, except in cases of impeachment, to be by jury.

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.

SECTION III.

Treason, what, and how punished.

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.

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

ARTICLE IV.

SECTION I.

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.

Full faith to be given to the public acts, records, &c. of each State.

SECTION II.

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

Privileges of citizens to ext. all through all the States.

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.

Fugitives from justice to be delivered up.

No person held to service or labour 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 labour, but shall be delivered up, on claim of the party, to whom such service or labour may be due.

Servants, &c. to be surrendered on claim.

SECTION III.

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

New States may be admitted.

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 State.

Congress may dispose of territory and other property of the United States.

SECTION IV.

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.

Guarantee and protection of the States by the union.

ARTICLE V.

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.

Amendments to the constitution, how to be made.

ARTICLE VI.

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.

Former debts and engagements to be valid.

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.

The constitution, laws, and treaties of the United States, to be the supreme law of the land.

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.

Oath to support the constitution, by whom to be taken.

There shall be no religious test.

ARTICLE

ARTICLE VII.

When this constitution shall take effect.

The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same.

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 Paterson,
Jonathan Dayton.

PENNSYLVANIA.
Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

DELAWARE.
George Read,
Gunning Bedford, jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

MARYLAND.
James M'Henry,
Daniel of St. Tho. Jenifer,
Daniel Carroll.

VIRGINIA.
John Blair,
James Madison, jun.

NORTH-CAROLINA.
William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

SOUTH-CAROLINA.
John Rutledge,
Charles C. Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.
William Few,
Abraham Baldwin.

Attest. WILLIAM JACKSON, *Secretary.*

IN CONVENTION, MONDAY, SEPTEMBER 17*th*, 1787.

RESOLVED,

THAT the preceding constitution be laid before the United States in congress assembled, and that it is 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.

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.

By the unanimous order of the convention.

GEORGE WASHINGTON, President.

WILLIAM JACKSON, *Secretary.*

IN CONVENTION, SEPTEMBER 17th, 1787.

SIR,

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 adviseable.

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 trust to one body of men is evident: hence results the necessity of a different organization.

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 encreased by a difference among the several States as to their situation, extent, habits, and particular interests.

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 indispensible.

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 interest alone been 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.

The UNITED STATES in CONGRESS assembled.
Friday, September 28th, 1787.

Present----New-Hampshire, Massachusetts, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Virginia, North-Carolina, South-Carolina, and Georgia, and from Maryland, Mr. Ross.

Congress having received the report of the convention lately assembled in Philadelphia,

Resolved Unanimously,

THAT the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates, chosen in each State by the people thereof, in conformity to the resolves of the convention, made and provided in that case.

CHARLES THOMSON, *Secretary*.

In pursuance of an act of the legislature of the State of New-Jersey, passed the 1st. of November, 1787, the citizens of the said State elected delegates, who, on the 18th of December, 1787, unanimously assented to, and ratified the constitution of the United States.

AMENDMENTS.

The following articles of amendment have been adopted by three fourths of the legislatures of the several States, and are become a part of the constitution of the United States.

ARTICLE THE FIRST.

How far the powers of congress shall be limited.

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.

ARTICLE THE SECOND.

Of the militia.

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 THE THIRD.

Of quartering soldiers.

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 THE FOURTH.

Of unreasonable searches and seizures.

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 THE FIFTH.

Of crimes and indictments.

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 witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

Private property not to be taken without compensation.

ARTICLE THE SIXTH.

Of 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 favor, and to have the assistance of counsel for his defence.

ARTICLE THE SEVENTH.

Of trial by jury in suits at common law.

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 THE EIGHTH.

Of excessive bail and fines, and cruel punishments.

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

ARTICLE THE NINTH.

The enumeration of certain rights not to be a denial of others.

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

ARTICLE THE TENTH.

Powers not delegated, to whom reserved.

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 THE ELEVENTH.

A State, how far not liable to be sued.

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.

LAWS
OF THE STATE
OF
NEW-JERSEY.

An ACT *for regulating the purchasing of land from the Indians.*

Passed the 13th of December, 1703.

WHEREAS several ill disposed persons within this province have formerly presumed to enter into treaties with the Indians, or natives thereof, and have purchased lands from them, such person or persons deriving no title to any part of the soil thereof under the crown of England, or any person or persons claiming by, from, or under the same, endeavouring thereby to subvert her Majesty's dominion in this country ; Preamble.

I. BE IT THEREFORE ENACTED *by the Governor, Council, and General Assembly, now met and assembled, and by the authority of the same*, That no person or persons whatsoever for-ever hereafter shall presume to buy, take a gift of, purchase in fee, take a mortgage, or lease for life, or number of years, from any of the Indians or natives, for any tract or tracts of lands within this province, after the first day of December, 1703, without first obtaining a certificate under the hand of the proprietors recorder, for the time being, certifying such person hath a right, and stands entitled to a propriety, or share in a propriety, such person or persons shall produce such certificate to the governor for the time being, in order to obtain a licence to purchase such quantities of land or number of acres from the Indians or natives aforesaid as such certificate mentions. No person to purchase of the Indians, but those who have a right of propriety and obtain a licence.

II. BE IT FURTHER ENACTED *by the authority aforesaid*, That if any person or persons shall presume to buy, purchase, take gift, or mortgage, or lease, of any land, contrary to this present act, he or they so offending shall forfeit forty shillings, money of this province, for each acre of land so obtained ; to be recovered by any person or persons, who shall prosecute the same to effect, by action of debt, in any court of record within this province, one half to the use of her Majesty, her heirs and successors, toward the support of the government, and the other to the prosecutor. PROVIDED ALWAYS, that such purchasers, their heirs and assigns, shall for-ever hereafter be incapable to hold plea for the said land in any court of common law or equity. Any person purchasing to forfeit forty shillings per acre, one half to support government, the other half to the prosecutor ; and be disabled to sue for the land.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all and every person and persons whatsoever, that have bought, taken gift of, or have purchased land in fee, or taken mortgages, or leases for life, or number of years, of the Indians or natives, who is, and are not entitled to such tract or tracts of land, by virtue of a right or title to the same, derived from the crown of England, or from any person or persons claiming by, from, or under the same, such gifts, purchase, Every person having purchased without a right under the crown, such purchase to be void,

A. D. 1709.

unless such person obtain a grant from the proprietors in six months.

mortgage, lease or leases, is and are hereby declared, and for-ever hereafter shall be taken, deemed and esteemed illegal, null and void; and such person or persons, their heirs and assigns, shall not be capable to hold plea for the same in any court of common law or equity, at any time hereafter, unless such person or persons, claiming under such Indian gift, purchase, mortgage, or lease, shall, within the space of six months after the publication of this act, take out a grant or grants from the present proprietors for the several tracts of lands so claimed by them respectively, on such conditions as shall be agreed upon with the said proprietors.

An ACT *for the explaining of grants and patents for lands made and executed by Philip Carteret and council, in the eastern division of this province, according to the true intent and meaning of grantor and grantee.*

Passed the 4th of April, 1709.

Preamble.

WHEREAS several of her Majesty's subjects in the first settlement of this province, formerly known by the name of East New-Jersey, repaired hither with designs of settling land for the support and maintenance of their families; and, applying themselves to the proprietors and their governors for the time being, obtained grants or patents for the same, which, by the intent and good meaning of grantor and grantee, were to assure and settle an estate of inheritance in fee-simple to the several persons, to whom the said grants were made, reserving certain quit-rents therein expressed: and, as the law of this province was then deemed and taken to be, the said grants were worded in pursuance of the said end, and so past for several years; on which assurance many of her Majesty's subjects have spent their whole lives and substance, and undergone extreme hardships and difficulties in subduing a wilderness, supported only by this encouragement, that their posterity would reap the benefit of their labors; and finding, that through the ignorance of those infant times, the particle *OR*, in the habendum of their several deeds, was used in the stead of *AND:* wherefore, for the quieting of men's minds, and for the further assurance, and the firm and sure making of the said tenure, according to what was the true and real intent of the said grants, charters, patents, deeds or conveyances;

The word *OR* in the habendum of patents granted by P. Carteret, to have the same force as the word *AND*.

BE IT ENACTED *by the Governor, Council and Assembly now met and assembled, and by the authority of the same,* That all grants, charters, or patents for land, within this province, made and executed by Philip Carteret, deceased, formerly governor of this province, and his council, in which the particle *OR* is named or used in the habendum of the said deeds, grants, charters or patents, shall be taken, deemed and esteemed as effectual in the law, to all intents, constructions and purposes whatsoever, to the benefit of each and every party and grantee therein named, as if the same had been granted in these words, *to have and to hold to him the said* A B *his heirs and assigns for-ever.*

An ACT *for dividing and ascertaining the boundaries of all the counties in this province.*

Passed the 21st of January, 1709-10.

Preamble.

WHEREAS, by the uncertainty of the boundaries of the counties of this province, great inconveniencies have arisen, so that the respective officers of most of these counties cannot know the limits of them: for the preventing the same in time coming, and the better ascertaining the boundaries of them;

Bounds of Bergen county.

I. BE IT ENACTED *by the Lieutenant-Governor, Council and General Assembly, and by the authority of the same,* That, in the eastern division, the county of Bergen shall begin at Constable's hook, and so run up along the bay and Hudson's river to the partition point between New-Jersey and the province of New-York; and so run along the partition line between the provinces, and the division line of the eastern and western division of this province, to Pequaneck river; and so to run down the said

said Pequaneck and Pessaick river to the sound; and so to follow the sound to Constable's hook, where it began. A. D. 1709-10.

Bounds of Essex.

II. That the county of Essex shall begin at the mouth of Raway river, where it falls into the sound, and so to run up the said Raway river to Robeson's branch; thence west to the division line, between the eastern and western division aforesaid, and so to follow the said division line to Pequaneck river, where it meets Pessaick river; thence down Pessaick river to the bay and sound; thence down the sound to where it began.

Bounds of Somerset.

III. The county of Somerset begins where Bound-Brook empties itself into Raritan river; thence down the stream of Raritan to the mouth of a brook known by the name of Lawrence's brook; thence running up the said Lawrence's brook to the great road that leads from Inian's ferry to Cranberry brook; from thence south forty-four degrees westerly to Sanpinck brook; thence down the said Sanpinck brook to the said division line of the eastern and western division aforesaid, and so to follow the said division line to the limits of the abovesaid county of Essex; thence east along the line of Essex county to Green-Brook; and thence running down the said Green-Brook and Bound-Brook to where it began.

Bounds of Middlesex.

IV. The county of Middlesex begins at the mouth of the creek that parts the lands of George Willocks, and the land that was formerly captain Andrew Bowne's, deceased; thence along the said captain Andrew's line to the rear of the said land; thence upon a direct course to Warn's bridge on the brook where Thomas Smith did formerly live; thence upon a direct course to the south-east corner of Barclay's tract of land that lies near Matchiponix; thence to the most southermost part of said tract of land, including the whole tract of land in Middlesex county; thence upon the direct line to Sanpinck bridge on the high road, including William Jones, William Story, Thomas Richman, and John Guyberson in Monmouth county; thence along the said road to Aaron Robins's land; thence westerly along the said Aaron Robins's line and James Lawrence's line to the line of the eastern and western division aforesaid, including the said Robins and Lawrence in Monmouth county; thence northerly along the said line to Sanpinck brook, being part of the bounds of the said Somerset county; thence following the lines of Somerset and Essex counties, and so to the sound, and thence down the sound to Amboy point, and from thence to the creek, where it first began.

Bounds of Monmouth.

V. The county of Monmouth begins at the mouth of the creek aforesaid, that parts the land of captain Andrew Bowne, deceased, and George Willocks; thence following the line of Middlesex county to the line of the eastern and western division aforesaid; thence southerly along the said division line to the sea; thence along the sea to the point of Sandy-Hook; thence up the bay to the aforesaid creek, where it first began.

Bounds of Burlington.

VI. The line of partition between Burlington and Gloucester county begins at the mouth of Pensauquin, alias Cropwell creek; thence up the same to the fork; thence along the southermost branch thereof, sometimes called Cole branch, until it comes to the head thereof, which is the bounds betwixt Samuel Lipencote's and Isaac Sharp's land; thence upon a straight line to the southermost branch of Little-Egg-Harbour river, including the said Sharp's land in Gloucester county; thence down the said branch and river to the mouth thereof; thence to the next inlet on the south side of Little-Egg-Harbour's most southerly inlet; thence along the sea coast to the line of partition between East and West-Jersey; thence along the said line of partition by Maidenhead and Hopewell to the northermost and uttermost bounds of the township of Amwel; thence by the same to the river Delaware; thence by the river Delaware to the first mentioned station.

Bounds of Gloucester.

VII. Gloucester county begins at the mouth of Pensauquin creek; thence up the same to the fork thereof; thence along the said bounds of Burlington county to the sea; thence along the sea coast to Great-Egg-Harbour river; thence up said river to the fork thereof; thence up the southermost and greatest branch of the same to the head thereof; thence upon a direct line to the head of Oldman's creek; thence down the same to Delaware river; thence up Delaware river to the place of beginning.

VIII. Salem

A. D. 1713-14.

Bounds of Salem.

VIII. Salem county begins at the mouth of a creek on the west side of Stipson's island, commonly called Jecak's creek; thence up the same as high as the tide floweth; thence upon a direct line to the mouth of a small creek at Tuckahoe, where it comes into the southermost main branch of the fork of Great-Egg-Harbour river; thence up the said branch to the head thereof; thence along the bounds of Gloucester county to Delaware river; thence down Delaware river and bay to the place of beginning.

Bounds of Cape-May.

IX. Cape-May county begins at the mouth of a small creek on the west side of Stipson's island, called Jecak's creek; thence up the said creek as high as the tide floweth; thence along the bounds of Salem county to the southermost main branch of Great-Egg-Harbour river; thence down the said river to the sea; thence along the sea coast to Delaware bay, and so up the said bay to the place of beginning.

Part of Essex is annexed to Somerset, by an act passed the 4th of November, 1741.

The boundaries of Somerset are, in part, altered, by acts passed the 15th of March, 1713-14, the 14th of November, 1741, the 28th of March, 1749, and the 24th of November, 1790.

The boundaries of Middlesex are, in part, altered, by the acts of the 15th of March, 1713-14, and the 24th of November, 1790.

The boundaries of Monmouth are, in part, altered, by the act of the 15th of March, 1713-14.

Part of Burlington has been formed into a county called Hunterdon: part of Hunterdon, into a county called Morris; and part of Morris, into a county called Sussex. See acts of the 11th of March, 1713-14, of the 15th of March, 1738-9, and of the 8th of June, 1753.

By an act passed the 19th of January, 1747, part of Salem has been formed into a county, called Cumberland.

An ACT *for erecting the upper parts of the western division of New-Jersey into a county.*

Passed the 11th of March, 1713-14.

Preamble.

WHEREAS the inhabitants of the upper parts of the said western division have, by their petition, set forth, that for many years last past their frequent attending the several courts held at Burlington being at a very great distance from most of their habitations, has been inconvenient and troublesome, as well as chargeable to the inhabitants of the said upper parts of the western division aforesaid, and to the great detriment and damage of the said inhabitants: for the removing of which inconveniencies, and making of the said people more easy for the time to come, it is humbly proposed and prayed that it may be enacted;

Hunterdon county first formed.

AND BE IT ENACTED *by the Governor, Council, and General Assembly, and by the authority of the same*, That all and singular the lands and upper parts of the said western division of the province of New-Jersey, lying northwards of, or situate above the brook or rivulet commonly called Assanpinck, be erected into a county, and it is hereby erected into a county, named and from henceforth to be called the county of Hunterdon; and the said brook or rivulet, commonly known and called by the name of Assanpinck, shall be the boundary line between the county of Burlington and the said county of Hunterdon.

An ACT *for settling the bounds between the counties of Somerset, Middlesex and Monmouth.*

Passed the 15th of March, 1713-14.

Line of Somerset and Middlesex.

I. BE IT ENACTED *by the Governor, Council, and General Assembly, and by the authority of the same*, That the boundary line between Somerset and Middlesex counties shall be and begin where the road crosseth the river Raritan, at Inians's ferry, and run from thence along the said old road by Jedediah Higgens's house, leading towards the falls of Delaware, so far as the eastern division of this province extends.

Line of Middlesex and Monmouth.

II. AND BE IT ENACTED *by the authority aforesaid*, That the boundary line between Middlesex and Monmouth counties shall be and begin at the mouth of the creek that parts the land of George Willocks and the land that was formerly captain Andrew Bowne's, deceased; thence along the said captain Andrew Bowne's line to the

the rear of the said land; thence upon a direct course to Warn's bridge, on the brook where Thomas Smith did fomerly live; thence upon a direct course to the south-east corner of Barclay's tract of land, that lies near Matchiponix; thence to the most southermost part of said tract of land, including the whole tract of land in Middlesex county; thence upon the direct line to Assanpinck bridge on the high road, including William Jones, William Story, Thomas Ruckman and John Guyberson, in Monmouth county; thence along the said road to Aaron Robins's land; thence westerly along the said Aaron Robins's and James Lawrence's line to the line of the eastern and western division aforesaid, including the said Robins and Lawrence in Monmouth county. A. D. 1713-14.

III. AND BE IT ENACTED *by the authority aforesaid*, That the boundary lines between the said counties, settled by act of general assembly of this province, passed in January, one thousand, seven hundred and nine, so far and no further as the same is altered by this act, shall be and is hereby repealed to all intents and purposes. Repeal of the former act concerning the bounds of these counties.

An ACT *for confirming of conveyances of lands made and to be made by wills and powers of attorney, and declaring what exemplifications of records and other things shall be holden and received for good evidence of estates of inheritance, and for transferring of uses into possession.*

Passed the 17th of March, 1713-14.

WHEREAS on, and several years after the first settlement of this colony, the great distance of plantations, and scarcity of inhabitants was such, that it was difficult to get more than two witnesses to be present at the signing, sealing and acknowledging of last wills and testaments, which induced the then legislature of the province of East-Jersey, now the eastern division of this province, in the year one thousand, six hundred and eighty-two, to make a law declaring, that all wills in writing attested by two credible witnesses shall be of the same force to convey lands, as other conveyances: AND WHEREAS, pursuant to the said law, many wills have been made, bequeathing and devising lands, signed by the testator, and attested only by two subscribing witnesses; Preamble.

I. BE IT THEREFORE ENACTED *by the Governor, Council, and General Assembly, and by the authority of the same*, That all last wills and testaments heretofore made in writing, signed by the testator, in presence of two subscribing witnesses, and proved according to the custom heretofore used, in either the eastern or western divisions of this province, by which any lands, tenements or hereditaments have been given, devised or bequeathed unto any person or persons whatsoever, every of the said last wills and testaments shall, at all times hereafter, be held, taken, deemed and esteemed as good, valid and sufficient title in the law, to all intents, constructions and purposes, as if the testator had conveyed the same away in his life-time, and shall for-ever bar any person or persons claiming or to claim estate under any such testator, contrary to the true intent and meaning of such will or testament; and the said will being proved as aforesaid, and the books of registers of either of the eastern or western divisions of this province in which they were entered, being proved as aforesaid, may be given, and shall be received in evidence, any law or custom to the contrary notwithstanding. What a sufficient execution of last wills in time past.

Register books, where recorded, good evidence.

II. AND BE IT ENACTED *by the authority aforesaid*, That all wills and testaments which hereafter shall be made in writing, signed and published by the testator, in presence of three subscribing witnesses, and regularly proved and entered upon the books of records or registers in the secretary's office of this province, or any proper office for that purpose, shall and are hereby declared, and for-ever hereafter shall be taken, accepted, deemed and esteemed sufficient to devise, bequeath and convey any lands, tenements, hereditaments, or other estates whatsoever within this province, as effectually, to all intents, constructions and purposes whatsoever, as if the testator had conveyed the same away in his life-time; and the books, in which they are registered or recorded, may be given in evidence, and shall be accepted of and be sufficient evidence at all times and places, where the said wills or testaments may be requisite to be given in evidence, any law or custom to the contrary notwithstanding. What a good execution of a will in future.

Books in which they are registered, good evidence.

A. D. 1713-14.

Copy of wills made in Great-Britain, &c. certified under seal, &c. good evidence.

III. And be it enacted, *by the authority aforesaid*, That the copies of any last will or testament whatsoever heretofore made, or hereafter to be made, within any part of the kingdoms of Great-Britain or Ireland, by which any lands, tenements, hereditaments, or other estate within this province, are devised or bequeathed, certified under the seal of such office, where such will or testament is proved and lodged, may be given, and shall be received in evidence before any of the courts of judicature within this province, and be esteemed as valid and sufficient, as if the original will or testament were then and there produced and proved.

Copy of wills in any of the colonies certified under seal, &c. good evidence.

IV. And be it enacted *by the authority aforesaid*, That the copy of any will or testament, made in any other of her Majesty's colonies, by which any lands, tenements, hereditaments, or other estate within this province is given, devised or bequeathed, being proved according to the custom of such colony, certified under the great seal of such colony, may be given, and shall be received in evidence in any of the courts of judicature within this province, and be esteemed as valid and sufficient, as if the original will or testament were then and there produced and proved.

All deeds, &c. made by letters of attorney, &c. recorded, whereby lands have been sold, held good.

V. And be it enacted *by the authority aforesaid*, That all deeds, grants, sales, leases, assurances, or other conveyances whatsoever, heretofore made, by virtue of letters of agency, powers of attorney, or other powers or authorities whatsoever, that have been entered on the public books of records of this province, or the public books of records of the eastern or western divisions thereof, whereby any lands, tenements or hereditaments whatsoever, within this province, have been granted, sold, conveyed, assured, released or transferred, to any person or persons, pursuant to such powers and authorities whatsoever, shall be, and are hereby declared as good, valid and sufficient title in the law, to all intents, constructions and purposes whatsoever, unto the said grantees, and to their heirs and assigns, as if the constituent or constituents had then and there sold and conveyed the land or lands, and had executed deeds, (according to the true intent and meaning of such grants, deeds or conveyances,) which said grants, deeds or conveyances shall be of force against, conclude and bind all and every the constituents, employers, grantors of such powers and authorities, and their and all and every of their heirs, and all and every other person or persons claiming or to claim estate from or under them, or any of them, severally and respectively; and all lands, tenements, or other hereditaments, that, for the time to come, shall be sold, conveyed or disposed of, by virtue of such powers or authorities as aforesaid, such powers shall be first proved and entered upon the public records, after which all grants and conveyances, made, pursuant to the powers thereby granted, shall be deemed, taken and esteemed as good, valid and sufficient titles against all and every the constituents, employers and grantors of such powers and authorities, against all claiming or to claim estate under them severally and respectively aforesaid, as if the constituent or constituents had then and there sold and conveyed the same land or lands.

All lands hereafter sold by letters of attorney, first proved and recorded, held good.

Exemplifications of deeds, from Great-Britain, Ireland or the colonies, and books of record in this province, good evidence.

VI. And be it enacted *by the authority aforesaid*, That the exemplification of any deeds or writings relating to estates, real or personal within this province, proved and certified under the city seal of London or Edinburgh, in the kingdom of Great-Britain, or under the seal of the city of Dublin, in the kingdom of Ireland, or under the great seal of any of her Majesty's colonies in America, and any of the public books of records or registers of this province, or of either of the divisions thereof, shall be received in evidence in any court of record within this province, and shall be esteemed as sufficient, as if the originals where then and there produced and proved.

Conveyance of the use of land trainsfers possession

VII. And be it enacted *by the authority aforesaid*, That all and every person or persons, to whom the use or uses of any tract or tracts of land within this province, have been sold, given, limited, granted, released or conveyed by deed, grant, or any other legal conveyance whatsoever, or that shall hereafter be granted by any deed or conveyance whatsoever, such grantees, their heirs and assigns, shall be deemed, taken and esteemed, to be in as full and ample possession of such lands, tenements and hereditaments, to all intents, constructions, and purposes, as if such grantees, their heirs and assigns, were possessed thereof by solemn livery of seisin and possession, any usage or custom to the contrary notwithstanding.

VIII. Provided

VIII. PROVIDED ALWAYS, That nothing in this act shall be construed to extend to make good, valid and effectual any fraud or forgery, made or used in or about any powers of agency, or letter of attorney, or other deeds, writings, or records, last wills and testaments, or any bargain and sale, or other conveyances of any estate of inheritance, grounded upon such fraudulent or forged powers of agency, or letter of attorney, or other deeds, writings or records, and last wills and testaments.

A. D. 1719.

This act not to salve any fraud or forgery.

An ACT *for running and ascertaining the line of partition or division between the eastern and western divisions of the province of New-Jersey, and for preventing disputes for the future concerning the same; and for securing to the general proprietors of the soil of each of the divisions, and persons claiming under them, their several and respective possessions, rights and just claims.*

Passed the 27th of March, 1719.

Preamble.

WHEREAS many doubts, debates and controversies have arisen concerning the boundaries or line of partition between that part of this province of New-Jersey, now commonly called and known by the name of the western division of the province of New-Jersey, and that part of said province now commonly called and known by the name of the eastern division of the province of New-Jersey, which have proved a great obstruction to the settlement and improvement of the said province, and will, if they continue, prove a very great hindrance to the further settling and improving thereof, and of dangerous consequence to the peace and tranquility of the government and inhabitants of the same. AND WHEREAS nothing can be more effectual to prevent debates and controversies, that may otherwise hereafter arise concerning the same, and for settling and quieting the minds of all persons concerned, than the fixing the said line of partition on a just, solid and lasting foundation. AND WHEREAS a certain line mentioned in an indenture quinti-partite, dated the first day of July, in the year 1676, in the twenty-eighth year of the reign of king Charles the second, made and executed by and between Sir George Carteret of Sarum, in the county of Sarum, knight and baronet, of the first part; William Penn of Rickmansworth, in the county of Hertford, esquire, of the second part; Gawen Lowrie of London, merchant, of the third part; Nicholas Lucas of Hertford, in the county of Hertford, malster, of the fourth part; and Edward Billinge of Westminster, in the county of Middlesex, gentleman, (in whom the inheritance and fee-simple of that undivided part, share and moiety of the province of New-Jersey, which did formerly belong to the right honorable John lord Berkley, baron of Straton, was by good and sufficient conveyances in the law then vested) of the fifth part; was, by the persons here before-mentioned, parties to the aforesaid indenture quinti-partite, then sole owners of the whole province of New-Jersey, meant, intended and agreed to be the line of partition or division of the eastern part of this province from the western part thereof; which said line was meant, intended and understood by all the persons beforementioned, parties to the said indenture quinti-partite, to be a straight and direct line run from the most northerly point or boundary of the province of New-Jersey, on the northermost branch of the river Delaware, unto the most southerly point of the east side of a certain inlet, harbour or bay, on the sea coast of the province of New-Jersey, commonly called and known by the name of Little-Egg-Harbour.

How the [illegible] line between Ea[illegible] West New-jerse[illegible] to run.

I. BE IT THEREFORE ENACTED *by the Governor, Council, and General Assembly of this province, and it is hereby enacted and declared by the authority of the same,* That the said line, that is to say, a straight and direct line from the most northerly point or boundary of this province of New-Jersey on the northermost branch on the river Delaware, unto the most southerly point of a certain beach or island of sand, lying next and adjoining to the main sea, on the north side of the mouth or entrance of a certain inlet, bay or harbour, commonly called and known by the name of Little-Egg-Harbour, is and shall for-ever hereafter remain and be the line of partition and division betwixt the eastern and western division of this province: and all the lands, islands and waters within this province, lying and being to the eastward of the said line, is, and shall be, and for-ever hereafter shall remain and be the eastern part, share and division of this province: and all the

lands,

A. D. 1719.

lands, islands and waters within this province, lying and being to the westward of the said line before-mentioned and described, is and shall be, and for-ever hereafter shall remain and be the western part, share and division of this province.

II. AND WHEREAS the said line of partition, so agreed on as aforesaid, has, notwithstanding such agreement, not been as yet really and indeed run, nor the places through which it ought to pass discovered or made known, although attempts have been made by persons appointed by agreement between some of the proprietors of the soil of each of the said divisions, and lines have been run for that purpose in some parts of this province; which lines have been sometimes supposed to run through such parts of this province, as the said line agreed on by the parties to the indenture quinti-partite aforesaid, should or ought to have run; and which, nevertheless, there is great reason to believe, have been variant and different from the true line of partition agreed on as aforesaid; by reason of which several tracts, parcels and quantities of land have been taken up by the general proprietors of the soil of the eastern division of this province on the westerly side of the true partition line agreed on as aforesaid; and several tracts, parcels and quantities of land have been taken up by the general proprietors of the soil of the western division of this province on the easterly side of the said line of partition; many of which tracts, parcels and quantities of land have been conveyed away and disposed, as well by the general proprietors of the soil of the eastern division of this province, as by the said general proprietors of the soil of the western division of this province; and which are now by sufficient conveyances in the law vested in the present possessors thereof, who have made several settlements and great improvements upon the same. IN ORDER THEREFORE that the present possessors may be secured in the enjoyment of the fruits of their labor and industry, and that equal and impartial justice may be done to the general proprietors of each of the said divisions, as far as the present circumstances of things will admit; BE IT ENACTED *by the authority aforesaid*, That when the line, enacted and declared by this act to be the line of partition between the eastern and western divisions of the province, shall be actually run straight and direct from any one of the terms, limits or end of the said line, unto the other term, limit or end of the same; and the several places within this province, through which it shall pass, be discovered and made known; that then there shall be, as near as conveniently may be, a survey or computation made of the whole, and full amount of all such tracts, parcels and quantities of land as have been taken up, patented, surveyed, held or possessed by the proprietors of the eastern division of New-Jersey, or in their right, by persons claiming under them to the westward of the said line, hereby enacted and declared to be the line of partition aforesaid, so as the utmost limits and boundaries of all or any the said tracts and parcels of land do not extend further to the westward of the herein and hereby enacted and declared line of division, than to a certain line heretofore run and marked out in the year of our Lord, one thousand, six hundred and eighty-seven, by George Keith, then surveyor-general of that part of this province, formerly called and known by the name of the province of East-New-Jersey, BEGINNING at the most southerly point of a certain beach or island lying next and adjoining to the main sea, to the northward of a certain bay, inlet or harbour lying on the sea coast of this province, commonly called or known by the name of Little-Egg-Harbour; and running thence according to the natural position on a north north-west fifty minutes more westerly course to the south-westerly corner of a certain tract of land lying to the westward of the south branch of Raritan river, heretofore granted by the proprietors of the eastern division of this province to John Dobie, and commonly called and known by the name of Dobie's plantation; thence along the rear of the said Dobie's plantation, and along the rear of the other tracts of land and plantations, as they were heretofore patented or surveyed in right of the proprietors of the eastern division of this province, until it intersects that part of the north branch of Raritan river, which descends from a fall of water, commonly called and known by the Indian name of Allamitung; then running from that point intersection up the branch or stream to the fall of Allamitung: all which said tracts, parcels and quantities of land, plantations and settlements so taken up, patented, surveyed, possessed, settled or improved, lying and being to the westward of the line of partition herein before enacted and declared to be the line of partition and division between the eastern and western divisions of this province, and not extending further to the westward of the said line of partition than is hereby

The said line to be run.

Computation to be made of the lands taken up by the eastern proprietors to the westward of said line, within a certain other line;

which lands are confirmed to the said eastern proprietors and purchasers under them.

A. D. 1719.

by before limited and expressed, shall be and remain to the patentees, vendees, possessors or claimers of the same, their heirs and assigns for-ever, without any let, hindrance, molestation or eviction by any of the general proprietors of the western division of this province, their heirs or assigns for-ever. And the said pantentees, vendees, possessors or claimers of any the said tracts, parcels or quantities of land aforesaid, their heirs and assigns for-ever, shall have, hold, occupy, possess and enjoy all and any the said tracts, parcels and quantities of land as fully, to all intents, constructions and purposes whatsoever, as if all or any the said tracts, parcels or quantities of land had been so taken up, patented, surveyed, bought, claimed or possessed in the eastern division of the province of New-Jersey, on the east side of the said line herein before enacted, to be the line of partition between the eastern and western divisions of this province, and not otherwise, any law, usage or custom to the contrary in anywise notwithstanding.

A computation to be made of the amount of the lands taken up by the West Jersey proprietors on the east side of the partition line;

III. And be it enacted *by the authority aforesaid*, That there shall, as near as conveniently may be done, a survey or computation be made of the whole and full amount of all such tracts, parcels and quantities of land as have been taken up to the eastward of the herein and hereby enacted line of partition, by or in right of the proprietors of the western division of this province, and a survey or computation be made of the whole and full amount of all such tracts, parcels and quantities of land as have been taken up to the westward of the herein and hereby enacted line of partition, by or in right of the proprietors of the eastern division of this province: and in case such quantity or number of acres of the said land, so surveyed or taken up by, or in right of the proprietors of both divisions as aforesaid, be equal, the same is hereby enacted and declared to be vested in the several possessors, takers up or claimers of the same, their heirs and assigns for-ever, as fully and amply, to all intents and purposes whatsoever, as if the same had been so taken up, possessed or claimed in the respective divisions of this province, for which the same was taken up, and not otherwise: but in case it shall so happen, that upon the aforesaid computations, the total sum or amount of all the tracts, parcels and quantities of land taken up by, or in right of the proprietors of the eastern division, to the westward of the line of partition herein and hereby established and declared, shall be found to exceed the quantity or number of acres contained within that tract herein before described and allowed to have been taken up by or in right of the proprietors of the western division, to the eastward of the said line of partition; then, and in such case, there shall be cut off from all or any of those tracts and parcels of land, which have been surveyed or taken up by or in right of the proprietors of the eastern division, either on the west or east side of the said line of partition (excepting such as have been taken up in right, or on account of a first dividend, or the proportion of ten thousand acres to one propriety, or twenty-fourth part of said division and quit-rent lands) or out of any unsurveyed lands in the said eastern division, in such tracts as shall be thought fit, the full quantity of such exceeding, in the most just and equal manner; which lands, so taken, shall be an equivalent to the proprietors of the western division, and shall be held by them, or such of them as shall take up the same, and by their heirs and assigns for-ever, notwithstanding any survey formerly made thereon, and notwithstanding the said lands, or some of them, may prove to be situate on the eastern side of the partition line hereby enacted and declared as fully and amply, to all intents and purposes, as if the same had never before been surveyed to any other person, or were situate on the western side of the partition line herein before enacted, any law, usage or custom to the contrary in anywise notwithstanding. But in case it shall so happen, that upon the aforesaid computation, the total sum or amount of all the tracts, parcels and quantities of land, taken up by or in right of the proprietors of the western division to the eastward of the line of partition herein and hereby established and declared, shall be found to exceed the quantity or number of acres contained within that tract herein before described and allowed to have been taken up by or in right of the proprietors of the eastern division, to the westward of their said line of partition; then, and in such case, there shall be taken, and cut off from all or any of those tracts and parcels of land, which have been surveyed or taken up by, or in right of the proprietors of the western division, either on the east or west side of the said line of partition, in right or on account of a fourth dividend, or a fourth taking up, the

if the land taken up on the wrong side by each be equal, it is to be held in fee by each.

East Jersey proprietors to give an equivalent if they have too much.

West-Jersey proprietors having too much, to give an equivalent to East-Jersey proprietors.

A. D. 1719.

proportion of five thousand acres for each whole propriety or hundredth part of the western division, or out of any unsurveyed lands within the said western division, in such tracts as shall be thought fit, the full quantity of such exceeding, in the most just and equal manner; which lands so taken shall be an equivalent to the proprietors of the eastern division, and shall be held by them, or such of them, as shall take up the same, and by their heirs and assigns for-ever, notwithstanding any survey formerly made thereon, and notwithstanding the said lands, or some of them, may prove to be situate on the western side of the partition line herein enacted and declared, as fully and amply, to all intents and purposes, as if the same had never before been surveyed to any other person, or were situate on the eastern side of the partition line herein before enacted, any law, usage or custom to the contrary hereof in anywise notwithstanding.

No tract settled and improved to be taken in such equivalent, but the possessors to enjoy the same.

IV. PROVIDED ALWAYS, AND BE IT ENACTED *by the authority aforesaid*, That no tract or tracts of land, on which any settlement and improvement hath been made, shall be taken as aforesaid, or applied to make good such exceeding, or any part thereof; but that all and every such tract and tracts or parcels of land, taken up by any of the proprietors of the western division, on the east side of the aforesaid line of partition, on which tract or tracts any settlement or improvement is made, shall be held by the possessors or owners thereof, their heirs and assigns, as fully and amply to all intents and purposes whatsoever, as if such tract and tracts had been taken up on the west side of the said line of partition, and not otherwise. And all and every such tract and tracts, or parcels of land, taken up by any of the proprietors of the eastern division, on the west side of the aforesaid line of partition, on which tract or tracts any settlement or improvement is made, shall be held by the possessors or owners thereof, their heirs and assigns, as fully and amply, to all intents and purposes whatsoever, as if such tracts had been taken up on the east side of the said line of partition, and not otherwise.

Any eastern proprietor may locate his land with western rights and hold it.

V. PROVIDED ALSO, That if any proprieter of the eastern division, from whom any lands are taken to make good the equivalent to the proprietors of the western division as aforesaid, have, or shall procure within two years after the same are taken, to make good the equivalent aforesaid, a proprietary right to any unsurveyed lands within the western division of this province, such proprietor of the eastern division may retain and keep to himself such lands as otherwise he might by this act have been obliged to surrender to the western proprietors, by laying on the same a good proprietary right to the same quantity of land in the western division of this province, any thing herein contained to the contrary notwithstanding.

Proprietors of West-Jersey allowed the same privilege.

VI. PROVIDED ALSO, That if any proprietor of the western division, from whom any lands are taken up to make good an equivalent to the proprietors of the eastern division as aforesaid, have, or shall procure within two years after the same are taken, to make good the equivalent aforesaid, a proprietary right to any unsurveyed lands within the eastern division of this province, such proprietor of the western division may retain and keep to himself such lands as otherwise he might by this act have been obliged to surrender to the eastern proprietors, by laying on the same a good proprietary right to the same quantity of land in the eastern division of this province, any thing herein contained to the contrary notwithstanding.

On computation made, if the eastern proprietors have taken too much, the equivalent to be surveyed by the eastern surveyor-general and recorded.

VII. AND BE IT ENACTED *by the authority aforesaid*, That upon the computation made, in case it shall happen that the quantity of lands taken up by or in right of the proprietors of the western division, on the east side of the herein and hereby enacted line of partition, does exceed the quantity of lands taken up by or in right of the proprietors of the eastern division, on the west side of the herein and hereby enacted line of partition, the surveyor-general of the eastern division, or his deputy, and commissioners or managers for the same, herein after appointed, or the major part or survivor of them, shall forthwith survey, allot, take up and ascertain such exceeding, on the lands out of which the same is by this act directed to be taken, and shall cause to be recorded a certificate under their hands, how and in what manner they have done the same, in the secretary's office of this province, and surveyor-general's office of the eastern division, there to be in public view, and shall send a true copy thereof to the council of proprietors of the western

A. D. 1714.

western division of this province. And upon the computation made, in case it shall happen that the quantity of lands, taken up by or in right of the proprietors of the eastern division, on the west side of the herein and hereby enacted line of partition, does exceed the quantity of lands taken up by or in right of the proprietors of the western division, on the east side of the herein and hereby enacted line of partition, the surveyor-general of the western division, or his deputy, and commissioners or managers for the same, herein after appointed, or the major part or survivor of them, shall forthwith survey, allot, take up and ascertain such exceeding, on the lands out of which the same is by this act directed to be taken; and shall cause to be recorded a certificate, under their hands, how and in what manner they have done the the same, in the secretary's office of this province, and in the surveyor-general's office of the western division, there to be in public view, and shall send a true copy thereof to the proprietors of the eastern division of this province: after which certificate, recorded and returned as aforesaid, the respective proprietors, who had right to take up such exceeding, shall be and are hereby for-ever barred of claiming any other lands in right of such exceeding, any thing herein contained to the contrary notwithstanding.

Western proprietors having too much, an equivalent to be made the eastern.

VIII. AND, the more equally to preserve to each division the same quantity of land, which falls to it by the line of division or partition between the eastern and western divisions of this province, BE IT ENACTED *by the authority aforesaid*, That all the tracts of land, which have been formerly patented or surveyed to the proprietors of the eastern division, and to others claiming under them, to the westward of the said line of partition, as also all such lands as shall or may fall to them as an equivalent out of the western division, and to the westward of the said partition line, shall be taken, construed and for-ever hereafter deemed to be a part, share and portion of the eastern division of this province. And all the tracts and parcels of land which the proprietors of the western division, or persons claiming under them, shall, in pursuance of this act, and according to the true intent and meaning thereof, fall on the east side of the said line of partition, excepting any small parcels which shall be remote, and wholly severed from the body of the said division, shall be taken, construed and for-ever hereafter deemed to be a part, share and portion of the western division of this province; of which all bodies corporate and politic, and all other persons, are to take notice and govern themselves accordingly; any thing herein contained to the contrary notwithstanding.

Lands to the westward of said line surveyed to the eastern proprietors, with an equivalent, to be a part of East-Jersey;

and those on the east side to belong to West-Jersey.

IX. AND, for the more effectual doing of justice to such proprietors, who shall be entitled to take up any lands either in the eastern or western divisions of this province, for or by reason of any deficiency or exceeding of the lands mentioned to be taken up within the eastern division of this province, by or in right of the proprietors of the western division of the same; IT IS FURTHER ENACTED *by the authority aforesaid*, That, from and after the publication of this act, until such time as it shall be determined, in the manner before in this act directed, of what number of acres such defect or exceeding of the quantities of land herein before-mentioned, does consist, no land shall be surveyed or taken up (above the quantity of one hundred acres in one tract, and by one person, and this only among the inhabitants and settlements) within either of the divisions of this province. And in case any person or persons whatsoever shall survey or take up any land contrary to the true intent and meaning hereof, all and every such survey and surveys, and taking up, is and are hereby declared to be so far void, that any of the persons entitled to take up any lands in either of the divisions aforesaid, as his part and share of the equivalent, beforementioned, due to him, may survey and take up any such land, and shall thereupon be as fully and absolutely entitled to hold the same to him, his heirs and assigns forever, as if no such former survey had been made thereon.

Surveys made before such computation liable to be vacated except one hundred acres to one person.

X. AND WHEREAS the surveys of lands, and the quantities held thereby in this province, have frequently been uncertain and difficult to be discovered, by reason of the office of surveyor-general has not been duly established and regularly kept within the respective divisions; BE IT THEREFORE ENACTED *by the authority aforesaid*, That the surveyor-general of the eastern division shall, by himself or his lawful deputy, hold a public office in the city of Perth-Amboy, for all the eastern division of this province; and the surveyor-general of the western division shall, by himself or his lawful deputy, hold a public office in the town of Burlington, for the western division of this province; in which offices respectively shall be carefully entered and kept the surveys of all lands which shall

Surveyors-general of East and West-Jersey to keep an office at Perth-Amboy and Burlington.

All surveys to be recorded and declared good evidence, &c.

A. D. 1719.

The surveyors-general authorized to sue for maps, draughts, books, &c.

shall hereafter be made within this province; and such entries shall be of record, and may be pleaded as evidence in any of his Majesty's courts of judicature within this province. And the said surveyor and surveyors-general is and are hereby authorized and empowered to collect, demand, receive, sue for and recover from all persons whatsoever within this province, all books of surveys, general charts, maps and draughts of lands heretofore made by any public surveyor or surveyors for the lands within his or their district or districts, which may be of general use for proving the rights of the proprietors, or of persons claiming under them, to any tracts or parcels of land surveyed and taken up within this province; and the same shall be safely lodged and kept in the said respective offices within the division within which the lands, whereunto such books, charts, maps and draughts, do belong, are respectively situate, excepting such books of surveys as he shall recover belonging to the eastern division, which, upon recovery, he shall forthwith deliver into the recorder's office of the said division, there to be kept for public use and view. PROVIDED ALWAYS, That he rediliver with all convenient speed such of them as are the property of any particular person, to the person whose property they are, after he or they, the surveyor or surveyors aforesaid, have either taken authentic copies thereof, or recorded them in their books. And the said surveyor or surveyors-general shall give security to his excellency brigadier Hunter, our present governor, or to the governor or commander in chief for the time being, for the use of the proprietors of each respective division, and their successors, in the sum of one thousand pounds of lawful money of Great-Britain, for his and their delivering up to his and their respective successor and successors therein, all books of surveys, general charts, maps and draughts, which he shall have received and recovered as aforesaid, and which have not otherwise been directed to be delivered as aforesaid, and the books he or they shall have kept during the execution of his or their respective offices.

Such as belong to private persons to be re-delivered when copied.

Surveyors-general to give security.

XI. AND WHEREAS great inconveniencies have happened by the making and not recording of surveys, whereby many have not only got lands surveyed which have been formerly surveyed, not knowing of any former survey, but have settled and made great improvement of the same, and have been afterwards ousted thereof; for the remedying whereof for the future, IT IS HEREBY ENACTED AND DECLARED *by the authority aforesaid*, That all surveys heretofore made, the certificates whereof are in the hands of any of the inhabitants of this province, or any of the neighbouring provinces, which are not within two years, and that all surveys heretofore made, the certificates whereof are in the hands of people living beyond seas, which are not within three years, after the publication hereof, duly recorded, either in the recorder's office, or in the surveyor-general's record, of the respective division in which such lands are surveyed, be for-ever hereafter void and of none effect; and any succeeding survey, duly made thereof and recorded, shall be as good and sufficient as if no former survey had been made.

Time limited to record surveys, or be void.

An ACT *for erecting the upper parts of the county of Hunterdon, in the western division of New-Jersey, into a county.*

Passed the 15th of March, 1738-9

Preamble.

WHEREAS the inhabitants of the upper parts of the said county of Hunterdon, have, by their petitions, set forth, that, for many years last past, their frequent attending the several courts held in Trenton, being at a very great distance from most of their habitations, hath been and still is inconvenient and troublesome as well as chargeable to the inhabitants of those upper parts, to their great detriment and damage; for the removing of which it is humbly proposed and prayed that it may be enacted;

Morris county formed.

I. AND BE IT ENACTED *by the Governor, Council, and General Assembly, and by the authority of the same*, That all and singular the lands and upper parts of the said Hunterdon county, lying to the northward and eastward, situate and lying to the eastward of a well known place in the county of Hunterdon, being a fall of water in part of the north branch of Rariton river, called in the Indian language, or known

known by the name of Allomatonck, to the northeastward of the north-east end or part of the lands called the New-Jersey society lands, along the line thereof crossing the south branch of the aforesaid Rariton river, and extending westerly to a certain tree, marked with the letters L M, standing on the north side of a brook emptying itself into the said south branch, by an old Indian path to the northward of a line to be run northwest from the said tree to a branch of Delaware river, called Muskonetkong, and so down the said branch to Delaware river; all which said lands being to the eastward, northward and north-westward of the abovesaid boundaries, be erected into a county, and it is hereby erected into a county, named and from henceforth to be called Morris county, and the said bounds shall part and from henceforth separate and divide the same from the said Hunterdon county. A. D. 1741.

An ACT *to annex part of the county of Essex to the county of Somerset, and to ascertain the bounds thereof.*

Passed the 4th of November, 1741.

WHEREAS part of the lands, herein after described have, for many years, been deemed and esteemed to be part of the county of Somerset, and the inhabitants thereof have paid the taxes laid on them as such; and, from its situation and contiguity to the said county, it is highly reasonable, that it should be annexed thereto, for the conveniency of the said inhabitants; therefore it is humbly proposed and prayed by the said inhabitants, that it may be enacted; and, Preamble.

BE IT ENACTED *by the Governor, Council, and General Assembly, of the province of New-Jersey, and it is hereby enacted by authority of the same,* That, from and after the publication hereof, the lines and bounds of the said county of Somerset shall be as follows, videlicet, BEGINNING at the south branch of Raritan river, where the reputed division line between East and West Jersey strikes the same, along the rear of Raritan lots, until it meets with the north branch of said river; thence up the same to a fall of water, commonly called Allamatunck; from thence along the bounds of Morris county to Passaick river; thence down the same to the lower corner of William Dockwrae's two patents on the same river; and thence on a straight line, south-easterly, to the head of Green brook; and thence down the same brook to Bound brook; thence down said Bound brook to the place where it empties itself into Raritan river; thence down Raritan river to the place where the road crosseth said river at Inian's ferry; from thence along said old road, which leads by Jedediah Higgins's house, towards the falls of Delaware, until it intersects the division line aforesaid; thence along the said division line to the south branch of Raritan river, aforesaid, where it first began; any act or acts of the general assembly of this province, or any article, clause, or thing in them or any of them contained, to the contrary thereof in anywise notwithstanding. Bounds of the county of Somerset.

An ACT *for erecting the southern parts of the county of Salem, in New-Jersey, into a separate county, and ascertaining the boundaries of the several precincts therein.*

Passed the 19th of January, 1847-8.

WHEREAS the inhabitants of the southern parts of the county of Salem have, by their petition, set forth, that by reason of the large extent of said county, and the gaol and courthouse being seated so near one end of the same, where all the public business is transacted, it hath been inconvenient and very prejudicial to many of his Majesty's loyal subjects, inhabitants thereof: for remedying of which inconveniencies, Preamble.

I. BE IT ENACTED *by the Governor, Council, and General Assembly of this colony, and it is hereby enacted by the authority of the same,* That all and singular the lands within the following bounds, videlicet, BEGINNING in the county of Salem at the mouth of Stow-creek, and running up the same unto John Brick's mills, leaving the said Brick's mills within the county hereby erected; then continuing still up Stow-creek branch to the house where Hugh Dun now dwells, leaving said Hugh Dun within Bounds of Cumberland county.

A. D. 1749.

within the new county; and from the said Hugh Dun's house upon a straight line to Nathan Shaw's house, leaving said Nathan Shaw's house within the new county; and then on a north-east course, until it intersects the Pilesgrove line, leaving Pilesgrove within Salem county; then along the said line till it intersects the line, which divides the counties of Gloucester and Salem; then running south-eastward down Gloucester line unto the boundaries of Cape-May county; then bounded by Cape-May county to Delaware-bay; and then up Delaware-bay to the place of beginning; shall be erected, and the said lands are hereby erected into a county, named, and henceforth to be called by the name of Cumberland.

Divided into six precincts, the names and bounds of each.

V. AND BE IT ENACTED *by the authority aforesaid*, That the said county of Cumberland shall be divided into six precincts, by the names and boundaries following, to wit, three on the north side, and three on the south side of Cohansie creek; the names of the precincts, on the north side the of said creek, shall be Greenwich, Hopewell and Stow-creek; and the names of those on the south side of the said creek shall be Fairfield, Deerfield and Maurice river precincts; Greenwich precinct shall be bounded on the south by Cohansie creek, on the east by a small creek that proceeds out of Cohansie creek, called Mill-creek; then up the said Mill-creek to the fork; then up the eastermost branch till it intersects the road, that leads from Greenwich to Cohansie bridge, to a corner tree of Job Shepard's land; then running up the said Job Shepard's land to a corner of a tract of land surveyed to Edmund Gibbon, standing on Barnagate hill; then westerly along Gibbon's line to a corner of Francis Bruster's land; then along Bruster's land to the road, that leads from Greenwich to John Brick's mill; then up the said road till it intersects a run called Mackernipper's run; then down the said run till it falls into Stow-creek, and bounded by Stow-creek to Delaware-bay; then along Delaware-bay to the place of beginning. The other two are divided by the road that leads from Greenwich to Nathan Shaw's; Hopewell on the east and Stow on the west side of the said road as it now runs.

The precincts on the south side of the said Cohansie creek are divided as follows: Maurice river precinct shall contain all that tract of land, lying on the east side of prince Maurice's river, within the said county of Cumberland.

Fairfieild to begin at the mouth of Cohansie creek, and to run up the same to Parvin's branch; then up the said branch to the head; and from thence on a direct line to the head of Chatfield's swamp; then down the same to Lebanon branch; then north-east till it intersects prince Maurice's river; then down the same to Delaware-bay; then up Delaware-bay to the mouth of Cohansie creek aforesaid.

Deerfield to be bounded on the west by Cohansie creek, on the south by Fairfield precinct aforesaid; on the east by Maurice river precinct; and on the north by Pilesgrove.

An ACT *to ascertain the line and bounds between the counties of Somerset and Morris.*

Passed the 28th of March, 1749.

Preamble.

WHEREAS, by an act passed in the fifteenth year of his present Majesty's reign, entitled, "An Act to annex part of the county of Essex, to the county of Somerset, and to ascertain the bounds thereof," it appears, that the division line between the counties of Somerset and Morris, was to be from the falls of Allamatunck to Passaick river; but not mentioning what course, nor where to fix upon said river, it remains uncertain, and very prejudicial to the inhabitants, and a great obstruction to the officers of the said counties in the discharge of their duties: for remedy whereof,

The division line ascertained.

BE IT ENACTED *by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same*, That from, and after the publication hereof, the division line, between the counties of Somerset and Morris, shall be as follows, videlicet, beginning at a fall of water, commonly called, Allamatunck Falls, and also mentioned in the before recited act; and from thence on a straight line, in a course, east and by north, as the compass now points, to the main branch of Passaick river; and so down the said river, as the before recited act directs; any thing herein, or in any other act to the contrary thereof notwithstanding.

An ACT

An ACT *for erecting the upper parts of Morris county in New-Jersey into a separate county, to be called the county of Sussex, and for building a courthouse and gaol in each of the said counties.* A. D. 1753.

Passed the 8th of June, 1753.

WHEREAS the inhabitants of the upper parts of Morris county have, by their petition, set forth, that for some years last past their frequent attending the several courts held at Morris-Town, which is in the lower parts of the said county, and at a very great distance from most of the inhabitants of the upper parts, which makes it inconvenient as well as chargeable to them to attend said courts; and as by said petition, as well as by a petition from the inhabitants of the lower parts of said county, it is humbly proposed and prayed, that said county should be divided, and that the inhabitants should have the liberty of building a courthouse and gaol in each: it is therefore enacted, Preamble.

AND BE IT ENACTED *by the Governor, Council, and General Assembly, and by the authority of the same*, That all and singular the lands and upper parts of said Morris county northwest of Muskonetkong river, BEGINNING at the mouth of said river, where it empties itself into Delaware river, and running up said Muskonetkong river, to the head of the great pond; from thence north-east to the line, that divides the province of New-York and said New-Jersey; thence along the said line to Deleware river aforesaid; thence down the same to the mouth of Muskonetkong, the place of beginning: all which said lands, contained within the above boundaries, be erected into a county, and they are hereby erected into a county, named and from henceforth to be called the county of Sussex: and the said Muskonetkong river, so far as the county of Hunterdon bounds on it, shall be the boundary line between that county, and said county of Sussex; and the said Muskonetkong river, and a north-east line from the head of said pond, shall be the boundary line between Morris county and the said county of Sussex. Bounds of Sussex county.

An ACT *to preserve the navigation of the rivers and creeks within the colony of New-Jersey.*

Passed the 20th of August, 1755.

WHEREAS the transportation of timber, plank, boards, hay, and other things to market by water is a great conveniency to the inhabitants of this colony, and the preservation of those advantages are highly worthy the care of the legislature: Preamble.

I. BE IT ENACTED *by the Governor, Council, and General Assembly of the said colony, and it is hereby enacted by the authority of the same*, That if any person or persons, without first obtaining an act of the general assembly for that purpose, shall, after the publication of this act, erect any dam, bank, sluice, or other thing, which shall obstruct, or prevent the free and uninterrupted navigation of any river, creek, or stream of water, within this colony, which is now used for the navigation of boats or flats, or for the transportation of hay, plank, boards, or timber, or shall fall any trees across such creek, or throw brush or other filth in any part thereof, between the mouth thereof and the uppermost place thereon, now, or of late used as a landing, he, she, or they, so offending, shall severally forfeit the sum of five pounds, proclamation money; to be recovered by action of debt before any one justice of the peace of the said colony, at the suit of any person who will prosecute the same to effect, to the sole use of the prosecutor, with costs of suit: and the person or persons, so offending, shall also, at his or their proper costs and charge, immediately remove the bank, dam, sluice, or other thing so erected, or the trees so fell across such branch, or brush or other rubbish thrown into the same; and the continuance of such dam, bank, sluice or other thing so erected, or obstructing the navigation as aforesaid, after a request made to such person or persons, who erected the same, to remove the same; and, on neglect or refusal, it shall be esteemed a public nuisance. No obstructions or banks to be made across any navigable water. Penalty.

II. AND BE IT ENACTED *by the authority aforesaid*, That it shall be lawful for any Any one may remove such obstructions.

A. D. 1758.

any person or persons, to enter into the said creek, river or stream of water, and to lay on shore on the banks, all such rubbish as shall obstruct the navigation thereof, to the least damage to the owner of the land that may be.

All bridges and dams before made, may be upheld in the same manner as usual.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall and may be lawful, to keep up and repair any bridge or bridges on public highways; and also all dams or banks erected and finished before the publication of this act, where the said dam or bank does not raise the water so as to overflow the lands of any other person or persons, except those who so erected or own the said dam, and does not injure or damage any other person or persons whatsoever, by any ways or means whatever; and to build such other bridges where public highways are, or shall be hereafter laid out, as are or shall be hereafter necessary to be laid out, over any river, creek or brook as a public highway; and there be left in the channel thereof a vacancy not less than eighteen feet between the piers or piles of the said bridges hereafter to be erected; and that all rafts and floats of hay, boards, planks and timber, shall have free passage through the mill-dams now erected, where they have usually of late had that liberty and conveniency.

This act not to bar any right of action.

IV. PROVIDED ALWAYS, That nothing in this act shall extend to deprive any person of his right of action, for any damage accruing to such person by the keeping up or erecting any dam or bank, or to justify any person in repairing or keeping up any dam that shall raise the water so much as to overflow the lands of, or any ways endamage any other person or persons than he, she or they, who hath so built, or shall own the said dam.

An ACT *to empower certain persons to purchase the claims of the Indians to land in this colony.*

Passed the 12th of August, 1758.

IN pursuance of this act, the commissioners obtained releases and grants from the Indians, of their right and claims to all lands in this state. See the record of two releases, in lib. O. of deeds, folios 401 and 464, in the secretary's office. The commissioners also purchased a tract of land, called Edge Pillock, in the township of Evesham, and county of Burlington, containing three thousand and forty-four acres; on which the Indian town, known by the name of Brotherton, is erected. The deed is made to Governor Bernard and the commissioners, bears date the 29th of August, 1758, and is recorded in the same book, folio 394. See a supplement to this act, passed the 17th of March, 1796; by which commissioners are appointed, to take charge of the last mentioned land, in trust for the use of the Indians.

A supplementary ACT *to the act, entitled, an act to preserve the navigation of the rivers and creeks within the colony of New-Jersey.*

Passed the 25th of September, 1762.

Preamble.

WHEREAS the act, entitled, "An Act to preserve the navigation of the rivers and creeks within the colony of New-Jersey," though beneficial in its nature, by making provision for freeing the navigation of the said rivers and creeks from the obstructions within the same, yet, not making the like provision for cutting down and removing from the banks of said rivers and creeks, such trunks and limbs of trees, and such like obstructions, that hang over and impede the navigation of the same, renders it necessary to supply that omission; for remedy whereof,

Obstructions hanging over navigable waters may be removed.

BE IT ENACTED *by the Governor, Council, and General Assembly of the said colony of New-Jersey, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for any person or persons whomsoever, to cut down and remove from the banks of any river or creek, within this colony, all such trunks and limbs of trees, and such like obstructions, which shall hang over or anyways interrupt the navigation of the same, so as such obstructions be removed with as little detriment to the owners of the lands where the same may happen, as the nature of the case will admit, for the benefit of the navigation.

An ACT

An ACT *to prevent persons prosecuted in the colony of New-York for trespasses committed on Sandy-Hook being again prosecuted in New-Jersey on the same.* A. D. 1762.

Passed the 25th of September, 1762.

Preamble.

WHEREAS by a law, passed in New-York this present year, the proprietor or proprietors of Sandy-Hook, for reasons therein set forth, are entitled, for ever hereafter, to bring his or their actions in any court or courts of law in that colony, for any trespass or trespasses, that shall be committed on any part of Sandy-Hook, by any person or persons whatsoever, inhabitants or residents of that colony, with this provision nevertheless, that said law shall not be in force till a law be passed here, providing, that such person or persons, who shall have been sued for the same trespass in any court of that colony, shall be exempt from prosecution here on the same trespasses ;

No person, sued in New-York for a trespass at Sandy-Hook, shall be sued for the same in New-Jersey.

BE IT THEREFORE ENACTED *by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same*, That every person or persons, inhabitants or residents of the colony of New-York, who shall be sued for any trespass done at Sandy-Hook, in any of the courts of that colony, shall be exempt from prosecution in the courts of New-Jersey for such trespasses as aforesaid.

An ACT *for the better and more effectual ascertaining the boundaries between the counties of Salem and Cumberland.*

Passed the 7th of December, 1763.

Preamble.

WHEREAS the lines of partition between the counties of Salem and Cumberland being unsettled, the board of justices and freeholders of each county, pursuant to a late act of assembly, did choose and appoint commissioners for that purpose, which said commissioners did meet, and, on running the said lines, found them in nowise to answer the expectation of either county ; and the said commissioners conceiving it not in their power to settle the said lines in such a manner as to be conclusive to both counties : therefore, to prevent any inconvenience that may happen for the future,

Boundary line between Salem and Cumberland.

BE IT ENACTED *by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same*, That the bounds between the counties of Salem and Cumberland shall be as followeth, videlicet, BEGINNING at the middle of the mouth of Stow-creek, and running up the middle of the same, opposite to the mills that formerly belonged to John Brick, Esquire ; then continuing still up the middle of Stow-creek branch, opposite to the house of Hugh Dunn ; then on a direct line to said Hugh Dunn's house, leaving said Dunn's house in Cumberland county ; and from said house on a straight line, north fifty-one degrees fifteen minutes east, ninety-four chains, to the house of Azel Peirson, formerly Nathan Shaw's, leaving said Peirson's house in Cumberland county ; from thence north-east, until it intersects the line of Pilesgrove township or precinct, in distance three hundred and five chains ; and thence along Pilesgrove line as was marked by the said commissioners, south forty-seven degrees east, until it intersects the middle of the watercourse of Prince Maurice's river, below the mouth of Muddyrun ; from thence up said river, bounding on the middle of the watercourse thereof, to the foot of Scotland branch ; then up said branch, bounding on the middle of the watercourse, to Gloucester line ; which said river, lines and creek as aforesaid, shall for ever hereafter be taken, deemed and esteemed the bounds of partition between the aforesaid counties of Salem and Cumberland ; any law or usage to the contrary thereof notwithstanding.

An ACT

A. D. 1767.

An ACT *to divide the town of Shrewsbury, and annex parts thereof to the towns of Freehold and Upperfreehold.*

Passed the 24th of June, 1767

Preamble.

WHEREAS a number of the inhabitants of the town of Shrewsbury, in the county of Monmouth, by their several petitions have set forth, that they have long labored under many and great difficulties, by reason of the large extent of the said town: for remedying whereof,

Bounds of Dover.

I. BE IT ENACTED *by the Governor, Council, and General Assembly of this colony, and it is hereby enacted by the authority of the same,* That all that part of the said town of Shrewsbury, BEGINNING at Cranberry inlet, and running thence up the bay to the mouth of Metetecunk river; thence up the said river to the first bridge, which now is over the said river; thence west until it shall intersect a line to be run, south eighteen degrees east, from the place where Burlington old path crosseth the north branch of Tom's river, called Pine-brook; thence, from the intersection of the said lines, south fifty-six degrees west to the old division line, called Keith's line; thence, along said Keith's line, to the line of the town of Stafford; thence along the same to the main sea or ocean; and thence bounded by the sea to the above mentioned beginning; shall be, and is hereby divided off from the said township of Shrewsbury, and made a separate town, to be called by the name of the town of Dover.

Addition to Freehold.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That all that part of the aforesaid township of Shrewsbury, BEGINNING at the mouth of Passaquanaqua brook, where it vents into Manasquan river; and from thence running south to the line of the before mentioned town of Dover; then west along the same line to the line of that part of the said town of Shrewsbury, annexed to the town of Upperfreehold; thence north eighteen degrees west, to where Burlington old path crosseth the north branch of Tom's river, alias, Pinebrook; thence easterly along the bounds of said Freehold to where it began; shall be and is hereby divided off from the said town of Shrewsbury, and annexed unto the town of Freehold, and for ever hereafter shall be accounted part thereof.

Addition to Upperfreehold.

IV. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That all that part of the town of Shrewsbury, BEGINNING where Burlington old path crosseth the before mentioned north branch of Tom's river; thence running south eighteen degrees east to the line of Dover aforesaid; thence south fifty-six degrees west, along said line of Dover to the before mentioned line called Keith's line; thence along the said line to the line of Upperfreehold; thence along the line of Upperfreehold to where it began; shall be, and is hereby divided off from the said town of Shrewsbury, and annexed unto the town of Upperfreehold, and for ever hereafter shall be accounted part thereof.

An ACT *to regulate the fishery within that part of the eastern division of this colony, from the mouth of Raritan river northward.*

Passed the 10th of May, 1768.

Preamble.

WHEREAS it is found that the fishing with nets with small meshes, and the stopping and sweeping of small rivers and creeks, where fish resort to spawn and breed, is very detrimental to the breeding and growth of fish in the eastern division of this colony; for prevention whereof,

Penalty on using nets with meshes, less than three inches long, in the eastern division.

I. BE IT ENACTED *by the Governor, Council, and General Assembly of this colony now met and convened, and it is hereby enacted by the authority of the same,* That, from and after the publication of this act, all and every person and persons whatsoever, who shall fasten, fix, set, or stop any net or nets, or other device or devices across, or in any of the small rivers or creeks or ponds within that part of the eastern division of this colony, from the mouth of Raritan river northward, to catch fish, or obstruct or hinder them from going up or down the same, or shall

at

at any time after one year, from the publication of this act, sweep with, draw, or set any net or nets to catch fish in any river, sound, bay or pond within the said eastern division, the meshes of which net shall be less than three inches long when extended, shall forfeit the net, seine, or such other device so to be made use of contrary to the true intent and meaning of this act, and shall pay the sum of forty shillings for every such offence; to be recovered by action of debt in any court where the same may be cognizable, with costs of suit, by any person who will sue for the same; to be applied, the one half thereof to the use of the poor of said town, division or precinct, where the same shall be recovered, and the other half thereof, together with the net or such other device as may be made use of as aforesaid, to the person or persons who shall sue for the same. A. D. 1771. Applications.

II. And be it further enacted *by the authority aforesaid*, That it shall and may be lawful for any person or persons, to take and seize any such net or nets, seine or seines, so set or used contrary to the intent and meaning of this act, from any place where found set, or from any person or persons using the same, and within three days to carry the same net or nets to any justice of the peace of the town, division or precinct where the same shall be taken; which said justice shall keep, or order the same to be safely kept for the space of twenty days; and, at the expiration of that time, if the owner or claimer doth not appear and fully prove by sufficient evidence to the satisfaction of the said justice, that the said net or nets was or were not set or used contrary to the true intent and meaning of this law, then the said justice shall give judgment, that the said net or nets, seine or seines, shall be delivered to the person or persons, who shall have seized or taken the same, as his or their property; but if the said claimer or claimers shall, within the said twenty days, make it appear to the satisfaction of the said justice, that the said net or nets was or were not set or used contrary to the true intent and meaning of this act, the said justice shall give judgment for the claimer or claimers, and order the said net or nets to be delivered to him or them again, with such costs and damages, as he shall think reasonable. Contraband nets to be seized.

III. Provided always, That nothing in this act contained shall extend to prevent fishing with nets, or any other devices they shall think fit, above the great falls of Passaick river. Not to restrain fishing above Passaick falls.

An ACT *for the preservation of deer and other game, and to prevent trespassing with guns.*

Passed the 21st of December, 1771.

Whereas the laws heretofore passed in this colony for the preservation of deer and other game, and to prevent trespassing with guns, traps and dogs, have, by experience, been found insufficient to answer the salutary purposes thereby intended; therefore, Preamble.

I. Be it enacted *by the Governor, Council, and General Assembly of this colony of New-Jersey, and it is hereby enacted by the authority of the same*, That if any person or persons shall presume, at any time after the publication hereof, to carry any gun on any lands not his own, and for which the owner pays taxes, or is in his lawful possession, unless he hath licence or permission in writing from the owner or owners, or legal possessor, every such person so offending, and convicted thereof, either upon the view of any justice of the peace within this colony, or by the oath or affirmation of one or more witnesses, before any justice of the peace of either of the counties, cities or towns-corporate of this colony, in which the offender or offenders may be taken or reside, he, she or they, shall, for every such offence, forfeit and pay to the owner of the soil, or his tenant in possession, the sum of forty shillings, with costs of suit; which forfeiture shall and may be sued for and recovered by the owner of the soil, or tenant in possession, before any justice of the peace in this colony, for the use of such owner or tenant in possession. No person to carry a gun on lands not his own, except, &c. Penalty.

II. And

A. D. 1771.

No person to drive deer, or other game, except, &c.

II. AND BE IT ENACTED *by the authority aforesaid*, That if any person shall presume, at any time after the publication of this act, to hunt or watch for deer with a gun, or set in any dog or dogs to drive deer, or any other game, on any lands not his own, and for which the owner or possessor pays taxes, or is in his lawful possession, unless he hath licence or permission in writing from such owner or owners or legal possessor; every such person so offending, and being convicted thereof in manner aforesaid, shall, for every such offence, forfeit and pay to the owner of the soil, or tenant in possession, the sum of forty shillings, with costs of suit; provided, that nothing herein contained shall be construed to extend, to prevent any person carrying a gun upon the highway in this colony.

Penalty.

Penalty on non residents.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if the person or persons offending against this act be non residents of this colony, he or they shall forfeit and pay for every such offence, five pounds, and shall forfeit his or their gun or guns to any person or persons, who shall inform and prosecute the same to effect, before any justice of the peace in any county of this colony, wherein the offender or offenders may be taken or apprehended.

Penalty for killing, &c. deer out of season.

IV. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons shall kill, destroy, hunt or take any doe, buck, fawn, or any sort of deer whatsoever, at any other time or season, except only between the first day of September and the first day of January yearly and every year, he, she, or they so offending, shall forfeit and pay the sum of forty shillings for each and every offence; to be sued for, recovered and applied as hereafter is directed.

What shall be evidence of such killing, &c.

V. AND, for the better and more effectual convicting of offenders against this act, BE IT ENACTED *by the authority aforesaid*, That any and every person or persons, in whose custody shall be found, or who shall expose to sale, any green deer-skins, or fresh venison, killed at any time after the first day of January, and before the first day of September aforesaid, and shall be thereof convicted by the oath or affirmation of one or more credible witnesses, shall be deemed guilty of offending against this act, and be subjected to the penalties of killing deer out of season.

Who may hunt on unimproved lands.

VI. AND WHEREAS great numbers of idle and disorderly persons make a practice of hunting on the waste and unimproved lands in this colony, whereby their families are neglected, and the public is prejudiced by the loss of their labor; BE IT THEREFORE ENACTED *by the authority aforesaid*, That, from and after the first day of January next, no person or persons whatsoever (except such persons as are by the laws of this colony qualified to vote for representatives in general assembly, in right of their freeholds, and their sons being of the age of eighteen years or upwards, and living with their parent or parents, or being freeholders) shall, on any pretence whatever, hunt on the waste and unimproved lands in this colony; and if any person or persons, not qualified as aforesaid, shall presume to hunt as aforesaid, he or they so offending, shall forfeit and pay, for every such offence, the sum of twenty shillings; to be recovered by action of debt, with costs, by any person, who shall sue for the same; to be applied, one half to the prosecutor, and the other half to the use of the poor of the township or precinct, where the fact was committed.

Penalty on offenders.

Penalty on setting traps &c.

VII. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons, within this colony, shall set any trap or other device whatsoever, larger than what is usually and commonly set for foxes and muskrats, such person, setting such trap or other device, shall pay the sum of five pounds, and forfeit the trap or other device, shall suffer three months imprisonment, and shall also be liable to make good all damages any person shall sustain by setting such trap or other device, and the owner of such trap or other device, or person to whom it was lent, shall be esteemed the setter thereof, unless it shall be proved, on oath or affirmation what other person set the same, or that such trap or other device was lost by said owner or person, to whom it was lent, and absolutely out of his power; and if the setter of the trap or other device be a slave, and it be his own voluntary act, he shall (unless the master or mistress shall pay the fine) in lieu of such fine, be publicly whipped with thirty lashes, and committed till the costs are paid; and that the said trap or other device shall be broken and destroyed

Penalty on a slave setting such trap, &c.

tl

the view and presence of the justice of the peace before whom they are brought: and if any person or persons shall have possession of, or there shall be found in his or their house, any trap or traps, device or devices whatsoever, for taking of deer, such person or persons shall be subjected to the same penalty, as if he or they were convicted of setting such trap or traps, or other device.

Penalty on keeping such trap, &c.

VIII. AND, for encouraging the destruction of such traps and devices, BE IT ENACTED *by the authority aforesaid*, That if any person shall seize any trap or other device for the taking deer, and shall carry such trap or other device to any magistrate of the county, where such trap or device was seized, such person shall be entitled to an order from the said magistrate to the collector of such county, to pay him the sum of ten shillings, out of any money in his hands raised for the use of the county; which sum, shall be allowed to such collector on the settlement of his accounts.

Reward for seizing a trap, &c.

IX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That every smith or other artificer, who shall hereafter make or mend any such trap or other device aforesaid, he shall forfeit and pay the sum of forty shillings; and the person, carrying such trap or other device to the artificer aforesaid, shall forfeit and pay the sum of twenty shillings. And every person, who shall bring into this colony any such trap or device as aforesaid, shall forfeit and pay the sum of forty shillings. And if the person, who shall carry the same to the smith or artificer, shall be so poor as that he shall not be able to pay the forfeiture aforesaid, he shall be committed to the common gaol, until he shall prove who is owner of such trap or device, or who delivered the same to him; and in such case the forfeiture aforesaid shall be levied on the goods, or, in failure of goods, on the body of the owner of such trap or device, or the person, who delivered the same to the pauper, and the trap or device shall be forfeited and destroyed.

Penalty on a smith making or mending such trap.

Penalty on bringing such trap, &c. into the colony.

X. AND WHEREAS a most dangerous method of setting guns has too much prevailed in this province, BE IT ENACTED *by the authority aforesaid*, That if any person or persons, within this colony, shall presume to set any loaded gun in such manner, as that the same shall be intended to go off or discharge itself, or be discharged by any string, rope or other contrivance, such person or persons shall forfeit and pay the sum of six pounds; and, on non payment thereof, shall be committed to the common gaol of the county, for six months.

Penalty for setting loaded guns.

XI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the fines and forfeitures in this act expressed, and not particularly appropriated, shall be paid, one half to the prosecutor, and the other half to and for the use of the poor of the town, precinct or district, where the offence is committed; and that the execution of this act, and every part thereof, shall be within the cognizance and jurisdiction of any one magistrate or justice of the peace, without any reference to the act for trial of small causes in this colony.

Application of penalties.

Jurisdiction given to one magistrate.

XII. AND BE IT ENACTED, That nothing in this law shall be construed to extend to restrain the owners of parks, or of tame deer, from killing, hunting or driving their own deer.

This act not to affect parks.

XIII. AND BE IT ALSO ENACTED *by the authority aforesaid*, That if any justice of the peace or other magistrate, within this province, shall have information of any persons offending against this act, in killing deer out of season, setting and making traps, non-residents killing deer, and persons setting of guns, and shall not prosecute the same to effect within two months after such information, he shall forfeit and pay the sum or sums, to which the offender against this act would have been liable.

Penalty on magistrate neglecting his duty.

XIV. AND BE IT ENACTED *by the authority aforesaid*, That the justices, at every quarter-sessions of the peace, shall cause this act to be publicly read; and give in charge to the grand-jury, to particularly inquire and present all persons for killing deer out of season, setting or making traps, and all non-residents killing, destroying, hunting and taking any sort of deer, and all persons setting of guns; and, upon conviction for either of the said offences, the said justices shall set and impose the fines and penalties herein before mentioned, with costs of suit.

This act to be published executed.

A. D. 1772.

Penalty for watching in the night near a road.

XVI. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons, within this colony, shall, after the publication of this act, watch with a gun, on any uninclosed land within two hundred yards of any road or path, in the night time, whether the said road is laid out by law or not, or shall stand or station him or themselves upon or within two hundred yards of any road as aforesaid, for shooting at deer driven by dogs, he or they so offending, shall, on conviction, forfeit and pay the sum of five pounds for every such offence; to be recovered by action of debt, or presentment of the grand jury as aforesaid, and pay all damages.

Not to affect Indians, nor Essex, Bergen, Morris or Sussex.

XVII. PROVIDED ALWAYS, That the sixth section of this act, shall not be construed to affect any native Indian; and that nothing in this act shall be construed to prevent the inhabitants of Essex, Bergen, Morris and Sussex, from making, having in their houses, or setting traps of five pounds weight or more, for bears, wolves, foxes, or any other wild beasts, deer only excepted.

Repeal of former laws.

XVIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all former laws made in this colony for the preservation of deer and other game, and to prevent trespassing with guns, and regulating the size of traps, shall be, and they are hereby repealed.

An ACT *for establishing the boundary or partition line between the colonies of New-York and Nova-Cæsarea or New-Jersey, and for confirming the titles and possessions.*

Passed the 26th of September, 1772.

Preamble.

WHEREAS the boundary or partition line between the colonies of New-York and Nova-Cæsarea or New-Jersey, from the station on Hudson's river to the station on Delaware river, not being duly ascertained, and the extent of their respective jurisdictions remaining uncertain, and the due and regular administration of government in both colonies being by that means greatly obstructed, the respective legislatures of both the said colonies did, by acts for that purpose passed, concur in submitting the title and property of the lands, affected by the said boundary or partition line in both colonies, to such a method of decision as his most gracious Majesty should think proper, by his royal commission or otherwise to institute and appoint; of which acts his Majesty was pleased to declare his approbation, and, by his royal commission under the great seal of Great-Britain, bearing date the seventh day of October, in the seventh year of his reign, did authorize and appoint certain persons therein named, or any five of them, to be his Majesty's commissioners for ascertaining, settling, and determining the boundary aforesaid, between the said colonies. AND WHEREAS a sufficient number of the commissioners, named in the said commission, on the seventh day of October, in the year of our Lord, one thousand, seven hundred and sixty nine, did determine, that the boundary or partition line between the said colonies of New-York and New-Jersey should be a direct and straight line from the fork or branch, formed by the junction of the stream or waters called the Machackamack with the river called Delaware or Fishkill, in the latitude of forty one degrees, twenty one minutes, and thirty seven seconds, as found by the surveyors appointed by the said commissioners, to a rock on the west side of Hudson's river, marked by the said surveyors, in the latitude of forty one degrees, being seventy nine chains and twenty seven links to the southward on a meridian from Sneydon's house, formerly Corbet's, from which determination the agents for both said colonies appealed to his Majesty in his privy council. AND WHEREAS several tracts of land to the northward of the said partition line, so decreed by the said commissioners, have been heretofore taken up or sold, and hitherto and still are held and possessed by virtue of titles derived from and under the government of New-Jersey, or the general proprietors of the same, or some or one of them, to wit, one tract of land on the sixth day of November, one thousand seven hundred and eighteen, surveyed, and afterwards returned for John Docker for one thousand acres, with the usual allowance for highways; another tract on the eleventh day of October, one thousand seven hundred and eleven, surveyed, and afterwards returned for William Tidsworth for three hundred and fifty acres, with the usual allowance for highways; another tract on the twenty ninth day of July,

A. D. 1772.

July, one thousand seven hundred and thirty one, surveyed, and afterwards returned for Samuel Green for seven hundred and eighty three acres, with the usual allowance for highways; and two other tracts of land mentioned to contain together five hundred acres, besides the usual allowance for highways, surveyed and returned for Johannes Westphalia, Claus Westphalia, Simon Westphalia, Tunis Quick, Remora Quick, and Cornelius Doutcher, only about one hundred acres of which last mentioned two tracts are now held and possessed by virtue of the said survey, the remainder thereof being now held and possessed by persons claiming under the colony of New-York; another tract of land at the north-east end of the long pond, surveyed and returned for or at the request of Peter Schuyler, containing four hundred and two acres, and forty nine hundredths of an acre, strict measure, which, after allowance for highways, was to remain for three hundred and eighty three acres, and thirty two hundredths of an acre; and also another small tract of land surveyed the twelfth day of July, one thousand seven hundred and sixty three, for John and Gertrude Schuyler, situate adjoining the tract last above mentioned, and containing thirteen acres, and fifty nine hundredths of an acre; several other tracts of land sold and conveyed by the devisees of James and Mary Alexander to sundry persons, on the thirteenth day of December, one thousand seven hundred and sixty two, to wit, to Elijah Inman one hundred and one acres, and seven hundredth parts of an acre; to Hannah Forguson one hundred and twenty three acres, and fifty one hundredth parts of an acre; to George Kimber one hundred and sixty one acres, and seventy four hundredth parts of an acre; to Hezekiah Lorin ninety seven acres, and fourteen hundredth parts of an acre; to Inman Wallin sixty six acres, and ninety three hundredth parts of an acre; to Benjamin Van Vleet one hundred and four acres, and thirty five hundredth parts of an acre; to Bryant Hammell one hundred and thirty five acres; to James Clark one hundred and four acres, and fifty six hundredth parts of an acre; to Jacobus Rosecrans one hundred and seventy three acres and thirty five hundredth parts of an acre; to Johannes Westbrook one hundred acres; to John Davis one hundred and fifty two acres; to Jacob Middagh two hundred and thirteen acres, and seventy six hundredth parts of an acre; and to Josias Cole one hundred acres; and another tract of fifty acres sold and conveyed by Andrew Johnston to George Kember, on the eighth day of August, one thousand seven hundred and fifty nine, a part of which lays to the southward of the said partition line; another tract of eighty seven acres, and fifty six hundredth parts of an acre, sold and conveyed by Benjamin Thompson to Johannes Westbrook, on the fourth day of May, one thousand seven hundred and sixty three; two other tracts of land sold and conveyed by James Alexander, William Burnet, and James Parker, to Richard Gardiner, on the thirtieth day of March, one thousand seven hundred and fifty three, the one tract containing one hundred and seventy acres, and the other, eight acres; another tract of forty acres, and sixty three hundredth parts of an acre, sold and conveyed by the devisees of James and Mary Alexander to the said Richard Gardiner, on the third day of January, one thousand seven hundred and sixty three; and another tract of one hundred and seventy three acres sold and conveyed by the said devisees of the said James and Mary Alexander to Joseph Barton, on the sixteenth day of December, one thousand seven hundred and sixty two, part whereof lies to the southward of the said partition line; another piece of land containing about one acre, sold and conveyed by David Ackerman to Jacobus Van Buskirk, on the twelfth day of February, one thousand seven hundred and sixty two: and also several other tracts of land purchased, surveyed and located, for the proprietors of the Stirling iron works, to wit, one tract containg fifty acres, surveyed the tenth day of November, one thousand seven hundred and thirty six, to Cornelius Board and Timothy Ward; six small tracts containing in the whole twenty seven acres and seventy two hundredths of an acre, surveyed the twelfth day of February, one thousand seven hundred and thirty eight, to the said Board and Ward; six other tracts of land containing in the whole three hundred and seventy one acres, and fifty three hundredths of an acre, surveyed the twenty third day of July, one thousand seven hundred and forty, to Timothy Ward, William Smith, and company; and another tract of ten acres and eight tenths of an acre, surveyed, the twenty ninth day of November, one thousand seven hundred and fifty seven, to William Hawkhurst; three other tracts containing in the whole one hundred and thirty one acres and twenty five hundredths of an acre, surveyed to James Burling the seventh day of May, one thousand seven hundred and fifty; and another tract containing ten acres and twenty nine hundredths of

A. D. 1772.

of an acre, surveyed to William Hawkhurst the twentieth day of July, one thousand seven hundred and sixty one; one other tract of land sold and conveyed by John Barberie and Peter Fauconier, to John Sobrisco, on the sixth day of November, one thousand seven hundred and twent yfour, containing six hundred and thirty acres; one other tract of land sold and conveyed by Magdalane Valleau, to Coenradt Wanamaker, on the twenty third day of May, one thousand seven hundred and fifty three, containing one hundred and and five acres; one other tract of land sold and coveyed by Richard Gardiner, to Elijah Reeve, on the eighth day of June, one thousand seven hundred and sixty two, containing one hundred and twenty seven acres and forty eight hundredths of an acre; also three other tracts of land surveyed the thirteenth day of April, one thousand seven hundred and sixty eight, to William Hawkhurst, containing one hundred acres and ninety eight hundredths of an acre, strict measure, after the usual allowance for highways. AND WHEREAS several other tracts of land to the southward of the said partition line, so decreed by the said commissioners, have been heretofore patented, and hitherto and still are held and possessed by virtue of titles derived under the government of New-York, to wit, sundry tracts of land included in the following bounds, beginning at the aforesaid rock on the west side of Hudson's river, in the latitude of forty one degrees, and runs from thence southerly along Hudson's river, to the south-east corner of the land now in the possession of Mattys Bogert; and from thence westerly along the south side of the said Mattys Bogert's land, and along the lines of the lands now in the possession of Isaac Westervelt, and Garret Westervelt to the Tiene kill; and then along the said kill to the Dwars kill; and from thence along the said Dwars kill to Demarest's kill, on Hackinsack river; and from thence along the said river to the mouth of Pascack river; and then along the said Pascack river till it comes to the lands of David Demarest, wheron the said David Demarest's mill stands; and then westerly around his lands, and including the same to the said Pascack river; and then along the said Pascack river to the said partition line decreed as aforesaid; and then along the said partition line to the place of beginning; and another tract of land sold and conveyed by Benjamin Ask, and Lancaster Symes, to Thomas De Kay, containing one thousand three hundred and twenty acres, part of which lies to the northward of the said partition line; and two other tracts of land sold and conveyed by Hendrick Vanderlinda, to Frederick Ortendike, by deed bearing date the thirtieth day of May, one thousand seven hundred and thirty five, the one containing two hundred and eighty five acres, and the other containing one hundred and eighty acres; and another tract of land sold by Abraham Van Horne, and Catherine his wife, to John Fasheur and Cornelius Haring, by deed bearing date the twenty second day of May, one thousand seven hundred and fifty two, containing one hundred and eighty five acres, be the same more or less; and another tract of land sold and conveyed by Samuel Verbryck, and Susannah his wife, to John Fasheur, by deed bearing date the nineteenth day of May, one thousand seven hundred and fifty nine, containing two hundred and sixty five acres, and three fourths of an acre, good measure, part whereof lies to the northward of said partition line; and another tract of land sold and conveyed by Benjamin Van De Linde, to William Haldron, by deed bearing date the eighteenth day of December, one thousand seven hundred and sixty, containing two hundred and fifty eight acres; and another tract of land, being the remainder of the unsold lands of so much in Samuel Bayard's patent, as is contained in a deed from Hendrick Van De Linde to Roelof Van De Linde, Benjamin Van De Linde and Samuel Verbryck, bearing date the thirtieth day of June, one thousand seven hundred and sixty; and another tract of land sold and conveyed by Robert Campbell, to Andries Pieterson, by deed bearing date the twenty first day of August, one thousand seven hundred and sixty two, containing one hundred and fifty acres; and another tract of land sold and conveyed by Henry Van De Linde and Ariaentie his wife, to Abraham Post, by deed bearing date the twelfth day of January, one thousand seven hundred and sixty, containing one hundred and fifty acres; and another tract of land sold and conveyed by Benjamin Van De Linde, to Garret Ackerson and Gerret Haring, by deed bearing date the fourth day of May, one thousand seven hundred and fifty nine, containing three hundred and forty eight acres; and also a piece of land, now in the possession of William Byard, Esquire, being a part of a tract of land, formerly granted by letters patent, under the great seal of the province of New-York, to Daniel Honan and Michael Hawden, lying adjoining to the south side of the said partition line, and bounded to the south-east by the land in possession of John Fasheur, and to the

the south-west, by the land in possession of William Haldron. AND WHEREAS it is conceived just and equitable, that the present possessors of the said lands, on each side of the said partition line, who have not only purchased the same for a valuable consideration, but many of them have laid out all their substance in the improvement thereof, should be secured in the enjoyment of the fruits of their labor and industry. A. D. 1772.

I. BE IT THEREFORE ENACTED *by his excellency the Governor, the Council, and the General Assembly, and it is hereby enacted by the authority of the same*, That the said partition line, so decreed by the said commissioners, is and shall for ever hereafter remain, and be the boundary and line of partition between this colony and the colony of New-York. Partition line.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That James Parker, John Stevens, and Walter Rutherford, Esquires, or any two of them, shall be, and hereby are appointed commissioners to join with such as are appointed on the part of the colony of New-York, to ascertain and mark the said partition line, so that it may be sufficiently known and distinguished; and the said commissioners are hereby directed and required, to mark the beforementioned rock, on the west side of Hudson's river, marked by the surveyors in the latitude of 41 degrees, with a straight line throughout its surface, passing through the place marked by the surveyors, and with the following words and figures, to wit, "latitude 41 degrees north," and on the south side thereof, the words "New-Jersey", and on the north side thereof, the words, "New-York;" and to mark every tree that may stand in the said line, with five notches and a blaze, on the north-west and south-east sides thereof; and to put up stone monuments at one mile distance from each other along the said line, and to number such monuments with the number of miles, the same shall be from the beforementioned marked rock, on the west side of Hudson's river, and mark the words "New-Jersey" on the south side, and the words "New-York" on the north side of every of the said monuments. Who to ascertain the line, and how.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the several and respective patentees, vendees, possessors and claimants, of all and every the said tracts of land to the southward of the said boundary or partition line, which are now held and possessed, in virtue of titles derived under the government of New-York, as above described, and their heirs and assigns, shall severally hold, and for ever enjoy the property of all, and any and every of the said tracts of land, so as aforesaid respectively purchased and possessed, as fully, and in the same manner, to all intents and purposes whatsoever, as if the same had, by virtue of this act, been determined to be within the colony of New-York, without any let, suit, disturbance or molestation of the general proprietors of New-Jersey, or any of them, or any person or persons claiming or to claim, by, from or under the said general proprietors, or any or either of them, or by virtue of any title derived under the said government of New-Jersey. Titles of patentees, &c. under New-York to the southward of the line, confirmed.

IV. PROVIDED ALWAYS, AND BE IT FURTHR ENACTDD *by the authority aforesaid*, That it shall and may be lawful to, and for any person or persons claiming titles under the said government of New-York, to any of the aforesaid lands or tenements, hereby intended to be secured to the purchasers and possessors under the said government of New-York, to the southward of the said boundary or partition line, to commence, sue, prosecute and maintain any writ, suit or action, for the recovery of their rights; this act being only designed to confirm the titles to such lands, lying to the southward of the said partition line, as are in manner aforesaid, actually held and possessed under the government of New-York, against all claims under the general proprietors or government of New-Jersey, but not to determine the particular rights of the claimants of such lands under the government of New-York. This act not to divest any right under New-York.

V. PROVIDED ALWAYS, That this act shall not be in force, or take effect, until his Majesty shall have given his royal assent, both to this act and a similar act passed by the governor or commander in chief, the council, and the general assembly of the colony of New-York, the sixteenth day of February, in the eleventh Royal assent to be had.

A. D. 1772. venth year of his present Majesty's reign, entitled, "An act for establishing the boundary or partition line between the colonies of New-York and Nova Cæsarea, or New-Jersey, and for confirming titles and possessions."

Confirmed by the King in council, the first day of September, 1773.

An ACT *to enable all persons who are his Majesty's liege subjects, either by birth or naturalization, to inherit and hold real estates, notwithstanding any defect of purchases made before naturalization within this colony.*

Passed the 26th of September, 1772.

Preamble. WHEREAS divers foreign protestants, born without the liegeance of the crown of Great-Britain, are settled within this colony, who, being unacquainted with the laws and customs thereof, have purchased real estates within the same before they were naturalized; and such estates are now held and claimed under such purchases by his Majesty's natural born subjects, or such as are naturalized; and as the greater number of these are poor persons, who will be utterly ruined if advantage is taken of the alienism of such purchaser; in tender commisseration of all persons holding or claiming by such defective title, and confiding in his Majesty's great bounty, the general assembly humbly prays, that it may be enacted,

Titles under aliens not to be defeated. I. AND BE IT ENACTED *by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same,* That the title and claim of every inhabitant of this colony, who is now his Majesty's natural born subject, under any patent or purchase of lands, tenements, and real estate, granted to, or made by an alien at any time inhabiting in this colony, on, or before the publication hereof, shall not be defeated merely upon the pretence of alienism in the grantee or purchaser, or any person holding as by descent or otherwise, since such grant or purchase, but that such title shall be adjudged to be good, the plea or pretence of alienism in such case notwithstanding.

Not extendible to titles vested in the crown. II. PROVIDED ALWAYS, That nothing herein contained shall be construed to extend to any lands or tenements heretofore vested in the crown by office found, or which, after such finding, have been regranted to any of his Majesty's natural born subjects; nor shall this act be in force until the same shall be approved of by his Majesty.

Suspending clause.

Confirmed by the King in council, the first day of September, 1773.

An ACT *for the settlement and relief of the poor.*

Passed the 11th of March, 1774.

Preamble. WHEREAS the present law of this colony for the settlement and relief of the poor, and for the removal of vagrants and other disorderly persons, hath, by experience, been found not to be attended with the good effects designed by the legislature, nor hath sufficiently pointed out the manner to obtain a settlement; for the better ascertaining what shall gain a settlement, and for the more effectually providing for the purposes aforesaid,

Terms of gaining a settlement. I. BE IT ENACTED *by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same,* That every person, who shall become seized of any freehold estate of the value of fifty pounds in any city, town-corporate, township or precinct, and shall dwell upon the said estate, or in the city, town-corporate, township or precinct, in which such estate doth lie, for one full year, shall thereby obtain a legal settlement in such city, town-corporate, township or precinct; and every person, who shall have served an apprenticeship under indenture, and every indented servant legally and directly imported from Europe, or brought in from the neighboring colonies into this province, shall obtain a legal settlement in

in the city, borough, township or precinct, in which such apprentice or servant shall first serve with his or her master or mistress, for the space of one full year; and if afterwards such apprentice or servant shall duly serve in any other place for the space of one full year, such apprentice or servant shall obtain a legal settlement in the city, borough, township or precinct, where such apprenticeship or service was last performed, either with his or her first master or mistress, or with the assignee or assignees on an assignment of the said indentures; and that all mariners coming into this province, and having no settlement in this nor any of the neighboring colonies, and every other healthy person directly coming from Europe into this province, shall be legally settled in the city, borough, township or precinct, in which he or she shall first settle and reside for the space of one year. A. D. 1741.

No persons, except such as are mentioned in the preceding section, to gain settlements, without notice in writing to the overseers.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That, from and after the publication of this act, no person or persons whatsoever, other than those herein before mentioned, coming into any city, town-corporate, township or precinct within this colony, shall be esteemed or deemed to have obtained a legal settlement in the same, unless such person or persons, within forty days after his, her or their coming into such city, town-corporate, township or precinct, shall give notice in writing to the overseers of the poor of the city, town-corporate, township or precinct, into which he, she or they shall come to reside, of the house and place, where he, she or they do live or abide, and the number of his or her family, if any he or she hath; a copy of which said notice shall be endorsed by the said overseer, acknowledging his receipt thereof, and delivered by the person or persons serving the same on the said overseer as aforesaid, to the town-clerk of the city, town-corporate, township or precinct, in which he, she or they shall come to reside as aforesaid; which said town-clerk shall enter the same with the endorsement thereon as aforesaid, in the town-book by him kept, and return the original to the person or persons so giving notice as aforesaid, for which service, the said clerk shall be entitled to receive the sum of one shilling, and no more, from the person so giving notice as aforesaid; and in case the said overseer of the poor shall not, within twelve months after such notice, cause such person or persons to be removed by warrant under the hand and seal of at least one magistrate of the county, city, town-corporate, township or precinct, into which they shall so come to reside, that then, and in such case, such person or persons so giving notice, and entering the same in the town-clerk's books as aforesaid, shall be deemed, esteemed, and taken to be legally settled in such city, town-corporate, township or precinct, to all intents, purposes and constructions whatsoever.

Servants procured from gaols, &c. deemed a settlement.

III. AND WHEREAS servants are purchased, hired or otherwise procured from the gaols, hospitals and workhouses of the neighboring colonies, and inconveniencies have arisen therefrom, *Be it enacted by the authority aforesaid*, That no servant or servants, bought, hired or otherwise procured from the gaols, hospitals and workhouses of the neighboring colonies, shall gain any settlement in this colony, by virtue of his or her being bought or hired as aforesaid, or otherwise assigned to any person or persons inhabiting in this colony, any thing herein before to the contrary notwithstanding.

Bastard children where settled.

IV. AND WHEREAS single women with child often remove from the places of their settlement, and are delivered of bastard children in distant cities, townships or precincts, whereby such cities, townships or precincts are unjustly liable to, and often made chargeable with, the support of such bastard children, *Be it therefore enacted by the authority aforesaid*, That all bastard children shall hereafter be deemed, esteemed and taken to be settled in the place of the last legal settlement of the mother of such bastard child or children, any law, usage or custom to the contrary notwithstanding.

Penalty on inhabitants entertaining persons not settled.

V. AND, for the more effectual preventing any rogues, vagabonds, vagrants, sturdy beggars, and other idle, strolling, disorderly person or persons concealing him, her, or themselves within any city, town-corporate, township or precinct within this colony, *Be it further enacted by the authority aforesaid*, That if any housekeeper or inhabitant of this colony, shall, after publication of this act, take into, receive or entertain in his, her or their dwelling place or places of abode, house or houses, any person or persons whatsoever, who have not gained a legal settlement in some city, town-corporate, township or precinct within this colony; and shall not give notice in writing within the space of ten days, next after his her

A. D. 1774.

her or their taking in, receiving or entertaining any such person or persons as aforesaid, to the overseers of the poor of every such city, town-corporate, township or precinct, where such person dwelleth; every such inhabitant or housekeeper, being thereof legally convicted by the oath or affirmation of one credible witness, before any one justice of the peace of the county, city or town-corporate, where such offence shall be committed, shall forfeit and pay the sum of twenty shillings for every such offence, the one moiety or half part thereof to be applied to the use of the poor of the said city, town-corporate, township or precinct, and the other moiety to the use of the informer, or person who shall prosecute the same to effect, to be recovered in the usual manner, by process and execution, as actions of debt before justices of the peace in this colony, are made cognizable and recoverable: and in case the person or persons, so entertained as aforesaid, shall become poor, and unable to maintain him, her or themselves, and cannot be removed to the place or places of his, her or their last legal settlement, or shall happen to die and not leave wherewithal to defray the charge of his or her funeral, then and in such case, the inhabitant or housekeeper, convicted as aforesaid, of entertaining such poor person or persons, shall be obliged to provide for, and maintain such poor and indigent person and persons, and to pay for the charges of such poor person's funeral; and, upon refusal so to do, it may and shall be lawful for any one justice of the peace, together with any two or more of the overseers of the poor of every such county, city, town-corporte, township or precinct, where the said offence shall be committed, and they are hereby required to assess such sum or sums of money on the person and persons so convicted as aforesaid, by a weekly assessment, from time to time, as shall be sufficient for the maintenance of such poor indigent person or persons, according to the usual allowance made for the relief of the poor; and also to assess, in like manner, a certain sum for defraying the charges of every such poor person's funeral as aforesaid; and in case the party, so convicted as aforesaid, shall neglect or refuse to pay the sum and sums of money so assessed, or charged as aforesaid, to the overseers of the poor, for the uses aforesaid, the same shall be levied upon the goods and chattels of the offender by warrant of distress, to be issued by one of the justices of the peace of said county, city or town-corporate, directed to one of the constables of said county, city or town-corporate, who shall, as near as may be, make sale of so much of his or her said goods and chattels, as shall be sufficient to pay the said sum and sums of money so assessed; and the overplus, if any be, after all legal costs and fees are deducted, shall be returned to the owner: and if such person, so convicted as aforesaid, hath no goods and chattels to satisfy, and pay the money so assessed for him or her to pay, then, and in such case, it may and shall be lawful for such justice of the peace, and he is hereby required to commit such offender to prison, there to remain without bail or mainprize, until he or she have paid the same, or until he or she shall be discharged by due order of law.

VI. AND WHEREAS it is found by experience, that many poor persons belonging to this colony cannot find employment in the city, town-corporate, township or precinct, where they are legally settled, yet might get work for themselves and families in other places within the said colony, but not being able to give security, if required, upon their coming to settle in any other place, that they and their families shall not become chargeable and burdensome to such place or places within the said colony, where they intend to remove, and for want of such security, may be confined to their own legal place of settlement, though their labor may be wanted elsewhere; for removing every such inconveniency, *Be it enacted by the authority aforesaid*, That if any person or persons shall think proper to remove out of any one city, town-corporate, township or precinct within this colony, into another, there to inhabit and reside, and shall at the same time procure, bring and deliver to the overseers of the poor of every such city, town-corporate, township or precinct, where he, she or they, shall so come to inhabit, a certificate under the hands and seals of the overseers of the poor, or any two of them, of his, her, or their last legal settlement, attested by two or more credible witnesses, and allowed of and subscribed by two or more justices of the peace of the city or town-corporate, or of the county wherein the township or precinct doth lie, from which he, she or they shall remove as aforesaid, thereby acknowledging the person or persons therein mentioned to be an inhabitant and inhabitants legally settled in such city, town-corporate, township or precinct mentioned in such certificate as aforesaid, then and in such case it shall and may be lawful for every such person and

Persons bringing certificates may reside.

and persons, with their families, upon the delivery of such certificate as aforesaid, to continue, abide and remain in any such city, town-corporate, township or precinct, to which he, she or they shall remove as aforesaid, and to follow any honest employment within the same, he, she or they conforming to the laws and custom of any such place and places, to which they shall so remove; and the overseers of the poor shall deliver every such certificate to the clerk of the city, town-corporate, township or precinct, to which any such person shall come to reside as aforesaid; and the said clerk is hereby required and commanded to file and take care of every such certificate.

Certificate to be filed.

VII. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED *by the authority aforesaid*, That whenever it shall happen, that the said person or persons, with their families, so removing, by virtue of the certificate or certificates aforesaid, shall become chargeable, or be obliged, by sickness or otherwise, to ask relief of the city, town-corporate, township or precinct, to which such certificate was given, and into which he, she or they were received as aforesaid, that then and not before, it shall and may be lawful for the overseers of the poor of the last mentioned place and places, to remove and convey all and every such person or persons, with all and every of their family and families and children, though born within the last mentioned place and places, together with his, her or their servants and apprentices, to the city, town-corporate, township or precinct, from which such certificate was brought as aforesaid, who are hereby required and obliged to receive and provide for every such person and persons, with his, her or their family and families as aforesaid, as inhabitants of that place. *Provided nevertheless*, That every such servant and apprentice, who shall have duly served his apprenticeship and servitude in the said city, town-corporate, township or precinct, in which his master or mistress shall have so settled by certificate as aforesaid, and who shall thereby have gained a legal settlement in such place agreeable and according to the laws of this colony, shall not be liable to be removed as aforesaid.

Persons, under certificates, becoming chargeable, may be removed.

Servant and apprentice gaining a settlement under the certificate, not to be removed.

VIII. PROVIDED ALSO, That the afore mentioned clauses, relating to the obtaining temporary settlements by certificates, shall not be deemed or construed to extend to any person or persons, who have not already obtained, or shall not hereafter obtain, a legal settlement or settlements in some part of this colony; and also that no person or persons, who shall be required to bring such certificate or certificates as aforesaid, shall be deemed or esteemed by any act or acts of him, her or them, to have gained a legal settlement in any city, town-corporate, township or precinct, during the time he, she or they shall reside there, by virtue of the said certificate or certificates.

Above clauses relative to certificates, to extend only to persons settled in this province.

IX. AND WHEREAS it often happens that persons, having a residence in a township, city, or precinct, in this colony, come out of the places of their legal residence, into other parts of this colony, and there become sick, lame, or otherwise so infirm, that they cannot be removed, and many times die before they can be legally sent back, whereby the inhabitants of such places, where such persons become sick, lame, or die, are put to charges and expences in the maintenance or burying such persons: AND WHEREAS it is highly just and reasonable that such charges and expences should be repaid; *Be it therefore enacted by the authority aforesaid*, That if any person or persons shall come out of any of the place or places, where they are legally settled, into any city, town-corporate, township or precinct within this colony, and shall happen to be taken sick or lame, so that they cannot be conveniently moved back to the place of their last legal settlement, then the overseers of that place, into which such person or persons shall so come as aforesaid, or one of them, shall give notice to the overseers of the city, town-corporate, township or precinct, or one of them, out of which such person or persons shall so come as aforesaid, of the name, circumstances and condition of such person or persons, and request such overseers, or one of them, to take care to relieve and maintain such sick or lame person during his or her illness, and also to provide for the funeral of such person, if he or she should happen to die; and if such overseer or overseers shall neglect or refuse so to do, upon such notice given as aforesaid, that then and in such case it shall be lawful for any two justices of the peace of the county, city or town-corporate, where such person had last gained a legal settlement, and they are hereby authorized and required, upon complaint made to them, to cause all such sum and sums of money as shall be necessarily expended in the maintenance of such poor person in his or her sickness or lame-

Who to pay the expence of persons becoming infirm, or dying out of their townships.

A. D. 1774.

ness, or on his or her funeral, by warrant under their hands and seals, to be di rected to some constable of the said county, city or town-corporate, to be levied in the usual manner, by distress and sale of the goods and chattels of the said overseer or overseers of the poor, so neglecting or refusing to take care and provide for any such person as aforesaid, after such notice given to them, or to one of them, as aforesaid; and such sum or sums of money, so recovered, shall be paid to the overseers of the poor, or to one of them, of such city, town-corporate, township or precinct, where such person shall happen to be sick, lame or die as aforesaid; and the overplus of the money arising by the sale of such goods and chattels, after the lawful costs and charges are deducted, if any be, shall be paid to the owners.

Mode of granting relief.

XI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That when, and so often as any poor person, belonging to any city, town-corporate, township or precinct within this colony, shall apply for relief to any overseer or overseers of such place, where he or she may reside, that the said overseer or overseers shall make application to a justice of the peace of any such city or town-corporate, or to a justice of the county, to which any such township or precinct shall belong, which said justice and the overseer or overseers shall inquire into the state and circumstances of such person so applying as aforesaid; and if it shall appear to said justice, that such person is in such poor circumstances as to deserve relief, then the said justice shall give an order in writing to the said overseer or overseers, to make such allowance weekly or otherwise, to every such poor person, as they in their discretion shall think his or her necessities may or shall require; and the said overseer or overseers shall make no other or further allowance to such poor persons than what by the said order shall be directed; which said order shall be a sufficient voucher for the payment or expending of so much money by the said overseer or overseers, and shall be allowed in adjusting his or their accounts.

XII. AND WHEREAS many inconveniencies may arise, especially in places where the inhabitants are numerous, and the cities, towns-corporate, townships or precincts are large and extensive, by reason of the unlimited power of overseers of the poor, who may frequently, upon frivolous pretences, and for their own private ends, grant relief to what persons they think fit, and may continue the same longer than there may be a real occasion for granting such relief, by which means the rates for the poor may be greatly augmented, contrary to the true intent and meaning of this act; for remedying of which abuses, *Be it further enacted by the authority aforesaid*, That from and after the publication of this act, as soon as conveniently may be, the overseer and overseers of the poor shall procure, at the public charge, a handsome folio book of good paper and well bound, wherein the name and names of all poor persons applying for relief, and being ordered the same as aforesaid, shall be registered with the day and year when they were first admitted to have relief, the weekly or other sum or sums of money allowed by the said order for their relief, and the occasion which brought them under that necessity; and no person or persons shall be entered into the poor's books, or receive relief from the overseer or overseers of the poor, without such order procured as aforesaid; and in case any overseer or overseers shall enter into the poor's books, and relieve any such poor person, or persons without such order, he or they shall forfeit all such money and goods, paid and distributed to such poor person or persons, nor shall any allowance be made unto him or them for the same, in passing his or their account and accounts; and the said overseer and overseers, are hereby ordered and required to enter, or cause to be entered in the said poor's books, all monies received, laid out and disbursed by him or them for the use of the poor, and also all matters and things which shall be transacted by him or them, relating to their said office; and the said overseer and overseers, shall lay the said poor's books before the inhabitants at their annual town-meeting, or any other of their meetings, that they may then examine and look into the state of the poor accounts, and make such further provision for them as they, upon such inspection, shall find necessary.

Overseers to keep a book and make fair entries.

Goods of the paupers to be inventoried and sold.

XV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That when any poor person or persons shall apply for relief from any city, town-corporate, township or precinct within this colony, the overseer or overseers of the same shall take an inventory of every such poor person, or person's goods and chattels be-

fore

fore he, she, or they shall be admitted to relief; and in case of the death of any such poor person so obtaining relief as aforesaid, the said overseer or overseers shall cause such goods and chattels to be sold at public vendue; and, out of the money arising therefrom, shall reimburse the city, town-corporate, township or precinct, all such charges and expences, which they may have been put to in maintaining all and every such poor person or persons, or their families; and all sales and bills of sale, made or given for any such poor person, or person's goods and chattels, during the time they shall become chargeable to any such city, town-corporate, township or precinct, are hereby declared to be null and void, and of none effect.

Badge to be worn by persons relieved.

XVI. AND, to the end that the money raised for the relief of such as are impotent poor, may not be misapplied and bestowed upon idle, sturdy, disorderly beggars, *Be it further enacted by the authority aforesaid*, That, from and after the publication of this act, all and every person or persons, who shall be ordered to receive relief as aforesaid, and the wife and children of him or them cohabiting in the same house, such child only excepted as may be appointed by the overseer to take care of and nurse an impotent, helpless parent, if it shall be thought expedient by the overseer or overseers of the poor of any city, town-corporate, township or precinct within this colony, in concurrence with one justice of the peace as aforesaid, shall, upon the shoulder of the right sleeve of the upper garment of every such person, in an open and visible manner, wear such badge or mark, as is herein after mentioned and expressed, that is to say, a large *P*, together with the first letter of the name of the city, town-corporate, township or precinct, whereof such poor person is an inhabitant, also in a large capital letter, cut either in red or blue cloth, as by the said justice and overseer or overseers of the poor shall be directed and appointed: and if any such poor person shall at any time neglect or refuse to wear such badge or mark, in manner and form as aforesaid, then the relief ordered to such poor persons as aforesaid, shall be and is hereby ordered to be suspended and withdrawn, until he or she shall comply and agree to wear such badge as aforesaid.

What relations are to maintain each other.

XVII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the father and grandfather, mother and grandmother, and the children and grandchildren, severally and respectively, of every poor, old, blind, lame and impotent person, or other poor person not able to work, being of sufficient ability, shall, at his, her or their charges and expences, relieve and maintain every such poor person as aforesaid, in such manner as the justices of the peace at their general quarter sessions shall order and direct, on the penalty of forfeiting and paying ten shillings for each person so ordered to be relieved, for every week they shall fail therein, to be sued for, levied and recovered in the usual manner, and to be applied for the use of the poor.

Poor children to be bound out, and how.

XVIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall and may be lawful for the overseers of the poor, or any two of them, with the assistance and approbation of two justices of the peace, of any county, city, or town-corporate, of this colony, and they are hereby enjoined and commanded to put forth and bind out any poor child or children, who have no parents, or whose parents shall apply to the said overseer or overseers for relief, or the child or children of any poor parents whatsoever, who shall bring up their said children in sloth, idleness and ignorance, and upon advice and direction, given by the said overseer or overseers, shall, for three months after such advice and direction, refuse or neglect to put forth and bind out such poor child or children, for such a number of years, as the said justices and overseers, in their discretion, shall think proper, for a male person, till they shall arrive at twenty one years of age, and for a female, till they arrive at eighteen years of age, and no longer; and the said justices, in conjunction with said overseers, or any two of them, amongst the common covenants in the indenture, and indentures, made and agreed upon between the parties, shall always insert the following clause, "That every such master and mistress, to whom such poor child or children, shall be bound out as aforesaid, shall cause every such child and children to be taught and instructed to read and write." And the said justices, overseers, or any two of them, are hereby appointed the guardians of all and every such poor child and children, so put forth and bound out as aforesaid, to take care that the terms of the indenture, or indentures, covenant and covenants, agreed upon between them and the master

or

A. D. 1774.

or mistress of every such poor child, be performed and fulfilled, and that he, she or they, be not abused or ill used; which said justices, overseers, or any two of them, as aforesaid, or the major part of them, are hereby empowered and directed to inquire into the same, and to redress any such grievance, or grievances, in such method as the law hath prescribed.

Estate of persons absconding, may be seized and sold for the maintenance of their families, if they become a public charge.

XIX. AND WHEREAS it sometimes happeneth, that persons run away, or abscond from their places of abode, and legal settlement, and leave their wives and families, a charge to the public, although such persons may have some estate, real or personal, whereby the place might be eased in whole, or in part, which is most just and reasonable; *Be it therefore enacted by the authority aforesaid*, That it shall and may be lawful for the overseer, or overseers, of the poor, of any city, town-corporate, township or precinct, within this colony, where any father shall run away, or absent from his wife and children, or any widow shall run away, or absent from her children, and leave them a public charge, to apply to two justices of the peace, and by warrant under the hands and seals of the said two justices, to take and seize the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such father or mother, so absconding as aforesaid, for and towards the maintaining, bringing up, and providing for such wife, child or children, so left as aforesaid; and so soon as the said seizure shall be allowed of, and confirmed by the justices in their general quarter sessions of the peace, it shall and may be lawful for the said overseers, or any two of them, from time to time, and as often as the case may require, to sell and dispose of so much and so many of the said goods and chattels, at public vendue, to the highest bidder, and to apply the money arising thereby, towards the maintenance of such poor family, so left as aforesaid.

Overseers accountable therefor.

XX. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED, That the said overseer, or overseers, shall be accountable to the justices of the peace, in their said general quarter sessions, for all such monies, as shall or may arise by every such sale, or sales, and for the rents, issues and profits of such lands and tenements.

Poor houses may be hired or built.

XXI. AND, for the greater ease of the public, in the relief of the poor, BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall and may be lawful for the overseers of the poor of any city, town-corporate, township or precinct, with the approbation and consent of the major part of the inhabitants, householders of such city, town-corporate, township or precinct, if they shall think it convenient and necessary, at any public town-meeting for that purpose met and assembled, of which timely notice shall be given in the usual manner, to build, purchase or hire any house or houses in such city, town-corporate, township or precinct, and also to purchase necessary materials for that purpose out of the money provided, or to be provided, for the relief of the poor, and there to keep, maintain, and employ all and every such poor person and persons, and to take the benefit of the work, labor and service of any such poor person or persons, who shall be kept and maintained in any such house or houses, for the better maintenance and relief of such poor person or persons, who shall be there kept and maintained; and in case any poor person or persons, claiming relief of any city, town-corporate, township or precinct within this colony, where such house or houses shall be so built, purchased or hired, shall refuse to be lodged, kept to work, and maintained in such house or houses, such poor person or persons, so refusing, shall be put out of the book, where the names of the poor are ordered to be registered by virtue of this act, and shall not be entitled to ask or receive any relief from the overseer or overseers of any such city, town-corporate, township or precinct. And where any city, town-corporate, township or precinct, may be too small to build, purchase or hire such house or houses as aforesaid, it shall and may be lawful for two or more of them, with the consent and approbation of the major part of the inhabitants, householders of each respective place, at a public town-meeting for that purpose met and assembled, of which timely notice will be given in the usual manner, to join together and unite in building, purchasing or hiring such house or houses for the lodging, keeping and maintaining of the poor of such places so joining together and uniting, and there to keep, maintain and employ the poor of such united places as aforesaid, and to take and have the benefit of the work, labor or service of any poor there kept and maintained, for the better maintenance and relief of the poor there kept, maintained and employed. And in case any poor person or persons, claiming relief of any such united places as aforesaid, shall refuse to be lodged, kept

Poor refusing to be lodged in those houses to be struck off the list.

kept to work, or maintained in the house or houses built, purchased or hired for such united places as aforesaid, such poor person or persons, so refusing, shall be put out of the book where the names of the poor are ordered to be registered by virtue of this act, and shall not be entitled to ask or receive any relief from the overseer or overseers of any such city, town-corporate, township or precinct; and it shall and may be lawful for the overseers of the poor of any city, town-corporate, township or precinct within this colony, with the consent and approbation of the major part of the inhabitants, householders of such place or places, where such house or houses shall be built, purchased or hired for the purposes aforesaid, at a public town-meeting for that purpose met and assembled, of which timely notice shall be given in the usual manner, to contract with the overseers of the poor of any other place for the lodging, maintaining and employing of any poor person or persons, to such other place belonging, as to them shall seem meet; and in case any such poor person or persons, belonging to any other city, town-corporate, township or precinct within this colony, shall refuse to be lodged, maintained and employed in such house or houses so contracted for as aforesaid, such poor person or persons so refusing, shall be put out of the book where the names of the poor are ordered to be registered by virtue of this act, and shall not be entitled to ask or receive any relief from the overseer or overseers of any such city, town-corporate, township or precinct.

No settlement to be gained on certain removals.

XXII. PROVIDED ALWAYS, AND BE IT ENACTED, That no person or persons, his, her or their child or children, shall acquire or gain a settlement in the city, town-corporate, township or precinct, to which he, she or they shall or may be so removed by virtue of this act, but his, her or their settlement shall be and remain in the same place where it was before such removal, any thing in this act to the contrary notwithstanding.

When and how paupers shall be removed.

XXIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any overseer or overseers of the poor shall have reason to believe, that any person or persons, who have not obtained a legal settlement in any city, town-corporate, township or precinct in this colony, according to the directions, true intent and meaning of this act, herein before specified, is or are likely to become chargeable, such overseer or overseers shall and may apply to any two justices of the peace of such county, city or town-corporate, and inform them thereof, who are hereby required and empowered to issue their warrant to a constable, thereby commanding him to convene such person or persons before them, at such time and place as the said magistrates shall, in their warrant, appoint; and they shall examine every such person or persons, when brought before them, upon oath or affirmation, relating to his, her or their last place or places of legal settlement, and thereby finding the information given to them to be true and reasonable, they shall order and direct such person or persons, by a certain day by them to be prefixed, to remove to the place of his, her or their former settlement; and, on neglect or refusal to comply with the said order, the said magistrates shall issue their warrant to a constable, thereby commanding him to convey and deliver such person or persons to the constable of the next city, town-corporate, township or precinct, and so the nearest and most direct way from constable to constable, until he, she or they be conveyed to the place of his, her or their legal settlement: for all which services the said constable shall be paid so much money as a justice of the peace and the overseer and overseers of any such county, city, town-corporate, township or precinct shall judge he or they reasonably deserve.

Persons returning after removal, to be punished and sent back.

XXIV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any person or persons, removed as aforesaid, shall return to the place from whence he, she or they were so removed, with intent to remain there, and shall not depart such place within twenty four hours after notice to him, her or them given to that purpose, by any one overseer of the poor of such place; in that case it shall and may be lawful for such overseer to make complaint to some magistrate of the county, city or town-corporate, where such persons do return, who is hereby required to order any constable of the city, town-corporate, township or precinct, to whip such person or persons on the bare back with not less than ten, or more than fifteen lashes, being a male; and if a female, in the discretion of the magistrate, either to send her away again, or to commit her to close confinement, to be fed at the expence of the township on bread and water only, for such time as the said magistrate shall think proper, and then to send him, her or them back again

A. D. 1774.

to the place whither he, she or they were first ordered and removed to in manner aforesaid, and so as often as the case shall happen: and if any constable shall refuse to perform the service herein directed, he shall forfeit and pay the sum of forty shillings, to the use of the poor of such place; and, on refusal to pay the same, such magistrate shall issue execution against him for the penalty and costs, as in other cases is provided and directed. PROVIDED ALWAYS, That if any person or persons, complained against as aforesaid, shall enter into bond, with two good and sufficient sureties, in the sum of fifty pounds, with condition to indemnify, and save harmless the city, town-corporate, township or precinct from all charges and expences, to which the same may be liable by such person or persons being resident there, then, in such case, he, she or they shall not be removed as herein before is directed, any thing in this act to the contrary thereof, in anywise notwithstanding; which bond shall be taken before a magistrate, who shall deliver the same to one of the overseers of the poor of the place so intended to be kept harmless, and he shall safely keep the said bond, and deliver it to his next successor.

Overseers required to receive the pauper on removal.

XXV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any person be removed by virtue of this act from one city, town-corporate, township or precinct to another within this colony, by warrant under the hands and seals of two justices of the peace, as above, the overseer or overseers of the poor of that place, to which such poor person shall be so removed as aforesaid, are hereby required to receive the said person; and if he or they shall refuse so to do, such overseer or overseers, so refusing or neglecting, upon proof thereof by one credible witness, upon oath or affirmation, before any justice of the peace of the county, city or town-corporate, in which the place is situated whereto such person shall be so removed, shall forfeit and pay for each offence, the sum of five pounds, to the use of the poor of the place from which the said person was removed, to be levied by distress and sale, in the usual manner, of such offender's or offenders' goods and chattels, by warrant under the hand and seal of the said justice, directed to the constable of the place where such offender or offenders do dwell.

Appeal given.

What justice may not sit on the appeal.

Notice of appeal, how to be given.

XXVI. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED, That all and every such person or persons, who shall think him or themselves aggrieved by any such warrant of removal, granted by two justices of the peace, or by such removal of any poor person as aforesaid, may appeal to the next general quarter sessions of the peace of the county, city or borough, wherein such removal shall happen, and the poor person be removed from: and that no justice of the peace, who shall reside in any city, town-corporate, township or precinct, where the dispute or debate shall happen, shall sit in court upon any such appeal; and no appeal as aforesaid shall be proceeded upon in such court of quarter sessions, unless reasonable notice be given in writing by the overseer or overseers of the poor, who shall make such appeal, to the overseer or overseers of the poor of such place, from which the poor person shall be removed, the reasonableness of which notice shall be determined by the justices of the peace at the quarter sessions to which the appeal is made: and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there hear and determine the same.

Defects of form to be amended.

XXVII. AND BE IT ENACTED *by the authority aforesaid*, That upon all appeals to be made to the justices of the peace at their respective courts of general quarter sessions of the peace to be holden for any county, city or borough within this province of New-Jersey, against judgments or orders given or made by any justices of the peace for the removal of any pauper or paupers, such justices so assembled at any court of general quarter sessions of the peace shall, and they are hereby required from time to time, upon all and every such appeals so made to them, to cause any defect or defects of form that shall be found in any such original judgments or orders to be rectified and amended, without any cost and charge to the party concerned; and, after such amendment made, to proceed to hear and determine the same in the usual manner, and to make such determination thereon as by law they ought to have done in case there had not been such defect or want of form in the original proceedings; and in case the said courts of quarter sessions shall not rectify and amend such original judgments or orders, and the same judgments or orders shall be removed into the supreme court, such

supreme

supreme court shall and may have equal authority, and are hereby enjoined to amend any such original orders or judgments, any law, usage or custom to the contrary notwithstanding.

Charges and costs given upon undue removals.

XXVIII. AND, for the preventing vexatious removals and frivolous appeals, *Be it enacted by the authority aforesaid*, That, from and after the publication of this act, if the justices of the peace shall, at their quarter sessions, upon an appeal before them there had, concerning the settlement of any poor person or persons, determine in favor of the appellant or appellants, that such poor person or persons was or were unduly removed; that then the said justices shall, at the same quarter sessions, order and award to such appellant or appellants so much money as shall appear to the said justices to have been reasonably paid and expended by the city, town-corporate, township or precinct, on whose behalf such appeal was made for or towards the relief of such poor person or persons between the time of such undue removal and the determination of such appeal; and, upon any appeal before them there to be had for and concerning the settlement of any poor persons, or upon any proof before them, there to be made of notice of any such appeal to have been given by the overseer, or overseers, of the one place to the overseer, or overseers, of the other, though they did not afterwards prosecute such appeal, the said justices shall, at the same quarter sessions, award and order to the party for whom, and in whose behalf, such appeal shall be determined, or to whom such notice did appear to have been given as aforesaid, such costs and charges in the law, as by the justices, in their discretion, shall be thought most reasonable and just, to be paid by the overseer or overseers of the poor, against whom such appeal shall be determined, or who gave notice of such appeal as aforesaid, and did not prosecute the same.

Persons may be sued where they reside.

XXIX. AND WHEREAS the person or persons, against whom such award and order shall be made, may reside in some county, city or town-corporate, out of the jurisdiction of the said court of quarter sessions, whereby the recovery of the sum or sums of money, so awarded and ordered, may be rendered difficult and precarious; therefore, *Be it enacted by the authority aforesaid*, That all such sum and sums of money, which shall be awarded and ordered to be paid by the justices in their said quarter sessions in the case and cases afore mentioned, shall and may be sued for and recovered with costs of suit, by action of debt, in any court of record, of any county, city or town-corporate in this colony, where the person or persons shall reside, against whom such determination shall be given as aforesaid; and a true copy of such award and order of such justices in their quarter sessions, signed and sealed by the clerk of the court, when produced, shall be sufficient evidence for the recovery of such sum or sums of money so awarded and ordered as aforesaid.

Former poor laws repealed, but all settlements under them confirmed.

XXXII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all former acts and laws of this colony relating to the settlement and relief of the poor, and every matter, article and thing therein contained, are and shall be hereby repealed and declared to be null and void, and of none effect, excepting such acts and laws as have been for building of a workhouse, and setting the poor to work, and labor in any of the counties, cities, towns-corporate or townships within this colony. *Provided always*, That if any person or persons have, by virtue of any former act or acts of this colony, gained a settlement in any city, town or precinct of this colony, such settlement shall not be altered by any thing herein contained.

Vagrants, how to be treated.

XXXIII. AND WHEREAS the number of idle vagrants, vagabonds and beggars do daily increase, who infest the public highways, cities and townships in this colony, insomuch that they are become a public nuisance, and a dangerous annoyance to honest industrious people; to prevent, therefore, the increase and continuance of this pernicious evil, *Be it further enacted by the authority aforesaid*, That it shall and may be lawful for the constable or constables, or any of the inhabitants of this colony, to apprehend any idle vagrants, vagabonds and beggars, who shall be found wandering, strolling and begging about the country, and to carry him, her or them forthwith before any one justice of the peace of the county, city or town-corporate where they shall be apprehended, who is hereby required to examine every such person and persons so brought before him, upon oath or affirmation, of his, her or their place of settlement, and shall take the examination in writing, and oblige the examinant to sign the same: and the said justice shall also sign the

A. D. 1774.

the same, and shall transmit it to the clerk of the city, town-corporate, township or precinct, where such person or persons shall be apprehended, to be filed, and to be kept on record: and in case it shall appear, that any such idle vagrant, vagabond or beggar hath any place of settlement, then the justice of the peace is required to make out a pass warrant, and to give it to the constable of the city, town-corporate, township or precinct, where such person or persons shall be apprehended, commanding him to deliver such vagrant, vagabond or beggar to the constable of the next place, and so from constable to constable the readiest way to his, her or their place of settlement; but if such vagrant, vagabond or beggar hath no place of settlement in this colony, then the said justice of the peace shall order, by his pass warrant, that he, she or they shall be conveyed back by every city, town corporate, township or precinct through which they have been suffered to stroll and wander unapprehended, and so to be transported out of this colony, and to be set on shore in that province, from which he, she or they strolled and wandered first into this colony; and if such idle vagrant, vagabond or beggar shall return into this colony, after having been so passed out as aforesaid, he or she shall be apprehended and carried before any justice of the peace of the county, city or town-corporate, where he or she shall be so apprehended; which justice of the peace shall order the constable of the said place, to carry him, her or them to the whipping post, and to strip him, her or them to the bare back, and to give them a number of lashes, not exceeding twenty; after which he, she or they shall be passed out of the colony again, in the same manner and form, as before directed, and so to be whipped and passed away as often as they shall return. And if any justice of the peace or constable shall neglect or refuse to do and perform the duties hereby required of him, every such justice of the peace or constable shall forfeit and pay the sum of forty shillings for every such neglect or refusal, which shall be recovered by action of debt in the usual manner, and shall be applied one moiety to the use of the poor, where the offence shall be committed, and the other moiety to the person, who shall prosecute the same to effect.

Who shall be deemed vagrants.

XXXIV. And be it further enacted *by the authority aforesaid*, That all poor indigent persons strolling from their places of legal settlement, and craving alms; all persons coming out of other colonies, and begging about this colony, under pretence of losses by fire, or having their goods and effects destroyed by the Indians, and not being able to produce a licence to ask charity, under the hand of the commander in chief of this colony; all persons peddling about without a legal licence for that purpose; all straggling persons, who shall practise any unlawful gaming, to trick and deceive the people; all persons who shall run away from their families, and leave them to be maintained by the public; are, and shall be deemed and esteemed vagrants and vagabonds, within the true intent and meaning of this act.

Appeal to the second sessions given.

XXXV. Provided always, That in case any appeal as aforesaid shall be offered to the second court of quarter sessions, after such judgment or removal as aforesaid, and the said court shall be satisfied with the reasons given for every such delay, that then it shall and may be lawful for the said court to hear and determine such appeal in the same manner, as if the same had been made to the next court of quarter sessions as above, any thing in this act to the contrary thereof notwithstanding.

The 10th, 13th, 14th, 30th and 31st sections of this act are supplied by posterior laws.

An ACT *for the more speedy recovery of legacies in this province, and for affirming such acts of administrators bona fide done before notice of a will.*

Passed the 11th of March, 1774.

Preamble.

Forasmuch as the laws of this province relating to the recovery of legacies, which have been or may be given by the last will and testament of any person or persons, are defective; for remedying whereof,

I. Be

A. D. 1774.

I. BE IT ENACTED *by the Governor, Council and General Assembly of this province, and it is hereby enacted by the authority of the same*, That, from and after the publication of this act, it shall and may be lawful for any person or persons whatsoever, to whom any legacy, devise or bequest of any sum or sums of money, or other personal goods or chattels have been or may be made by the last will and testament of any other person or persons legally made, to commence, sue or prosecute an action of debt, action on the case, or detinue for such legacy, after it becomes due, if it amounts to the value of fifteen pounds or upwards, in the supreme courts of this province, or any other court of record; and if under fifteen pounds, in any court where the same may be cognizable; in which action or actions so to be commenced, if it shall appear that the legacy or legacies are due, and there be sufficient assets in the hands of the executors to discharge the just debts of the testator, and the legacy and legacies bequeathed, the plaintiff or plaintiffs shall recover with costs of suit, any law, usage or custom to the contrary notwithstanding. But in case there shall be assets to discharge all the debts of the testator, with an overplus not amounting to a sum sufficient to discharge all the legacies that may be given, then an abatement shall be made in proportion to the legacies so given; and where any legatee or legatees are or may be under age at the time when such legacy or legacies shall become due, in such case such legatee or legatees shall and may maintain an action for their respective legacies so given, by guardian or next friend, as fully, amply and largely as by law they may do in any other actions whatsoever.

Legatees may institute an action of debt, on the case, or detinue, for legacies or bequests.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the respective courts, where the said actions may be commenced, upon the plea of want of assets to pay all the debts and all the legacies, shall appoint auditors to examine the accounts of the executors, who, after full hearing thereof, at such time and place, or times and places, as by the said auditors shall be appointed, with notice to the executors and the plaintiffs or their respective attornies, shall procure the auditors aforesaid, to report how the accounts of the executors do stand, and how much assets will remain after payment of the whole debts, and what part of the remainder is the proportion that ought to go towards paying of the plaintiff's legacies, for which proportion only the court shall then award execution upon the judgment to be had in the said suit; which judgment shall remain a security for payment of the remainder of the said legacies and costs, when sufficient assets for payment thereof come to the executor's hands; which court is also hereby empowered, upon exception of either party, and hearing of the parties, to correct and amend any mistakes or errors, that may happen in the accounts so reported.

Upon plea of want of assets to pay debts and legacies, auditors to be appointed to examine the accounts of the executors, and to report thereon.

III. PROVIDED ALWAYS, That no such suit shall be maintained for any such legacy or bequest, until reasonable demand made of the executor or executors, who ought to pay the same, and an offer made of two sufficient securites to the said executor or executors, who, if they think proper to accept thereof, shall become bound to them the said executor or executors in double the sum of the said legacies or bequests, with condition under written, that if any part or the whole thereof, shall at any time after appear to be wanting to discharge any debt or debts, legacy or legacies, which the said executor or executors may not have other assets to pay, that then, and in such case, he the said legatee will return his said legacy, or such part thereof as may be necessary for the payment of the said debts, or for the payment of a proportional part of the said legacies; and if the said executors should not think proper to accept thereof, then the said legatees shall file such bond in court, before obtaining any process against the said executors, otherwise the same process, for want thereof, shall abate.

Before any action be commenced, the legatee to give bond, with surety.

IV. AND BE IT ENACTED *by the authority aforesaid*, That the said courts, upon consideration of the report of the accounts of the executors, shall, according to justice and equity, either award no costs, or costs out of the testator's estate, or in case the executors have been faulty in delaying to pay the legacy demanded, or a proportional part thereof without sufficient excuse, then out of the proper estate of the executor or executors, any thing herein contained to the contrary notwithstanding.

Costs, how to be awarded.

V. AND BE IT FURTHER ENACTED, That all lawful acts done, or to be done bona fide, by any administrator, before notice of a will, and all purchases made of such administrator bona fide, before such notice, shall remain good, and shall

All bona fide acts of administrators, before notice of a will, good.

A. D. 1776.

not be impeached or altered by any executor or executors, on such will after appearing. PROVIDED ALWAYS, That when at any time after such will shall appear, the executor or executors shall have the same remedy against such administrator or administrators for the goods and chattels, rights and credits remaining unadministered, as he, she or they might have had before the making of this act.

Legatees, when to refund.

VI. PROVIDED ALSO, that where there are or may be several legatees, and a return of part of the said legacy shall afterwards appear necessary, in such case each legatee shall only be compelled to return a proportional part of his legacy, so as to make up the whole sum wanting.

Executors to have a year to pay legacies.

VII. PROVIDED ALSO, That where no time in and by any last will and testament is limited, for the payment of any such legacies, that then and in such case, the said executor or executors shall have the space of one year to discharge the same.

Creditors to be first paid.

VIII. PROVIDED ALSO, That nothing in this act contained shall be construed to enforce the payment of any legacies to the prejudice of creditors, or to enforce any last will and testament, not warranted by the former laws of this province.

Repeal of former laws.

IX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the act passed in the fourth year of the reign of King George the second, entitled, "An Act for the more speedy recovery of legacies, that have been or may be given in this province, and for affirming such acts of administrators bona fide done before notice of a will," and the act passed in the twelfth year of the reign of King George the second, entitled, "An Act for continuing an act, entitled, An Act for the more speedy recovery of legacies that have been or may be given in this province, and for affirming such acts of administrators bona fide done before notice of a will," shall be, and they are hereby repealed.

An ACT *to confirm and establish the several courts of justice within this State.*

Passed the 2d of October, 1776.

Preamble.

WHEREAS it is absolutely necessary for the welfare of the people, that justice be duly and regularly administered;

Courts of law and equity confirmed.

BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the several courts of law and equity of this State shall be confirmed and established, and continued to be held with like powers under the present government, as they were held at and before the declaration of independency, lately made by the honorable the continental congress.

An ACT *to ascertain the punishment for high treason, and to establish the word State instead of Colony in commissions, writs and other process; and for other purposes therein mentioned.*

Passed the 20th of September, 1777.

Preamble.

WHEREAS some doubts may arise in the courts of judicature respecting the sentence in high treason, the same not being as yet precisely ascertained; therefore,

Sentence in high treason to be the same as in murder.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, when any person shall be duly convicted of high treason, the sentence awarded therefor, so far as respects the corporal punishment to be inflicted on the offender, shall be the same as in case of murder.

II. AND

A. D. 1778.

II. AND WHEREAS in the fifteenth section of the constitution of New-Jersey, it is directed and ordained, that all commissions shall run thus, "The colony of New-Jersey to A. B, &c. greeting;" and that all writs shall likewise run in the name of the colony: and that all indictments shall conclude in the following manner, videlicet, "Against the peace of this colony, the government and dignity of the same;" AND WHEREAS, since the framing of the said constitution, the honorable congress have declared the united colonies free and independent States: AND ALSO WHEREAS, since the declaration of independency, the commissions and writs have run in the name of the State, and not of the colony of New-Jersey, and indictments have concluded against the peace of this State, and not of this colony, and some doubts may arise respecting the validity of commissions, writs and indictments, so as aforesaid worded; *Be it therefore enacted by the authority aforesaid*, That, from and after the publication of this act, all commissions and writs, which, by the constitution are required to run in the name of the colony, shall run in the name of the State of New-Jersey; and all indictments shall conclude against the peace of this State, the government and dignity of the same; and that all commissions, writs and indictments, heretofore issued, preferred and exhibited, which have the word State, and not the word colony, shall be, and they hereby are declared to be good and effectual in the law.

Establishment of the word, State, instead of, Colony

An ACT *for taking charge of and leasing the real estates, and for forfeiting the personal estates of certain fugitives and offenders, and for enlarging and continuing the powers of commissioners appointed to seize and dispose of such personal estates, and for ascertaining and discharging the lawful debts and claims thereon.*

Passed the 18th of April, 1778.

X. AND BE IT ENACTED *by the authority aforesaid*, That all sales and alienations of any estate, personal or real, made by any person against whom inquisition shall be found and judgment entered as aforesaid, or any his agent or attorney, or other person whatsoever by him authorized, from and after the time such person joined the army of the King of Great-Britain, or went into any place in their possession, or remained with them, or openly adhered to them against the form of his allegiance, are hereby declared to be utterly null and void to all intents and purposes.

Sales of offenders, after joining the enemy, declared void.

Note. The other sections of this act have been executed. See the act in Wilson's edition, page 43 to 52 inclusive.

An ACT *to prevent the farming out of public offices, or transferring by deputation the powers annexed and incident to them; and for other purposes therein mentioned.*

Passed the 8th of October, 1778.

WHEREAS no person, who holds an office in this State, under an appointment of the joint meeting, is, by the constitution, authorized to let or farm out such office, or to depute any person to execute the same in his behalf or stead; and it being not only reasonable, but a great security against malepractices, that every person holding an office, and in whom the trust thereof is reposed, should reside within this State, and execute such office; and also, that every person, holding an office, which relates to a county only, should reside within such county;

Preamble.

I. BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That each and every person holding, or who shall hereafter hold any office in this State, under an appointment of the joint meeting, shall reside within this State, and execute such office, except the surrogate general, who shall be at liberty to employ or appoint a deputy or deputies, and also, that every person holding an office, the authority and duties of which relate to a county only, shall reside within such county; and if any person holding, or who shall hereafter hold any office as aforesaid, shall at any time

Conditions on which public offices may be held.

A. D. 1778.

time presume to let, farm out or transfer such office, or any part thereof, to any person or persons whatsoever, he shall for such offence forfeit the sum of five hundred pounds, to be recovered with full costs of suit, by any person, who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the State, and shall, moreover, be liable to be removed from his office, by the council, on an impeachment of the assembly, as provided and set forth in the constitution.

Forfeiture.

Secretary neglecting his duty, what to forfeit.

III. AND IT IS HEREBY FURTHER ENACTED, That if any secretary of this State shall at any time neglect or refuse to issue a commission to any person elected to any office within this State, requiring a commission from the governor, or shall take fees for any commission, where by law he is not entitled to fees, or, where he is entitled to fees, shall take more than by law he is entitled to take, he shall for every such offence forfeit the sum of fifty pounds, to be recovered, with costs of suit, by any person who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the State.

Mode of resigning offices.

IV. AND WHEREAS it is highly expedient and proper, that every officer, resigning an office, should make the resignation to the department of government from which the office is derived, and whose duty it is to supply the vacancy when deemed necessary; *Be it therefore enacted by the authority aforesaid*, That in every case in which any officer, holding an office under the appointment of the joint meeting, shall be desirous of resigning such office, the resignation shall be made during the sitting of the legislature, and to the members thereof in joint meeting, by such officer in person attending for that purpose, or by letter or other writing under his hand, addressed to the joint meeting: and that no resignation, made in any other way, or pretended to be made, shall be taken or deemed as valid or authentic, or in anywise allowed as an application for a discharge from office.

An ACT *for authorizing persons elected sheriffs and coroners to act in their respective offices before they are commissioned.*

Passed the 8th of October, 1778.

Preamble.

AS sheriffs and coroners derive their authority immediately from the people, their commissions being only testimonials, under the great seal of the State, of their having been duly elected into office; and as some time must necessarily intervene between their election and obtaining their commissions;

Sheriffs and coroners may act before commissioned.

BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, that each and every sheriff and coroner, hereafter elected shall, on the receipt of such certificate of his election as shall be necessary for obtaining a commission from the governor or vice president of the council, pursuant to the constitution and laws of this State, be, and he is hereby authorized and empowered to act in and execute such his office of sheriff or coroner, as fully to all intents and purposes as he will be after he has received his commission.

Proviso.

PROVIDED ALWAYS, That he applies for the same within one month after his election.

An ACT *for forfeiting to, and vesting in the State of New-Jersey, the real estates of certain fugitives and offenders, and for directing the mode of determining and satisfying the lawful debts and demands, which may be due from, or made against, such fugitives and offenders; and for other purposes therein mentioned.*

Passed the 11th of December, 1778.

Preamble.

WHEREAS in and by an act of the General Assembly of this State, entitled, "An act for taking charge of and leasing the real estates, and for forfeiting the personal estates of certain fugitives and offenders, and for enlarging and continuing

A. D. 1777.

tinuing the powers of commissioners appointed to seize and dispose of such personal estates, and for ascertaining and discharging the lawful debts and claims thereon, passed the 18th day of April, in this present year, the personal estates of the fugitives and offenders therein mentioned and described are declared to be forfeited to the State, and directed to be disposed of, for the use and benefit thereof: AND WHEREAS it is highly just and reasonable that the lands, tenements, hereditaments and real estates whatsoever of the said fugitives and offenders, should also be forfeited to, and vested in this State, and applied to the use and benefit thereof: therefore,

If judgment be entered on inquisition against fugitives and offenders, their estates shall be forfeited to and vested in the State of New-Jersey.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all and singular the lands, tenements and hereditaments, held in fee or for term of life, and generally, all the estates real, of what nature or kind soever they be, within this State, belonging to any such fugitive or offender, against whom inquisition hath been or shall be found and returned, and final judgment thereon entered in favor of the State, pursuant to the directions of the above recited act, or that did or may belong to any such fugitive or offender, at the time the offence for which such inquisition was or may be found, is or may therein be charged to have been committed, or which any such fugitive or offender at any time thereafter shall have been seized or possessed of, interested in, or entitled unto, in his or her own right, or to his or her own use, or whereof any other person or persons was or were at the time the said offence is or may be charged to have been committed as aforesaid, or at any time thereafter shall have been seized or possessed of, interested in, or entitled unto, to the use of or in trust for such fugitive or offender, against whom inquisition hath been or shall be found, and judgment thereon entered as aforesaid, shall stand and be forfeited to, and vested in the State of New-Jersey forever, and shall be deemed and adjudged, and is hereby declared and enacted to be in the legal possession of the said State, without any further inquisition thereof, thereafter to be taken or found.

Persons, who joined the enemy between the 19th April 1775 and 4th Oct. 1776 to forfeit their estates real and personal.

II. AND BE IT ENACTED *by the authority aforesaid*, That each and every inhabitant of this State, seized or possessed of, interested in, or entitled unto, any estate real or personal within the same, who hath, since the nineteenth day of April, one thousand seven hundred and seventy five, and before the fourth day of October, one thousand seven hundred and seventy six, aided and assisted the enemies thereof, or of the United States, by joining their armies within this State, or elsewhere, or who hath voluntarily gone to, taken refuge or continued with, or endeavored to continue with the enemy aforesaid, and aid them by counsel or otherwise, and who hath not since returned and become a subject in allegiance to the present government, by taking the oaths or affirmations prescribed in the act, entitled, "An act for the security of the government of New-Jersey," passed the nineteenth day of September, one thousand seven hundred and seventy six, when required, each and every such person is hereby declared to be guilty of high treason against this State; and on conviction thereof, by inquisition found, and final judgment thereon entered in favor of the State, as herein after is declared, such conviction shall amount to a full and absolute forfeiture of such person's estate, both real and personal whatsoever within this State, to and for the use and benefit of the same: PROVIDED ALWAYS, That such conviction shall not extend to affect the person of any such offender, but shall operate against his or her estate only.

Proviso.

Inhabitants of the States, possessed of property therein, if convicted of high treason, to forfeit the same.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That each and every person, not an inhabitant of this State, but of some of the other United States, and seized or possessed of, interested in, or entitled unto, any estate real or personal within this State, who hath, since the nineteenth day of April, one thousand seven hundred and seventy five, aided or assisted, or now doth, or hereafter may aid or assist the enemies of this State, or of the United States, by joining their armies within this State or elsewhere, or who already hath, or hereafter shall have, voluntarily gone to, taken refuge or continued with, or endeavored to continue with the enemy aforesaid, and aid them by counsel or otherwise, shall be, and is hereby declared to be guilty of high treason against this State; and on conviction thereof by inquisition found, and final judgment thereon entered in favor of the State, in manner herein after declared, such conviction shall amount to a full and absolute forfeiture of such offender's estate, both real and personal

A. D. 1778.

whatsoever within this State, to and for the use of the same, PROVIDED ALWAYS, That such conviction shall not in any instance extend to affect the person of any such offender, but shall operate against his or her estate only.

Proviso.

The fourth section prescribes the form of the precept for summoning the jury, the qualification of the jurors, and witnesses, the form of the inquisition, and the mode of proceeding, and entering judgment against offenders.

Persons against whom inquisition is found, &c. their estates, real and personal, to be forfeited to, and vested in, the State of New-Jersey forever.

V. AND IT IS HEREBY FURTHER ENACTED, That all and every the lands, tenements and hereditaments, debts or sums of money, and goods or chattels whatsoever, and generally the estates, goods and effects, real and personal, of what nature or kind soever they be, within this State, belonging to any person against whom inquisitions shall be found, and final judgment thereon entered in favor of the State, by virtue, or in pursuance of this act, or that did or may belong to such person at the time of the offence for which such inquisition may be found, is or may therein be charged to have been committed, or which such person at any time thereafter shall have been seized or possessed of, interested in, or entitled unto, in his or her own right, or to his or her own use, or whereof any other person or persons was or were, at the time the said offence is or may be charged to have been committed, or at any time thereafter shall have been seized or possessed of, interested in, or entitled unto, for the use of, or in trust for any such person against whom inquisition may be found and final judgment thereon entered as aforesaid, shall stand and be forfeited to, and vested in the State of New-Jersey forever, and shall be deemed and adjudged, and is hereby declared and enacted to be in the legal possession of the said State, without any further inquisition thereof thereafter to be taken or found.

Offenders to be tried by a jury of the county they resided in, &c.

VII. AND IT IS HEREBY FURTHER ENACTED, That each inhabitant of this State, offending as aforesaid, shall be enquired of and tried by a jury of the county, of which he or she was an inhabitant; and an authentic copy or transcript of the record of the court of common pleas of any county in this State, where final judgment hath been entered in favor of the State against any offender as aforesaid, shall in every case be a sufficient warrant on which to proceed to the sale of such offender's personal estate in any other county, by the commissioners of such other county, or any two or more of them; and shall also be a sufficient warrant to the clerk of the court of common pleas in any other county, to grant a writ or process in manner herein after directed, for the sale of the real estate of any such offender, lying in such other county.

Real estates, how to be disposed of.

X. AND BE IT ENACTED *by the authority aforesaid*, That all estates real, of what nature or kind soever, forfeited to, or vested in this State, in pursuance of this act, shall be disposed of by virtue of a writ or process issuing out of the court of common pleas in the county in which such estate is situated, directed to the commissioners of the said county, or any two or more of them; which writ or process the clerk of such court is hereby required to issue, on application to him made for that purpose by such commissioners, and moreover to record the same in a book to be kept for that use, before the delivery thereof; and the said commissioners shall thereupon proceed to sell at public vendue all such forfeited estates, giving notice of the time and place of sale at least one month before the day prefixed for the same by advertisement in the New-Jersey Gazette, if then published, and also in three or more of the most public places in the county, where any such estate may lie, particularly describing the premises to be sold: and after the receipt of the full purchase money for each estate, shall, in their own names, make, seal and deliver to the purchaser or purchasers, by deed poll, a good and sufficient conveyance for the same, therein reciting the writ by which they were directed to sell such estate, and granting and conveying to the said purchaser or purchasers all the right, title, interest, property, claim or demand whatsoever, either in law or equity, which the person forfeiting had or ought to have had of, in and to the said bargained premises at the time of committing the offence, for which the same became forfeited; by which deed the purchaser or purchasers shall, in every case, be, and is and are hereby declared to be, vested in as good and perfect an estate in the said bargained premises, as the person forfeiting was vested in at the time of committing the offence as aforesaid; and shall have, hold and enjoy the said bargained premises as fully in every respect

Commissioners to be liable for the proceeds by them received in their own names.

as

as the person forfeiting held, or might or ought to have held the same at any time before committing the offence, for which the same became forfeited as aforesaid; and shall moreover be entitled to all such deeds, conveyances and other writings respecting the title of such bargained premises, as can be found or obtained. A. D. 1780.

XI. And it is hereby further enacted, That if any process or proceedings, by virtue of which any such sale may be made as aforesaid, shall hereafter be reversed or made void for error, or any other cause whatsoever, such reversal shall not affect or injure, or be of force, or in anywise operate against any bona fide purchaser under this act, but against the State only: and in every such case the plaintiff in error, or person injured by the sale of any estate, shall apply to the legislature, to be indemnified out of the public treasury, to the amount of the purchase money received for such estate. Sales made void for error or otherwise, not to affect the purchaser.

XII. And be it enacted *by the authority aforesaid*, That all sales of any goods, chattels or personal estate, and all conveyances and assurances of any lands, tenements, hereditaments or real estate whatsoever, made by any person whose estate is herein declared forfeited or forfeitable, or by any his or her agent or agents, attorney or attornies, on his or her behalf, after the time of committing the offence, by which such forfeiture is or may be incurred, and also all such sales, conveyances and assurances made by such person before that time, if made with a view of depriving the State of the benefit of such forfeiture; and all contracts, covenants or agreements so in either case made, whereby his or her estate may in anywise be charged or incumbered, shall be deemed and adjudged, and are hereby declared to be fraudulent and void, to all intents and purposes. Contracts of offenders when their property was forfeited, &c. to be void.

XIV. And be it further enacted *by the authority aforesaid*, That in every case where any person, whose estate is declared forfeited or forfeitable by this act, hath or shall have deceased before inquisition taken or judgment entered, every such deceased person's estate shall be proceeded against as if such person were alive, agreeably to the directions of this act, or the act entitled, "An Act for taking charge of and leasing the real estates, and for forfeiting the personal estates of certain fugitives and offenders, and for enlarging and continuing the powers of commissioners appointed to seize and dispose of such personal estates, and for ascertaining and discharging the lawful debts and claims thereon," as circumstances may require; and in case final judgment shall be entered in favor of the State, such estate shall thereby become forfeited to, and vested in this State, and shall be proceeded on and sold for the use thereof in manner prescribed by this act, any law, usage or custom, to the contrary notwithstanding. Offenders dying before inquisition taken, their estates to be proceeded against as if alive.

The other sections of this act are executed, supplied, or repealed.
See the act in Wilson's edition, page 67 to 75 inclusive.

An ACT *to alter the law directing the descent of real estates.*

Passed the 24th of May, 1780.

WHEREAS the law of descents, as it now stands, works injustice, by vesting the whole real estate of an ancestor in the heir at law, if a male, to the exclusion of the other issue or descendants, both male and female of such ancestor; for remedy whereof, Preamble.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That when any ancestor, possessed of, or entitled to a real estate in his or her own right in fee simple, shall die, without making a will disposing thereof, leaving two or more sons, such real estate shall descend to, and be equally inherited by all the sons of such ancestors, as tenants in common; and if such ancestor shall have issue both male and female, then such real estate shall descend to, and be inherited by such issue male and female in such proportion, that each son shall inherit two shares thereof, each of which shares shall be equal to the share of a daughter: Provided always, That if any child of such ancestor shall have died, before the ancestor, leaving issue, the share Real estate how to descend. Proviso.

or

A. D. 1780.

or part of the said real estate, which such child would have been entitled to under, or by virtue of this act, if such child had survived the ancestor, shall descend to, and be inherited by such issue, in the manner and proportions between male and female herein before directed: AND PROVIDED ALSO, That if any such ancestor shall in his lifetime have given or advanced any part of his or her real estate to any of his or her issue, such issue shall not be entitled to any part or share of such ancestor's real estate, descending under, or by virtue of this act, unless the real estate, so given or advanced, shall not be equal in value to the respective shares of the other issue in the same degree of affinity, as the case may be, and then no more than will be sufficient to make such share equal in the above proportion.

Proviso.

Brothers, when to inherit.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any ancestor, possessed of, or entitled to any real estate in his or her own right in fee simple, shall die without making a will disposing thereof, and without issue, or having issue, and such issue shall die under the age of twenty one years without issue, the said real estate of such ancestor shall descend to and be inherited by the brothers, or by the brother and sister or sisters, or by the brothers and sister or sisters, as the case may be, of such ancestor, in the manner and proportions between male and female directed by the first section of this act: PROVIDED ALWAYS, That if any of the brothers or sisters of such ancestor shall have died, before such ancestor, leaving issue, the share or part of the said real estate, which such brother or sister so dying would have been entitled to under or by virtue of this act, if such brother or sister had survived such ancestor, shall descend to, and be inherited by the said issue of such brother or sister, in the manner and proportions between male and female directed by the first section of this act.

Proviso.

Half blood, when to inherit.

III. AND WHEREAS by the law, as it now stands, the issue of an ancestor by one venter cannot inherit to the issue of such ancestor by a different venter, whereby the real estate, of an ancestor in some instances goes out of the family, to the great injury of the remaining issue of such ancestor; for remedy whereof, *Be it further enacted by the authority aforesaid*, That if any person possessed of, or entitled to a real estate, in his or her own right, in fee simple, shall die without making a will disposing thereof, and without any brother or sister, or any issue of such brother or sister, of the whole blood, and shall leave a brother or brothers, a sister or sisters, a brother and a sister, or sisters or brothers, and a sister or sisters, of the half blood, the said real estate of such person shall descend to and be inherited by such kindred, as the case may be, of the half blood, in the manner and proportions between male and female directed by the first section of this act.

Not to affect marriage settlements, &c.

IV. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED, That nothing in this act contained shall be construed or taken to make void or any ways affect any marriage settlement, or in any degree to deprive any widow of any jointure, she may be entitled to, or of her right of dower.

Note. See an explanatory act, passed the 23d of March, 1786.

An ACT *to repeal sundry acts for augmenting the fines and fees of civil officers, and others.*

Passed the 6th of October, 1780.

Preamble.

WHEREAS sundry acts have been lately passed for augmenting the fees of civil officers, and others, and for raising the fines and forfeitures, to which they are liable, for neglect or refusal of the duties enjoined on them respectively; which acts are become unnecessary, and may be injurious to the subjects of this State;

Several acts repealed.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act entitled, "A supplement to an act, entitled, "An act the better to prevent the concealing of stray cattle, horses and sheep," passed the ninth day of October, one thousand seven hundred and seventy nine; and the act, entitled, "An act for augmenting the fees of certain civil

civil officers, and others, and for raising the fines and forfeitures, to which they are liable, for neglect or refusal of duty, and for suspending parts of sundry acts therein mentioned," passed the twenty fifth day of December, one thousand, seven hundred and seventy nine; and the act, entitled, "An act for raising certain fees, fines and forfeitures," passed the twenty first day of March, one thousand, seven hundred and eighty, are hereby severally repealed and made void. A. D. 1781.

An ACT *to repeal sundry acts restricting the trade and commerce of this State.*

Passed the 8th of June, 1781.

WHEREAS the present interest of the State requires, that all restrictions on trade and commerce should be taken off, except with the enemies of this, and the United States; therefore, Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An Act to restrain the exportation of pitch, tar and turpentine, and other naval stores, from the State of New-Jersey," passed the twentieth day of September, one thousand, seven hundred and seventy seven, and the act, entitled, "An Act to prevent engrossing, forestalling and enhancing the prices of produce, manufacture and merchandize, within this State," passed the fifteenth day of December, one thousand, seven hundred and seventy nine, shall be, and the same are hereby respectively repealed. Enacting clause.

An ACT *for the relief of persons, who have lost their deeds and other instruments of writing, containing the title of their lands.*

Passed the 3d of October, 1782.

WHEREAS many of the inhabitants of this State have lost, or may hereafter lose, their deeds or other instruments of writing, containing the title of their lands, by the devastation of the enemy, or other unavoidable accident, whereby much injury may arise to the said inhabitants, by reason that the said deeds or instruments of writing have not been duly proved and recorded, and the means of obtaining new deeds or conveyances, for securing their possessions, may be unattainable; Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every person, who has lost, or may hereafter lose his deeds, or other instruments of writing, containing the title of his lands, by the devastation of the enemy, or other unavoidable accident, and shall be desirous of having the said land assured to him, in manner herein after directed in this act, shall make out, or cause to be made out, an exact survey of the lands or premises, the title deeds, or conveyances for which may have been lost as aforesaid, containing the courses, distances and boundaries thereof, or an attested copy of the original survey and boundaries, extracted out of the public records, and shall produce the same to the supreme court of this State, having previously advertised the purport of his application, for at least three months in one of the public news papers of this State, and also for the same time, in at least three of the most public places in the county, where the lands or premises, the title or conveyance of which may have been lost as aforesaid, are situated, and shall by evidence, prove to the satisfaction of the court, or in case of the death of the witnesses, or their having joined the enemy, and that no other evidence can be procured, on oath or affirmation before the said court, declare, that he or his ancestors were possessed of a legal conveyance therefor duly executed, and that the same was lost or destroyed by the enemy, or by other unavoidable accident, together with the time and manner of the loss or destruction of the same, and that the evidences or witnesses to the said deeds or conveyances are dead, or have joined the enemy, or cannot be procured, to the best of his knowledge and belief; and shall also prove by the testimony of one, or more credible witness, that he, the said Mode of application to the supreme court, where conveyances have been lost.

A. D. 1782.

said applicant, had peaceable possession of the said lands and premises, previous to the time when the deeds or conveyances for the same, are alledged to have been lost or destroyed. PROVIDED ALWAYS, That if, through the obstinacy of any person claiming, or possessing lands adjoining to the premises of the persons claiming the benefit of this act, it shall be found impracticable to obtain an exact survey, containing the courses, boundaries and distances to be presented to the court as aforesaid, it shall be sufficient to produce the exact boundaries only, attested by proper evidence, or authenticated on the oath or affirmation of the applicant.

Proviso.

II. AND BE IT FURTHER ENACTED, That the said court shall, thereupon, cause proclamation to be made in open court, for two terms successively, of the purport of the application so made as aforesaid, that if any person or persons have any objection, or can shew any cause, why the said survey and testimony, produced as aforesaid, should not be recorded, or why the request of the said applicant should not be granted, such person or persons may appear and support the same, at least within the third term after application has been made, as aforesaid.

Proclamation to be made, for two terms of such application.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said court shall, and they are hereby authorized and required, if no sufficient objection appear, and if the survey so produced, and the evidence and testimony so given, shall, in the judgment of the said court, be sufficient to entitle the applicant to the relief intended to be given by this act, to give judgment accordingly, and thereupon to order the said survey and testimony to be filed and entered in the minutes of the said court, a copy of which minutes, signed by the clerk of the said court, and under the seal of the same, shall be good and available in law, to assure the lands and premises so surveyed and entered, and to vest the same in the said applicant, as fully, amply and effectually, to all intents and purposes whatsoever, as he was, or would have been vested with the same, in virtue of any conveyance, lost or destroyed in manner aforesaid, which said minutes, may, at any time after the same is obtained by the applicant, be entered on the public records of this State.

Survey and testimony to be filed and entered, which shall have the effect of a deed.

IV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the chief justice, or either of the justices of the supreme court, shall be, and hereby is authorized and required, on application to him made for that purpose, to issue a writ of subpœna, to compel the attendance of witnesses, to prove the facts set forth by any person applying for the relief intended by this act, in like manner as in other cases in the usual course of law.

Judges may issue writs of subpœna, for witnesses.

An ACT *to divide the township of Hardwick, in the county of Sussex.*

Passed the 11th of November, 1782.

Preamble.

WHEREAS a number of the inhabitants of the township of Hardwick, in the county of Sussex, by their petition, have set forth, that they have long labored under many and great difficulties by reason of the large extent of the said township; for remedy whereof,

New township set off from Hardwick; its boundaries,

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the said township of Hardwick, included in the following boundaries, viz. beginning at Pequest river in the division line between Hardwick and Newtown; thence running by said division line, south eleven degrees east, eight miles, to Musconetcong river to a white oak tree; thence down the said river seven miles and three quarters, to a tree for a corner; thence north, sixty degrees west, six miles, to Pequest river; thence north, eleven degrees west, four miles, to a tree for a corner; thence north, sixty four degrees and fifteen minutes east, nine miles, to a spruce tree standing on the bank of Pequest river at the turn of said river, called and known by the name of the spruce bank; thence up the said river two miles to the place of beginning; shall be, and is hereby set off from the township of Hardwick, and made a separate township, to be called by the name of the township of Independence.

and name.

An ACT

An ACT *to repeal the several acts therein named.* A. D. 1782.

Passed the 5th of December, 1782.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An Act for the inspection of gun powder," passed the fourth day of October, one thousand, seven hundred and seventy six; the act, entitled, "An Act to prevent the distilling of wheat, rye, and other grain," passed the fourteenth day of March, one thousand, seven hundred and seventy seven; the act, entitled, "An Act to suspend the operation of an act, entitled, an act to prevent the distilling of wheat, rye, and other grain," passed the sixth day of June, one thousand, seven hundred and seventy seven; the act, entitled, "An Act to encourage the making of salt, at the Pennsylvania salt works, in the State of New-Jersey," passed the seventh day of October, one thousand, seven hundred and seventy seven; the act, entitled, "An Act for regulating and limiting the prices of sundry articles of produce, manufacture and trade, and to prevent forestalling, regrating and engrossing," passed the eleventh day of December, one thousand, seven hundred and seventy seven; the act, entitled, "An Act for regulating and limiting the price of labor, and sundry articles of produce, manufacture and trade, and to prevent forestalling, regrating and engrossing," passed the thirty first day of March, one thousand, seven hundred and seventy eight; the act, entitled, "An Act to amend an act, entitled, an act for the settlement and relief of the poor," passed the eighth day of June, one thousand, seven hundred and seventy nine; the act, entitled, "An Act to provide for the clothing of the quota of forces, raised, or to be raised, in this State, for the service of the United States, and to repeal the laws now in force for that end," passed the eleventh day of June, one thousand, seven hundred and seventy nine; the act, entitled, "An Act to revive and continue an act, entitled, an act to provide for the better subsistence of the troops of this State, in the service of the United States," passed the twenty fifth day of December, one thousand, seven hundred and seventy nine; the act, entitled, "An Act to prevent the waste of timber, trees and poles, in this State, and to repeal the former act, for that purpose," passed the eighteenth day of March, one thousand, seven hundred and eighty; and the act, entitled, "An Act more effectually to prevent desertion, and for the punishment of persons harboring prisoners of war, or purchasing the clothing and accoutrements of the soldiers of the army, and for the repeal of a certain act therein mentioned," passed the seventeenth day of June, one thousand, seven hundred and eighty; except the seventh section thereof, shall be, and they, and each of them, are hereby declared to be severally repealed. Acts repealed.

An ACT *to ratify and confirm an agreement made between commissioners appointed by the legislature of the State of Pennsylvania, and commissioners appointed by the legislature of the State of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same.*

Passed the 27th of May, 1783.

WHEREAS commissioners, duly appointed on the part of the State of Pennsylvania, and commissioners, duly appointed on the part of the State of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware and islands within the same, have executed two instruments of an agreement for the purposes aforesaid, one for each State, which agreement is contained in the following words: Preamble.

AN agreement made and concluded between George Bryan, George Gray and William Bingham, commissioners appointed by the legislature of the State of Pennsylvania, for settling the jurisdiction of the river Delaware, and islands within the same, and Abraham Clark, Joseph Cooper and Thomas Henderson, commissioners, appointed by the legislature of the State of New-Jersey, for the like purpose. Recital of an agreement between Pennsylvania and New-Jersey, respecting jurisdiction over islands in the Delaware.

WHEREAS

A. D. 1783.

WHEREAS inconveniencies and mischiefs have arisen, and may hereafter arise, from the uncertainty of jurisdiction within and on the river Delaware; therefore to prevent the same, and in order, that law and justice may hereafter in all cases be executed and take effect within, and upon the said river, from shore to shore, in all parts and places thereof, where the same river is the boundary between the said States, the said commissioners do agree and establish, for and in behalf of their respective States in manner following; that is to say,

FIRST. It is declared, that the river Delaware from the station point, or north-west corner of New-Jersey, northerly, to the place upon the said river, where the circular boundary of the State of Delaware toucheth upon the same, in the whole length and breadth thereof, is, and shall continue to be, and remain a common highway, equally free and open for the use, benefit and advantage, of the said contracting parties. PROVIDED NEVERTHELESS, That each of the legislatures of said States shall hold, and exercise the right of regulating and guarding the fisheries, on the said river Delaware, annexed to their respective shores, in such manner, that the said fisheries may not be unnecessarily interrupted, during the season for catching shad, by vessels riding at anchor on the fishing ground, or by persons fishing under claim of a common right on said river.

SECONDLY. That each State shall enjoy and exercise a concurrent jurisdiction, within and upon the water, and not upon the dry land, between the shores of said river, but in such sort, nevertheless, that every ship and other vessel, while riding at anchor, before any city or town in either State, where she hath last laded or unladed, or where it is intended she shall first thereafter either lade or unlade, shall be considered, exclusively, within the jurisdiction of such State; and every vessel fastened to, or aground on, the shore of either State, shall, in like manner, be considered, exclusively, within the jurisdiction of such State; but that all capital and other offences, trespasses or damages, committed on said river, the juridical investigation and determination thereof, shall be exclusively vested in the State, wherein the offender, or person charged with such offence, shall be first apprehended, arrested or prosecuted.

THIRDLY. That all islands, eylots, and dry land within the bed, and between the shores of the said river, and between the said station point, northerly, and the falls of Trenton, southerly, shall, as to jurisdiction, be hereafter deemed and considered as parts and parcels of the State, to which such insulated dry land doth lie nearest, at the time of making and executing this agreement, and that from said falls of Trenton, to the State of Delaware, southerly, Biles's island, near Trenton, Windmill island, opposite to Philadelphia, League island, Mud or Fort island, Hog island and Little Tinnicum islands, shall be annexed to the State of Pennsylvania, and considered as parts and parcels thereof; and that Biddle's or Newbold's island, Burlington island, Petty's islands, Redbank island, Harmanus Helm's island, Chester island and Shiverse's island, shall be annexed to the State of New-Jersey, and considered as parts and parcels thereof; and that all other islands within said river, between the falls of Trenton and the State of Delaware, which are not herein before particularly enumerated, shall be hereafter deemed and considered as parts and parcels of the State, to which such island doth lie nearest at the date hereof; and that all islands which may hereafter be formed within the said river, shall be classed and annexed to the jurisdiction of either State, according to the same principle.

FOURTHLY. That this present agreement, and every article and clause therein contained, shall be suspended and take no effect until each of the legislatures of the State of Pennsylvania and New-Jersey respectively, shall have passed laws approving of and ratifying the same; which being done, the said agreement shall then be considered as a joint compact between the said States, and the citizens thereof respectively, and be forever thereafter irrevocable by either of the said contracting States, without the concurrence of the other. In witness whereof, we the commissioners of the aforesaid States, have set our hands and seals to two instruments of the agreement, one for each State, dated this twenty sixth day of April, Anno Domini, one thousand, seven hundred and eighty three.

ABRAHAM CLARK,	(L. S.)	GEORGE BRYAN,	(L. S.)
JOSEPH COOPER,	(L. S.)	GEORGE GRAY,	(L. S.)
THOMAS HENDERSON,	(L. S.)	WM. BINGHAM,	(L. S.)

THEREFORE,

A. D. 1783.

THEREFORE,

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the aforesaid agreement, and every article, clause, matter and thing therein contained, shall be, and the same is hereby fully and amply ratified and confirmed, and shall be and ever hereafter remain in force, agreeably to the true tenor and extent thereof.

The agreement confirmed.

An ACT *more effectually to prevent the waste of timber in this State, and to repeal the former act for that purpose.*

Passed the 13th of June, 1783.

WHEREAS the laws heretofore made for the purpose of preventing the waste of timber, pine and cedar trees, and poles, within this State, have been found on experience insufficient to answer the good purposes intended; for remedy of which for the future,

Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if any person or persons whatsoever shall, at any time hereafter, cut, fell, work up, carry away, box, bore or destroy, any tree, sapling or pole, standing or lying on any land within this State, to which such person or persons hath not or have not any right and title, without leave first had and obtained of the owner or owners of the said land for that purpose, every such person or persons, so offending, shall forfeit and pay for each tree, sapling or pole, so cut, felled, worked up, carried away, boxed, bored or destroyed, as aforesaid, the sum of three pounds, one half to the owner or owners of the land, and the other half to the person or persons, who shall sue for, and prosecute the same to effect, at any time within eighteen months from the cutting, felling, working up, carrying away, boxing, boring or destroying of any such tree, sapling or pole; and that, whenever any person or persons, within this State, shall be sued or prosecuted before any justice of the peace within the same, it shall and may be lawful for such justice of the peace, to proceed whenever the penalty demanded shall not exceed twelve pounds, notwithstanding any claim the defendant or defendants may offer or make to the land whereon, and from which the said tree, sapling or pole may be cut, felled, worked up, boxed, bored, destroyed or carried away, and to issue execution for the same, with costs of suit, unless the defendant or defendants shall immediately enter into bond to the plaintiff or plaintiffs, with one or more sufficient surety or sureties, being freeholders, in double the sum so demanded, with a sufficiency for costs of suit, conditioned for his, her or their appearance at the next court, where the same may be cognizable, in an action of trespass, and to pay damages found against him, her or them, with costs of suit; any law, usage or custom, to the contrary notwithstanding.

Persons, who destroy the trees of others, to forfeit three pounds for every tree.

Mode of prosecution.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That if any person, or persons shall saw any log, or logs so stolen, knowing them to be such, each and every person, so offending, shall, on conviction, pay the sum of three pounds, for every log so sawed, to be recovered in any court where the same may be cognizable, with cost of suit, one half to the person, who shall prosecute the same to effect, and the other half to the owner, or owners of the land, from whence said logs were stolen.

Persons sawing stolen logs, what to forfeit.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That neither this act, nor any thing therein contained, shall, in any manner, affect the persons settled within the supposed boundaries of the Elizabeth-Town purchase, and are at present plaintiffs or defendants in any bill, or answer now filed in the high court of chancery of this State, in respect to any timber, to be by them, or either of them, cut down, or manufactured within any of the fenced or improved lands of the said plaintiffs or defendants, their issue or tenants, or to such trees as are used for fencing, building, or repairing any edifices thereon.

Persons not affected by this act.

IV. AND BE IT FURTHER ENACTED, That nothing in this act shall be construed or taken to extend to prohibit the cutting, felling, or carrying away, any wood

This act not to prevent trees from being used for repairing high ways.

A. D. 1783.

or timber, within the bounds or limits of the highways within this State, for making and repairing of bridges and highways; any thing in this act to the contrary in anywise notwithstanding.

Act repealed.

V. And be it further enacted, That the act, entitled, "An act to prevent the waste of timber, pine, and cedar trees, and poles, within this province of New-Jersey, and to lay a duty upon all pipe, and hogshead staves exported out of the same, to any of the neighboring colonies," passed March the eleventh, in the year of our Lord, one thousand, seven hundred and thirteen-fourteen, be, and the same is hereby repealed.

An ACT *for directing the settlement of certain debts contracted, by the citizens of this State, previous to the thirteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, on principles of equity.*

Passed the 18th of June, 1783.

Preamble.

Whereas it is represented to the legislature, that great difficulties occur in the settlement of debts contracted previous to the thirteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, on the principles of common law, without doing manifest injury and injustice, to either one or the other of the parties concerned, occasioned by the fluctuating value and different species of money, as also by the removal of parties, books and documents, and other occurrences during the war, by which debtors have been deprived of an opportunity of discharging their debts, or any part thereof; therefore,

Mode of settling certain debts contracted before the 13th of June, 1781.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the passing of this act, all actions brought into any of the courts of this State for the recovery of debts, which shall appear to have been contracted previous to the thirteenth day of June, in the year one thousand, seven hundred and eighty one, it shall and may be lawful for the court and jury, before whom such action may be brought for trial, after hearing the proofs and allegations of the parties, and taking into consideration, the particular time when, and circumstances under which, the debt was contracted, and whether the non payment thereof, was occasioned by any default of the creditor, or owing to his having remained, or removed within the lines of the enemy, or places in their possession; and also the nature and extent of the laws of this State, relative to the payment of debts, previous to the thirteenth day of June, in the year one thousand, seven hundred and eighty one, then to decide, to the best of their knowledge and understanding, agreeably to equity and good conscience, any law, usage or custom, anywise to the contrary notwithstanding.

See an explanatory act passed the 8th of December, 1784.

An ACT *to annex the several islands, situate in the river Delaware, belonging to this State, to the respective counties and townships, to which they lie nearest.*

Passed the 26th of November, 1783.

Preamble.

Whereas in and by the act, entitled, "An Act to ratify and confirm an agreement made between commissioners appointed by the legislature of the State of Pennsylvania, and commissioners appointed by the legislature of the State of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same," there are many islands annexed to this State, and as it is necessary to annex the same to the particular counties and townships, so that civil government may be properly extended thereto, and public taxes recovered therefrom; therefore,

Islands, in the Delaware, belonging to this State, annexed to

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all islands, islets, and dry land, annexed to the jurisdiction of this State, in and by the act, the title of which is recited in the

the preamble to this act, and lying between the station point, or north-west corner of New-Jersey, northerly, and the State of Delaware, southerly, shall hereafter be deemed and considered as parts and parcels of such counties and townships, to which said islands, or insulated dry land do or doth lie nearest, except Petty's islands, which shall be annexed to the township of Newton, in the county of Gloucester; and the proprietors, or owners thereof, shall be subject to the payment of taxes, for the said islands, in the said counties and townships, accordingly.

A. D. 1783.

the contiguous counties, except Petty's islands.

An ACT *to regulate the practice of physic and surgery, within the State of New-Jersey.*

Passed the 26th of November, 1783.

Preamble.

WHEREAS many ignorant and unskilful persons do take upon themselves to administer physic and surgery, within this State, to the endangering of the lives and limbs of the good subjects of the same, who have been persuaded to become their patients; for the prevention of such abuses in future,

No person to practise as a physician or surgeon without a licence.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the publication of this act, no person whatsoever, shall administer physic, or practise surgery in the State of New-Jersey, before he shall have been first examined, approved of, and admitted by, any two of the justices of the supreme court of this State, for the time being, taking to their assistance, for such examination, two able, and skilful practitioners in physic and surgery, who, after due examination, and satisfactory proofs being given of such candidate's learning and skill in physic or surgery, shall certify, under their hands and seals, or at least under the hands and seals of three of the said examiners, that the person applying is approved of, and ought to be admitted to practise as a physician or surgeon, or both, and shall give a testimonial of his examination and admission, in the form following, videlicet,

To all to whom these presents shall come, or may concern.

Form of such licence.

KNOW YE, that in pursuance of an act of the Council and General Assembly of the State of New-Jersey, passed the entitled, "An Act to regulate the practice of physic and surgery, within the State of New-Jersey," N. R. having been duly examined in physic and surgery, by A. B. and C. D. two of the justices of the supreme court of New-Jersey, and doctor E. and F. or by three of them, (as the case may be,) as appears by their certificates annexed, they having approved of his skill, do hereby admit him as a physician, or surgeon, (or physician and surgeon, as the case may be,) to practise in the said faculty, or faculties, throughout the State of New-Jersey. IN TESTIMONY whereof, they have hereunto subscribed their names, and affixed their seals to this instrument, at this day of Anno Domini, 17

And the justices, so examining, shall be entitled to a fee of twenty shillings for their services, to be paid by the person, so applying.

Penalty for practising without licence.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any person, or persons, shall practise as a physician or surgeon, or both, within the State of New-Jersey, without such testimonial as aforesaid, he shall forfeit and pay, for every such offence, the sum of five pounds, one half thereof, to the use of any person or persons, who shall sue for the same, and the other half to the use of the poor of the city, or township, where the offence shall have been committed, to be recovered in any court, where sums of this amount are cognizable, with costs of suit. PROVIDED ALWAYS, That this act shall not be construed to extend to any person or persons, administering physic, or practising surgery, within this State, before the passing of the same. AND PROVIDED ALWAYS, That where any person, not qualified by law, shall administer physic, or practise surgery, in this State, on any emergency, where a regular physician, or surgeon, cannot conveniently be had, such person, so administering or practising, shall not be liable to the penalties hereby inflicted. PROVIDED ALSO, That nothing herein contained, shall

Proviso.

A. D. 1783.

shall be construed to extend to prevent any skilful physician, or surgeon, in any of the neighboring States, being sent for, on any particular occasion, from practising on such occasion, within this State.

Penalty on mountebanks erecting stages for the sale of drugs.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, that every physician, surgeon, or mountebank doctor, who shall come into, travel through, or remain in this State, and shall erect any stage or stages, for the sale of drugs or medicines of any kind, shall, for every such offence, forfeit and pay the sum of twelve pounds, to be recovered in any court, where the same may be cognizable, with costs of suit; one half to the person, who will prosecute the same to effect, the other half for the use of the poor, of any city, township, or precinct, where the same offence shall be committed.

Physicians bills to be taxed.

IV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, that every person, now practising physic or surgery, or that shall hereafter be licensed, as by this act is directed, shall deliver his account or bill of particulars to all and every patient in plain English words, or as nearly so as the articles will admit of; all and every of which accounts shall be liable, whenever the patient, his executors, or administrators, shall require, to be taxed by any one or more of the justices of the supreme court, or any one or more of the judges of the inferior court of common pleas of the county, wherein the party complaining resides, calling to their assistance such persons therein skilled as they may think proper.

See a supplemental act of the 2d of November, 1786.

An ACT *for ascertaining the value of debts due from the forfeited estates of certain fugitives and offenders, and for directing the payment of the same.*

Passed the 23d of December, 1783.

Preamble.

WHEREAS the personal and real estates of certain fugitives and offenders have, by several acts of the legislature, been forfeited to the use of this State: AND WHEREAS the debts and demands due from such fugitives and offenders have, from the fluctuating state of the currency and other circumstances, been adjusted in different modes by the judges of the several courts of common pleas, before whom they may have been exhibited for liquidation, on which account it hath become necessary that provision be made for readjusting the same;

Mode of adjusting demands against forfeited estates.

I. BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That each and every person, his heirs, executors or administrators, having a demand against any estate, forfeited as aforesaid, either by mortgage, specialty, note or otherwise, which hath been heretofore presented and adjusted agreeably to the act, entitled "An act for forfeiting to, and vesting in the State of New-Jersey, the real estates of certain fugitives and offenders, and for directing the mode of determining and satisfying the lawful debts and demands, which may be due from, or made against such fugitives and offenders, and for other purposes therein mentioned," passed the eleventh day of December, seventeen hundred and seventy eight, and which still remains unpaid, shall lay the same before two or more of the judges of the court of common pleas of the county, in which the person, against whose estate the demand may be, resided; or, if a non resident, before two or more of the judges of the court of common pleas, of any county in which a part of the estate of such person, forfeited as aforesaid, may have been situated or sold, together with the vouchers in support thereof; which judges, having ascertained the sum or balance due agreeably to law, shall state the account and certify the same, and transmit a copy of the whole to the auditor of accounts for the time being, on or before the first day of September next ensuing; and shall also endorse on the mortgage, specialty, note, or other document containing the demand, the amount of the debt due, or balance ascertained; for which the said judges shall be entitled to receive from each applicant, the sum of two shillings and six pence, and no more.

V. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That each and every

every person, having any demand against any of the said estates, forfeited as aforesaid, by mortgage, specialty, note or otherwise, and who shall not produce the same to be readjusted as herein before is directed, and within the time herein before limited, shall forever after be barred from foreclosing such mortgage, or commencing, prosecuting or maintaining, any action or suit thereon, or on any such specialty, note or other demand, or receiving payment thereof from the State, or premises so mortgaged or encumbered.

A. D. 1784.

Mortgages, bonds, debts, &c. not produced for readjustment, barred from being foreclosed or prosecuted.

VI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That each and every person, having any demand as aforesaid, against any of the said estates forfeited as aforesaid, except as is herein after excepted, and who hath not produced the same for settlement within the time limited, and in the mode prescribed by the act herein before mentioned, shall be forever barred from foreclosing any such mortgage, or commencing, prosecuting or maintaining, any action or suit thereon, or on any such specialty, note or other demand, or receiving payment thereof from the State, or premises so mortgaged or encumbered.

Persons, not having produced their demands in time, barred from recovering the same.

VII. AND WHEREAS, by reason of the troubles of the late war, or by other means, many persons, having demands against sundry of the estates forfeited as aforesaid, may have been prevented and disabled from producing the same, in the manner, and within the time, described and limited in the aforesaid act, *Be it enacted by the authority aforesaid*, That each and every person, who is not an offender in the manner described in the aforesaid act, that shall make it appear to the judges aforesaid, by satisfactory proof, that he was beyond the seas, or that he was a prisoner of war, and involuntarily detained within the lines of the enemy, or that his residence had been distant from this State, or that he was in such other situation and circumstance as rendered it impracticable to produce his demand, of what nature, or kind soever, either mortgage, speciality, note, or other document, on which his demand is founded, within the periods limited in said act, shall be, and hereby is permitted to lay the same before the judges as aforesaid, for settlement within the time limited in this act.

Certain creditors, who did not exhibit their demands in the time prescribed by the former acts, to have the benefit of this act.

X. AND WHEREAS, under several acts of forfeiture from time to time passed in this State, divers inquisitions have been taken and found, and judgment entered thereon; which inquisitions having, in many instances, been drawn or filled up by persons less versant in the forms of law, may be liable to be quashed, the judgments, entered thereon, reversed, and the subsequent proceedings vacated on writs of error or certiorari, by reason of informality, or other causes not material to the issue or merits of the several causes; *Be it enacted by the authority aforesaid*, That no inquisition taken or found, or judgment entered thereon, or proceedings had in consequence thereof, as aforesaid, shall be liable to be quashed, reversed, or vacated, for, or on account of any informality, or other cause whatsoever, not material to the charge or issue, or against the right or merits thereof, and which shall not go directly to the proof, that the person charged, was not an offender within the meaning of the said acts, or of any of them; neither shall any sale of forfeited estates, made by any commissioner or agent, be liable to be vacated or set aside, for, or on account of any informality or omission of taking out regular process, as directed in said acts.

Inquisition or judgment thereon not to be reversed, for informality, or other cause, not material.

See the whole act in Wilson's edition, page 384 to 387 inclusive.

An ACT *to pass estates in fee by certain devises in wills and testaments, and to limit estates in tail.*

Passed the 26th of August, 1784.

WHEREAS it frequently happens, that, in making wills and testaments, the words, heirs and assigns, in devises of land, or other real estate, are omitted, through the ignorance or inattention of the writer, though the testator meant and intended to grant an absolute estate in the devised premises; and devises are sometimes made in tail, without limitation of time, whereby the heirs are put to great expence in suing out recoveries, in order to dock such entails; for remedy in which cases,

Preamble.

A. D. 1784.

Devises of lands, in which the words, heirs and assigns, are omitted, how to be construed.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the publication of this act, all devises made of land or other real estate within this State, in which the words, heirs and assigns, or, heirs and assigns forever, are omitted, and no expressions are contained in such will and testament, whereby it shall appear, that such devise was intended to convey only an estate for life, and no further devise thereof being made of the devised premises, after the decease of the devisee, to whom the same shall be given; all such devises shall be taken and understood to be the intention of the testator, thereby to grant and devise an absolute estate in the same, and shall be construed, deemed and adjudged in all courts of law and equity in this State, to convey an estate in fee simple to the devisee, for all such devised premises, in as full a manner as if the same had been given or devised to such devisee, and to his heirs and assigns forever; any law, usage or custom, to the contrary notwithstanding.

The operation and effect of antecedent devisss in tail.

How lands, hereafter devised in tail, shall pass.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all lands, or other real estate, which have heretofore been devised in tail of any kind, and hath, agreeably to such devise or entail, passed through one descent, since the death of the testator, and is now in the second, or more remote descent from the testator; all such land, or other real estate, shall be deemed, taken, and adjudged, to be the proper estate in fee simple of the present possessor; provided the testator, under whom the same is held, had an absolute estate in the same; and also provided, the person in possession holdeth the same in the line of descent mentioned and directed, in and by such devise in tail: and all devises heretofore made in tail as aforesaid, which have not already passed through one descent, since the death of the testator, and also all such devises, which shall hereafter be made in tail of any kind, shall be deemed, taken, and adjudged to vest in, and entitle the person, to whom the same may descend, agreeably to the devise or entailment, after the decease of the first devisee, to all the estate in the devised premises, which the testator was entitled to, and might or could have devised; and that no entailment of any lands, or other real estate, shall continue to entail the same, in any case whatever, longer than the life of the person, to whom the same hath been, or shall be first given or devised by such entailment.

See an explanatory act passed the 23d of March, 1786.

An ACT *for establishing certain free ports in the State of New-Jersey, and for the encouragement of commerce therein.*

Passed the 28th of August, 1784.

Perth Amboy and Burlington, within certain limits, declared to be free cities for the period of 25 years.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the city and port of Perth Amboy, in the county of Middlesex, on the north side of the Raritan river, within the bounds and limits following; beginning at the mouth of Raritan river, where the waters thereof fall into, and meet with, the waters which come down the sound, commonly called Staten Island sound; thence running up the said sound northeasterly to a creek, formerly called Skinner's creek; thence up the westermost branch of the said creek, and the creek, which empties itself into the said branch, being the line between the lands of John Halstead and Matthias Halstead, and the land of William Burnet, unto a stone planted on the north side of the said brook; thence running north, fifty two degrees and fifteen minutes east, across the land of the said William Burnet, to the eastern corner of another lot of land of the said Halstead, and continuing the said course in the line between the lands of the said Halstead, and of the said Burnet, and others, to the road leading from Perth Amboy to Woodbridge; thence running with the said road towards Perth Amboy, to the old corporation line; thence with the said line, north, seventy degrees west, to the road leading from Perth Amboy to New-Brunswick; then with the said road towards New-Brunswick, westerly, to the limits of the charter, granted by his excellency Jonathan Belcher, esquire, late a governor of New-Jersey, dated the twenty third day of November, seventeen hundred and fifty three; then with the western boundary of the said charter unto the river Raritan; thence down the said river to the place of beginning, including all the harbors, bays, &c.

A. D. 1784.

&c. And the city and port of Burlington, on the river Delaware, within the bounds and limits following; extending three miles in length upon the river Delaware, to wit, one mile up the river from the present public wharf of the said city, and two miles down the river from the same, and extending at right angles one mile from the said river; the whole extent of said three miles; shall be free cities and ports for the term of twenty five years, from the first day of October next; and that all foreigners, mariners, manufacturers or mechanics, and also all subjects of the United States, or any of them, who shall remove to either of the said cities, and actually reside there for the space of one month, and shall follow their professional business, or any kind of commerce, shall be deemed and admitted freemen and citizens of said free cities and ports, in which they shall so reside, upon their taking the oath, or, if quakers, the affirmation, of allegiance prescribed by the laws of this State, (except only such persons, who, during the late war, have been guilty of licentious cruelties in plundering or murder, contrary to the usages of civilized nations) and shall be entitled to and receive the same protection of their persons and properties, which the citizens of this State are entitled to have and receive. PROVIDED ALWAYS, that nothing herein contained shall be deemed to extend to alter any part of the act, entitled, "An act for the settlement and relief of the poor," passed the eleventh day of March, seventeen hundred and seventy four.

When persons shall be admitted freemen of the said cities.

This act not to alter the act for the settlement of the poor.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all foreign products and manufactures, and all goods, wares, and merchandize whatsoever, imported immediately from any foreign port into either of the said free ports, and there actually unladen and landed, except slaves, shall be free from all duties and imposts, whatsoever, except such as may be levied by virtue of any act or acts, for raising a revenue for the use of the United States of America, or for the regulation of the commerce of the said United States.

Goods immediately imported into the said free ports, to be exempt from duty, except in certain cases.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all merchants, being freemen, and citizens of the said free cities or ports, or either of them, and actually residing within the bounds of the same; and all persons, being freemen and citizens of either of the said free cities and ports, and residing therein, and being actually employed in commerce, shall be exempted from all taxes and assessments for their professions as merchants, and for their stock and vessels employed in commerce, for the said term of twenty five years from the first day of October next. PROVIDED ALWAYS, that nothing in this act contained, shall be construed or understood to debar the legislature of this State, within the aforesaid term, from laying an impost or duty, upon any goods, wares, or merchandize, imported into the said free cities or ports, which may prove injurious to, and discourage the manufactories in this State.

Merchants to be exempted from taxes for their stock in trade.

Proviso.

An ACT *to repeal the three several acts therein mentioned.*

Passed the 31st of August, 1784.

WHEREAS the restoration of peace hath superseded the necessity and expediency of continuing the act, entitled, "An act for taking charge of and leasing the real estates of the subjects of the King of Great Britain, lying within this State;" the act, entitled, "An act to vest Robert Lettis Hooper, the younger, and Elizabeth his wife, and the survivor of them, with powers of agency, to take charge of and manage the estate of the American company, commonly so called, in the counties of Bergen and Morris, and elsewhere in this State, for the purposes mentioned therein;" and the act, entitled, "An act for vesting the powers of agency for the West Jersey society, in Joseph Read, esquire, one of the said society;" therefore,

Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An act for taking charge of and leasing the real estates of the subjects of the King of Great Britain, lying within this State," passed the twenty ninth day of December, one thousand, seven hundred and eighty one; the act, entitled, "An act to vest Robert Lettis Hooper, the younger, and Elizabeth his wife, and the survivor of them, with powers of agency

Acts repealed,

A. D. 1784.

agency to take charge of and manage the estate of the American company, commonly so called, in the counties of Bergen and Morris, and elsewhere in this State, for the purposes mentioned therein," passed the twenty fourth day of June, one thousand, seven hundred and eighty two; and the act, entitled, "An act for vesting the powers of agency for the West Jersey society, in Joseph Read, esquire, one of the said society," passed the fifth day of October, one thousand, seven hundred and eighty one, shall be, and they severally are hereby repealed, and made void.

Agents to be accountable.

Actions, how to be proceeded in.

II. PROVIDED ALWAYS, *and be it further enacted*, That each and every of the agents, in the before recited acts mentioned and named, shall be accountable for all monies received, and all acts, matters and things, by them, or either of them, done or suffered in the execution of the powers and trusts, with which they were vested, in and by the said acts, or either of them, before the passing this act; and that all actions commenced, or which may be commenced by the said agents, or either of them, pursuant to the direction of the said recited acts, or either of them, may be proceeded in to judgment and execution; and all bargains and leases, whether written or parole, and all other acts, or matters, done or transacted by the said agents, or either of them, as aforesaid, pursuant to the true intent and meaning of the said acts, or either of them, shall be good and valid, as though such acts had not been repealed.

Possession held under the agents, &c. how to be considered.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That no possession, held under the agents appointed by said laws, or any, or either of them, by any person or persons whatsoever, or held by any person or persons in opposition to the authority of said agents, or either of them, shall be considered as an advantage to the said holder or holders; but the said tenants, or any, or either of them, and persons, so opposed to the authority of the said agents, or either of them, shall be liable to be put out of possession in the same manner, as they might have been ousted, had the said laws never been passed, any law, usage or custom, to the contrary notwithstanding.

An ACT *for incorporating the town of New-Brunswick.*

Passed the 1st of September, 1784.

Preamble.

WHEREAS Azariah Dunham, Frederick Frelinghuysen, John Taylor, John Neilson, John Schureman, Henry Guest, Peter Dumont, John Bray, John Van Emburgh, James Douglass, William Van Deursen, Lewis Dunham, and many others, freeholders and inhabitants of the town of New-Brunswick, have, by their petition to the legislature, set forth, that the said town of New-Brunswick, standing on the bank of a fine navigable river, is conveniently situated for shipping the produce of a plentiful country lying adjacent to it; that it is at present a place of considerable, and promises, in process of time, to become a place of extensive trade and commerce; that, as such, and as a populous town, it requires many particular regulations for preserving good order and government, which the general laws of the State cannot provide; and therefore pray, that they may by law be incorporated, and formed into a body politic, with such powers, privileges, and immunities, and by such name, as to the legislature shall seem proper; AND WHEREAS the legislature think it reasonable, that the prayer of the said petition be granted; Therefore.

Bounds, limits, and name of the corporation of New-Brunswick.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That they, the said Azariah Dunham, Frederick Frelinghuysen, John Taylor, John Neilson, John Schureman, Henry Guest, Peter Dumont, John Bray, John Van Emburgh, James Douglass, William Van Deursen, Lewis Dunham, and the rest of the freeholders and inhabitants of the said town of New-Brunswick, and their successors forever, within the following limits and boundaries, that is to say, beginning at the place, known by the name of the steep gully, on the south side of Raritan river; thence, south-west, two miles; thence, north-west, two miles; thence, north-east, to said Raritan river; thence, crossing the same, on the same course, to highwater mark, on the north-east side thereof; thence, down said river, including the same to highwater mark, till

till it comes opposite the aforesaid steep gully; thence, crossing the said river, to the place of beginning; which district shall be henceforth called, known, and distinguished, by the name of "The city of New-Brunswick," be, and they are hereby declared one body corporate and politic. A. D. 1784.

II. And be it further enacted *by the authority aforesaid*, That for the better ordering, ruling, and governing the said city of New-Brunswick, and the inhabitants thereof, there shall henceforth be, in the said city, a president, a register, four directors, six assistants, a marshal, an assessor, and a collector, to be nominated, elected, and sworn, as is herein after directed; which president, register, directors, and assistants, shall be one body corporate and politic, in deed, fact, and name, with perpetual succession, to be known and distinguished by the name of, "The president, register, directors, and assistants, of the city of New-Brunswick." President, register, &c. to be elected and declared a body politic and corporate. Their name.

III. And be it further enacted *by the authority aforesaid*, That the said president, register, directors and assistants, by the name aforesaid, shall be able, and in law capable to have, get, acquire, take, receive, and possess, lands, tenements, hereditaments, jurisdictions, and franchises, to them and their successors, in fee simple, or otherwise; and also goods, chattels, and other things, of what nature soever, so that the yearly income of such lands, tenements and hereditaments, do not exceed the sum of five hundred pounds; and shall also be capable in law, by the name aforesaid, of suing, and being sued, pleading, and being impleaded, appearing, and being answered, defending, and being defended, in all and singular suits, actions, and controversies, in any of the courts of judicature of this State; and also, that they may have one common seal, to serve for all and singular their affairs and businesses relating to the said corporation. The said corporation enabled to hold lands, to sue and be sued, and to have a common seal.

IV. And be it further enacted *by the authority aforesaid*, That Azariah Dunham, be, and he is hereby appointed president; Frederick Frelinghuysen, register; John Taylor, John Neilson, John Schureman, and Henry Guest, directors; Peter Dumont, John Bray, John Van Emburgh, James Douglass, William Van Deurson, and Lewis Dunham, assistants; John Whitlock, marshal; Abraham Schuyler, assessor; and Henry Lupp, collector, of the said city of New-Brunswick, to hold the said respective offices, and to perform, and execute the duties thereunto appertaining, until other fit persons shall be elected and sworn, as is herein after directed; and that they the said officers shall, within twenty days after the publication of this act, respectively take and subscribe, before any one of the judges of the inferior court of common pleas of the county of Somerset, or of Middlesex, the oath of allegiance, and also an oath for the due and faithful execution of their respective offices. Names of the first officers, and their duration in office.

V. And be it further enacted *by the authority aforesaid*, That, henceforth and forever hereafter, it shall and may be lawful for the freeholders, and such of the inhabitants of the said city of New-Brunswick, as are by law qualified to vote for representatives in the general assembly, to assemble at such place, within the said city, as by the president, or any three of the directors shall be appointed, on the first Tuesday in April yearly, and every year, and then, and there, by plurality of voices, to elect a president, a register, four directors, six assistants, a marshal, an assessor, and a collector, to hold their respective offices, for and during one year, and until their successors shall be elected and sworn, which said officers, so elected shall, in like manner, within twenty days after their election, take and subscribe, before any one of the judges of the inferior court of common pleas of either of the counties of Somerset or Middlesex, the oath of allegiance, and also, an oath for the due and faithful discharge and execution of their respective offices. Election of corporation officers, to be on the first Tuesday of April, annually.

VI. And be it further enacted *by the authority aforesaid*, That the aforesaid president, register, directors and assistants, and their successors, shall be called "The common council of the city of New-Brunswick," and that they, or any seven of them, whereof the president or register to be one, shall have full power and authority from time to time, and at all times hereafter, to hold the common council within the said city, at such convenient place as the president, or in his absence, the register, with the advice of any three of the directors, shall appoint, and to make such laws, ordinances and constitutions in writing, and the same from time to time to alter, diminish, and reform, as to them shall seem necessary and convenient, for the well ordering, ruling, correcting, and governing of the said city, The president, register, directors, and assistants to be called "The Common Council of the city of New-Brunswick." Their powers and duties.

A. D. 1784.

and the inhabitants thereof, to administer all oaths incidental and necessary to the execution of their office; and to make, limit, impose, and tax reasonable fines and amercements against all, and upon all persons, who shall offend against such laws, ordinances and constitutions, so made and established as aforesaid, and all and every such fines and amercements to take, demand, require and levy by warrant, issued under the hand and seal of the president, or either of the directors, and directed to the marshal of said city, who is hereby required, and authorized to execute the same, for the use and benefit of the said president, directors, and assistants, and their successors, by distress and sale of the goods and chattels of the offenders, found within the said city. PROVIDED ALWAYS, That such laws, ordinances, and constitutions, be not repugnant to the laws of this State of New-Jersey. AND PROVIDED ALSO, That every person, who may think him, or herself aggrieved by the decision of the president, or any single director, may appeal to the common council, who are hereby required to hear his or her cause of complaint, and to do therein, what unto them shall appear just and equitable. PROVIDED ALWAYS, That nothing in this charter shall be construed to extend to granting any fair or fairs to be held at any time within the said city, for the sale of any goods, wares or merchandize, or for any other purpose whatsoever.

Proviso.

Proviso.

Vacancies, how to be supplied.

VII. AND BE IT ENACTED *by the authority aforesaid*, That when, by death, removal, or otherwise, any vacancy or vacancies shall happen in any of the offices herein before rendered elective by the freeholders and inhabitants of said city of New-Brunswick, it shall and may be lawful for the said freeholders and inhabitants, upon five days notice being given, by advertisement or otherwise, of the time and place of meeting by the president, or any two of the directors, to assemble and elect, by plurality of voices, such and so many fit persons, as are necessary to supply such vacancy or vacancies, which officer or officers, so elected, shall be sworn in the manner and within the time herein before directed for those chosen at the annual election.

Mode of raising and applying money.

VIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the freeholders and inhabitants of said city of New-Brunswick shall, by plurality of voices at their annual meeting for electing the officers of the said city, vote such sums of money, as they may think necessary to be raised for the ensuing year, for the exigencies of the said city, which sum shall be assessed upon the inhabitants by the assessor at his discretion, and collected by the collector at such time, and be paid and disposed of in such manner, as the common council shall direct; and if no sum, or an insufficient sum, shall be then voted to be raised, and the interest of the city require it, the common council are hereby authorized to call a meeting of the freeholders and inhabitants, by advertisement or otherwise, and to propose to them the sum, in their opinion, necessary to be raised, and whatever sum the freeholders and inhabitants shall, by plurality of voices, vote to be raised, shall be assessed and collected, paid and disposed of, in manner aforesaid. PROVIDED ALWAYS, That if any person should think him, or herself aggrieved by any assessment made, as is herein before directed, he or she may appeal to the common council, who are hereby authorized and required, to hear and redress such grievance, if any there be in their opinion: AND PROVIDED ALSO, That no tax shall be levied upon, or collected from any person, who, from his local situation beyond the line of the buildings in the said city, is not interested in the good purposes, for which such tax is designed.

Proviso.

Common Council empowered to elect subordinate officers, and to do all acts, which may promote the prosperity of the said city.

IX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the common council aforesaid be, and they are hereby authorized, from time to time, to elect and appoint such other subordinate officers, as they may think necessary for the good government of the said city, and which are not herein before mentioned, to annex, by ordinance, such fees to the several offices of the corporation, and to impose such fines, for the refusal of office, and neglect, or misconduct in the same, as to them shall seem necessary and proper, and also to do all other acts and things, not being repugnant to the laws of the State, which they may conceive calculated to promote the welfare and prosperity of the said city of New-Brunswick.

The act, that prescribed the oath of abjuration, is repealed; and therefore such parts of the above statute, as required the said oath to be taken by the officers of the corporation, are omitted.

An ACT

An ACT *to amend and explain an act, entitled, "an act for directing the settlement of certain debts, contracted by the citizens of this State, previous to the thirteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, on principles of equity;" and to repeal an act, entitled, "an act for the relief of persons holding public securities, and for other purposes therein mentioned."*

A. D. 1784.

Passed the 8th of December, 1784.

Preamble.

WHEREAS doubts have arisen whether the act, entitled, "an act for directing the settlement of certain debts, contracted by the citizens of this State, previous to the thirteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, on principles of equity," passed the eighteenth day of June, seventeen hundred and eighty three, extends to debts contracted before the war in specie, and to debts contracted during the war, in paper money, issued on the faith of the United States: AND WHEREAS the debts aforesaid ought, by reason of the fluctuating value and depreciation of the paper money, and of the ravages of war, to be settled upon principles of equity and good conscience; therefore,

Former act extended to all debts before the 13th of June, 1781.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the above recited act shall be, and the same is hereby extended to all debts contracted before the thirteenth day of June, seventeen hundred and eighty one, whether the same were contracted for specie, paper money, issued on the faith of the United States, or on the faith of this State, or any other currency whatsoever; and that the mode, prescribed in the said act, shall be observed by all courts and juries in this State, in the settlement of debts contracted before that period.

Under what circumstances no interest shall be allowed for 7 years and 5 months.

II. AND BE IT FRUTHER ENACTED *by the authority aforesaid*, That in all debts contracted before and during the late war as aforesaid, no interest shall be allowed on the demands of any creditors, from the fourth day of July, seventeen hundred and seventy six, to the third day of December, seventeen hundred and eighty three, by whose conduct the non payment of such demands has been occasioned, whether the same was owing to their removing or remaining within the lines of the enemy, or places in their possession, or to any other act of such creditors, by which their debtors were prevented from discharging their obligations, any law, usage or custom, to the contrary in any wise notwithstanding.

A certain act repealed.

III. AND WHEREAS the act, entitled, "an act for the relief of persons holding public securities, and for other purposes therein mentioned," is injurious to the good citizens of this State, therefore, *Be it enacted by the authority aforesaid*, That the act, entitled, "an act for the relief of persons holding public securities, and for other purposes therein mentioned," passed the second day of September, seventeen hundred and eighty four, shall be, and the same is hereby repealed.

See page 50 of this volume, for the act, of which this is explanatory.

An ACT *to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphan's court in the several counties of this State.*

Passed the 16th of December, 1784.

Preamble.

WHEREAS it is necessary that the power and authority of the ordinary of the State, and his surrogate, should be defined, the jurisdiction of the prerogative court regulated, and an orphan's court established in the several counties of this State; therefore,

Authority of the ordinary, how far to extend.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the passing of this act, the authority of the ordinary shall extend only to the granting of probates of wills, letters of administration, letters of guardianship, and marriage licenses, and to the hearing and finally determining of all disputes that may arise thereon.

II. AND

A. D. 1784.

Prerogative court, when and where to be held.

II. And be it further enacted *by the authority aforesaid*, That for the more regular hearing and determination of all causes, cognizable before the ordinary, he shall statedly hold a prerogative court at the times and places appointed, or that hereafter shall be appointed by him, for holding the court of chancery, when he shall hear, and finally determine all causes, that shall come before him, either directly, or by appeal from any of his surrogates, or the orphan's court, herein after established.

Secretary of State to be register of the prerogative court.

III. And be it further enacted *by the authority aforesaid*, That the secretary of the State, for the time being, shall be register of the prerogative court, and, besides the business heretofore done by him, shall attend the sitting of the court, at the stated times, to register the decrees and proceedings of the court.

Ordinary to appoint but one deputy in each county.

IV. And be it further enacted *by the authority aforesaid*, That the ordinary shall hereafter appoint but one deputy or surrogate in each county of the State; and that the power and authority of such surrogate shall be limited to the county for which he shall be appointed.

Orphan's court established; when to be held, and by whom.

V. And be it further enacted, That the judges of the court of common pleas, in the several counties of this State, or any three of them, shall be, and they hereby are, constituted and appointed judges of a court of record, to be held four times a year, in the same week that the courts of general quarter sessions of the peace are, or hereafter shall be held, and also, at such other times, as the said judges shall see occasion to hold the same, which court shall be styled, "The orphan's court," and that the surrogate of the county shall be clerk, or register of said court.

Judges of the court and surrogate to take an oath of office.

VI. And be it enacted *by the authority aforesaid*, That each and every of the judges of the inferior court of common pleas of the several counties shall take an oath or affirmation, before the clerk of the county, well and faithfully to execute the office of a judge of the orphan's court of the county, in which he resides; and the surrogate of each county, before he enters upon the duties of his office, shall also take an oath or affirmation, well and faithfully to execute the office of surrogate of the county, and clerk of the orphan's court; which oath or affirmation, one of the judges of the common pleas is hereby authorized and empowered to administer to such clerk.

Jurisdiction of the orphan's court.

VII. And be it enacted *by the authority aforesaid*, That the orphan's court shall have full power and authority, to hear and determine all disputes and controversies, whatsoever, respecting the existence of wills, the fairness of inventories, the right of administration, and the allowance of the accounts of executors, administrators, guardians or trustees, audited and stated by the surrogate, as herein after directed; and also, all other matters and things herein after submitted to their determination, and to award process, and cause to come before them, all and every person and persons interested or necessary to give evidence in any such cause, or who, as executors, administrators, guardians, trustees or otherwise, are or shall be intrusted with, or in any wise accountable for any lands, tenements, goods, chattels, or estate, belonging, or which shall belong, to any orphan, or person under age; and the ordinary of the State, his register and surrogates, are hereby directed and required, upon application made for that purpose, and payment of reasonable fees, to transmit into the orphan's courts, true copies or duplicates of all bonds, inventories, accounts and proceedings whatsoever, now or hereafter remaining or being in their respective offices or possession, which do or shall relate to the estates of orphans, or any of them.

Orphan's court may order administrators to give further security, and for certain causes may revoke letters of administration.

VIII. And be it enacted *by the authority aforesaid*, That the said orphan's court shall have full power and authority, where letters of administration shall be granted upon insufficient security, to order and direct all such administrators, to give such further, or other security to the ordinary, by bonds, in the usual form, as the said court, after hearing the objection of creditors, or persons concerned, shall approve of, and if it appears, on examination, that any administrator hath embezzled, wasted or misapplied all or any part of the deceedent's estate, or shall neglect or refuse to give bonds, with sureties as aforesaid, then, and in every such case, the said court shall forthwith, by sentence, revoke or repeal the letters of administration, and thereupon the ordinary, or his surrogate, shall grant letters of administration,

administration to such person or persons, having right thereunto, as will give bonds in manner and form aforesaid, who may have actions of trover, detinue, or on the case, for such goods or chattels, as came to the possession of the former administrators, and shall be detained, wasted, embezzled, withheld, or misapplied by any of them, and no satisfaction made for the same.

In what cases the orphan's court may order executors, guardians, and trustees to give security.

IX. And be it further enacted *by the authority aforesaid*, That when any complaint is made to any one of the judges of the orphan's court, that an executrix, having a minor or minors of her own, or being concerned for others, is married, or like to be espoused to another husband, without securing the minor's portions or estates, or that an executor, or other person, having the care and trust of minor's estates, is likely to prove insolvent, or shall refuse, or neglect to exhibit true and perfect inventories, or give full and just accounts of the said estates come to their hands or knowledge, then, and in every such case, the said judge is hereby required, forthwith to call an orphan's court, which court shall order and direct all and every such executrix, executor, guardian or trustee, to give security to the orphans or minors, by mortgage or bonds, in such sums, and with such sureties, as the said court shall think reasonable, conditioned for the performance of their respective trusts, and for the true payment or delivery, to and for the use and behoof of such orphan or orphans as they are concerned for, or such as shall legally represent them, the legacies, portions, shares, and dividends of estates, real and personal, belonging to such orphans or minors, so far as they have assets, as also for their maintenance and education, as the said court shall judge fit for the benefit and best advantage of such orphans.

The orphan's court may direct one executor or administrator to account with, and give security to his co-executor or administrator.

X. And be it enacted *by the authority aforesaid*, That wherever there are two or more acting executors or administrators, the orphan's court shall or may, from time to time, on application of any one or more of them, upon sufficient reasons given to the court therefor, order and direct every such executor or administrator to account with his or her co-executor or co-executors, administrator or administrators, for all assets, which have severally come to the hand of each executor or administrator, and, wherever the court shall judge it necessary, shall compel each executor or administrator to give separate security to his co-executor or co-executors, administrator or administrators, for the true payment of the balance remaining in his or her hands, to creditors, legatees or representatives, of the testator or intestate, and on the neglect or refusal in giving such account or security, it shall and may be lawful for the same court, to authorize such co-executor or co-executors, administrator or administrators, to sue for such assets in the hands of such executor or executors, administrator or administrators, so neglecting or refusing as aforesaid.

The 11th and 12th sections are repealed by the act making lands liable to be sold for the payment of debts, passed in February, 1799, and are supplied by the same act, and the act relative to guardians, passed the 1st of February, 1799. By the first mentioned act, the orphan's court, if the personal estate of the testator or intestate be inadequate to pay his debts, may order the executor or administrator to sell his real estate for that purpose. The last act directs the guardian to deliver an inventory, under oath, of the ward's estate, real and personal, and to exhibit, annually, to the orphan's court, an account of the produce and disposal thereof, and his disbursements. The guardian may, by order of the court, sell the real estate of the ward for his maintenance and education.

Minors' money to be put to interest, upon security.

When executors, administrators, and guardians shall be liable for the principal only, and when for the interest as well as the principal.

XIII. And be it further enacted, That executors, administrators, or guardians may, by the leave and direction of the orphan's court, put out their minors' money to interest, upon such security, and for such a length of time as the said court shall allow of, and if such security, so taken bona fide, and without fraud, shall happen to prove insufficient, it shall be the minor's loss; but if no person, who may be willing to take the said money at interest, with such security, can be found by the persons so as aforesaid concerned for the minors, nor by any others, then the said executors, administrators or guardians, shall, in such cases, be accountable for the principal money only, until it can be put out at interest as aforesaid; and in all cases where the money of orphans shall be put to interest as aforesaid, or wherever the same might be so put to interest, the executor, administrator, or guardian shall be accountable for the principal, together with all the interest, that shall or might accrue thereon.

A. D. 1784.

Intestate's real estate, to be divided in certain cases.

XIV. And be it further enacted, That where any person, seized of real estate, in fee simple, shall die intestate, leaving two, or more children, any of whom being under age, the said court, on application, may order and direct a division of such real estate to be made, agreeably to the act, entitled, "an act to alter the law, directing the descent of real estates," passed the twenty fourth day of May, seventeen hundred and eighty, the metes and bounds of each child's share, to be ascertained by three indifferent persons to be appointed by the court, and a report made thereon in writing by them, or any two of them, to the next orphan's court, after such division shall be made; which said report, after being approved of by the court, shall be conclusive to all parties concerned.

Surrogates to take the deposition to wills, inventories, administrations, &c.

Disputes relative to the same, when and how to be settled.

XV. And be it enacted *by the authority aforesaid*, That the surrogate of each county shall take the depositions to wills, administrations, inventories, and administration bonds in cases of intestacy, and transmit them to the registry of the prerogative court, in cases only, where no difficulty, objection, or dispute shall arise thereon, but in all cases whatsoever, where doubts arise on the face of a will, or a caveat is put in against proving a will, and wherever disputes happen respecting the existence of a will, the fairness of an inventory, or the right of administration, the surrogate shall issue citations to all persons concerned, to appear at the next orphan's court, to be held in and for the county, which citations shall be served at least ten days before the sitting of the court, where the cause shall be heard in a summary way, and determined by the judges of said court, subject to an appeal to the prerogative court, if demanded by any of the parties, within one month next after the sentence or decree of the orphan's court, after which, if no appeal be demanded, the surrogate shall proceed thereon as the sentence of the orphan's court shall direct; and all proceedings of surrogates, not brought as aforesaid before the orphan's court, shall in like manner be subject to an appeal to the prerogative court.

Surrogates to audit the accounts of executors and administrators, and to report the same.

Court to examine, report, correct errors, &c.

Proviso.

Accounts of guardians and trustees to be audited and settled in like manner.

XVI. And be it further enacted, That the surrogate shall also audit and state the accounts of executors and administrators, exhibited to him, and report the same to the orphan's court at the next sitting after; the executor, in case of a will, or the administrator, in case of intestacy, giving at least two months notice of his intention in three of the most public places in the county, where such account is to be allowed; which court, on due proof of notice as aforesaid, and no exception being made to the report of the surrogate, shall decree an allowance of the account as stated; but if any person or persons, interested in the settlement of said account, shall, by himself or attorney, appear and make exceptions to the report, the court shall either proceed to hear the proofs and allegations, and correct or amend any mistakes or errors, that may happen in the account, as reported, or refer the same to auditors, who shall examine and re-state the account, after hearing parties and witnesses, and make report to the next, or some subsequent court for confirmation and allowance as aforesaid. Provided always, That in all cases, where it shall appear, that the executor or administrator hath not had sufficient assets in hand, of the testator or intestate, to satisfy all just debts and expenses, the court shall not proceed to decree an allowance of the account, until the next sitting after the report is made, nor until proclamation shall be publicly made, at that, and the subsequent court, for all creditors, and others, interested in said estate, to appear and shew cause, if any they have, why the account, as stated, should not be allowed; and the accounts of guardians or trustees shall be audited and stated by the surrogate, and reported to, and finally settled and allowed by the orphan's court, in manner aforesaid; and the said court shall, upon application of an orphan, or other person interested, from time to time, order and direct guardians to account as aforesaid, for all monies, goods, and chattels, they shall receive, and for the rents, issues, and profits, of any real estate in their possession, belonging to their wards.

Decree of the orphan's court, in the settlement of the accounts of executors, administrators, guardians and trustees, to be conclusive.

XVII. And be it enacted *by the authority aforesaid*, That the sentence or decree of the orphan's court, on the final settlement and allowance of the accounts of executors, administrators, guardians, or trustees, shall be conclusive upon all parties, and shall exonerate, and forever discharge every such executor, administrator, guardian, or trustee, from all demands of creditors, legatees or others, beyond the amount of such settlement, except for assets, or monies, which may come to hand after settlement as aforesaid, excepting also in cases where a party applying

applying for a re-settlement, shall prove some fraud, or apparent mistake therein, to the satisfaction of the said orphan's court. A. D. 1784.

When, how, and to whom letters of guardianship may be granted.

XVIII. And be it further enacted, That letters of guardianship, for minors, of the age of fourteen years and upwards, shall be granted, upon petition of the orphan, signed by him or her in the presence of the ordinary, or any one of his surrogates, on giving good security as heretofore; but wherever a guardian may be necessary to an orphan under fourteen, the mother, or the next of kin of full age, and where there are several relations in equal degree of kindred, any one giving due notice to the rest, may apply to the orphan's court in behalf of such minor for a guardian; and the court, on enquiry into the circumstances of the orphan's estate and person, and that of his relations, shall admit one or more of them, or a stranger, willing to accept the trust, at their discretion, to be guardian of such minor, until he or she shall attain the age of discretion, or fourteen years, he, she or they giving such security to the ordinary, as the court shall direct; the bond, and a transcript of the order of the orphan's court, being transmitted to the ordinary, he shall grant a letter of guardianship accordingly. And wherever a guardian is so appointed, and the minor, after he, or she hath attained the age of fourteen, shall choose the same person or persons to continue guardian, until he or she shall be of full age, application shall be made to the orphan's court for that purpose, by the minor in person, and an entry thereof made by the clerk, in the minutes of the court, and endorsed on the letter of guardianship, which shall be good and sufficient to constitute a legal guardianship, until the minor shall arrive at twenty one years of age, without a new letter of guardianship; but if the minor, after the age of fourteen, chooses another person guardian, letters of guardianship shall be applied for, and taken out, as before directed.

Persons summoned to appear at court, and neglecting to attend, how punishable.

Final decrees of the court, where no appeal is allowed, may be removed into the supreme court.

XIX. And be it enacted *by the authority aforesaid*, That every person, duly cited or summoned to appear at any of the said orphan's courts, ten days before the time appointed for appearance, who shall make default, shall be liable to attachment for contempt; and the said courts are hereby authorized and empowered, to compel obedience to their process, orders and sentences, by imprisonment of body, or distress and sale of lands or goods, as fully and amply, as any other court of record in the State; and all final sentences or decrees of the orphan's courts, where no appeal is given to the prerogative court, shall be subject to removal, by certiorari, into the supreme court; Provided always, That such certiorari be applied for, by either of the parties to the suit, within three months after such final sentence or decree, and not otherwise.

Fees allowed to the judges and officers of the orphan's court.

XX. And be it enacted *by the authority aforesaid*, That the fees to be allowed, taxed and taken by the judges and officers of the orphan's court, shall be as follows, to wit,

JUDGES' FEES.

For hearing every cause, and final order, or decree thereon, six shillings.

For all other services, the same fees, as judges of the court of common pleas.

SURROGATE'S AND CLERK'S FEES.

For drawing and taking depositions to a will and inventory, and transmitting the same to the register of the prerogative court, ten shillings.

For drawing administration-bond, and taking deposition on the bond and inventory, and transmitting the same as aforesaid, ten shillings.

Drawing a bond of guardianship, and transmitting the same as aforesaid, five shillings.

For auditing and stating the accounts of executors, administrators, or guardians, and reporting the same to the court, such fees as the court shall think reasonable.

For

A. D. 1784.

For a copy of the inventory to be filed in the clerk's office of the orphan's court two shillings and six pence.

For entering rules, orders, and all other services done in court, the same as allowed the clerk of the common pleas and quarter sessions.

Sheriff's and constable's fees, the same as are allowed for the like services in common pleas and quarter sessions.

Sheriffs and constables declared to be officers of the orphan's court.

XXI. AND BE IT ENACTED *by the authority aforesaid*, That the sheriff and constables of the county shall be, and they hereby are severally declared to be officers of the orphan's court, and shall attend the same as such, and serve all process, and orders of the court or judges, directed to them or any of them.

See a supplemental act of the 22d of March, 1786.

An ACT *for erecting the north ward of Perth-Amboy, and a part of the township of Woodbridge, in the county of Middlesex, into a city; and for incorporating the same by the name and title of, "The city of Perth-Amboy."*

Passed the 21st of December, 1784.

Preamble.

WHEREAS the improvement of trade and navigation in this State is of the utmost importance to the well being of the same; AND WHEREAS the prosperity of trade requires the collection of merchants together in sufficient numbers, in order that the union of their force may render them competent to great undertakings, and that the variety of their importations and their wants may always furnish to the purchasers and to the sellers a secure and constant market; AND WHEREAS it is necessary, in the present unprovided and disadvantageous condition of this State, to bestow on merchants peculiar immunities and privileges, in order to attract them to its harbors, and to secure to them, for a sufficient and definite duration, the entire profits of their commerce, without burden, abatement, or uncertainty, in order to excite in them a spirit of useful adventure, and to encourage them to encounter the risks and expenses of a new situation, and of important and beneficial undertakings: And in as much as commercial cities require a peculiar mode of government, for maintaining their internal police; and commercial transactions require more expeditious and summary tribunals than others; AND WHEREAS divers good citizens of this State, residing in different parts thereof, by their humble petition presented to the legislature, have set forth the great public utility of incorporating certain towns in the State, and of investing them with such powers, privileges, jurisdictions, and immunities, as shall conduce to the encouragement of commerce; and have prayed, that Perth-Amboy aforesaid, may be incorporated for the said purposes: AND WHEREAS divers of the inhabitants of the said north ward of Perth-Amboy, and others in the vicinity thereof, by their humble petition to the legislature, have set forth, that for many years previous to the late revolution, the said north ward of Perth-Amboy, under, and by virtue of charters to them granted for that purpose, did hold, enjoy, and exercise many powers, privileges, and immunities, which they found greatly beneficial to the inhabitants thereof, and have prayed that the said charters, or one of them, so far as may extend to the said north ward and a part of Woodbridge, may be revised, corrected and amended; or that a law for incorporating the said north ward, together with a part of the township of Woodbridge into a city and town-corporate, may be enacted.

Boundaries of the city of Perth-Amboy.

I. BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that tract of land and country, situate and being in the county of Middlesex, and lying within the limits and boundaries herein after mentioned, that is to say, beginning at the meeting of the waters of Raritan river, with the waters of the sound, that part Staten Island from the main, to the southward of the flat or shoal that runs off from Cole's point: thence up along the sound on the eastern bank of the channel, north-easterly and north-westerly, as the same runs to Woodbridge creek; thence up the said creek, to the creek that Cutter's mill stands on; then up the said creek, to a lane that leads

leads to a line between George Herriott and Grace Innsley; thence along said lane until it intersects the road leading from Perth-Amboy to New-Brunswick; thence along said road, southerly, to a lane leading to Florida landing; thence along the said lane, to the north corner of the farm or plantation, late Samuel Nevill's, esquire; thence along the line of the same to Raritan river, and across the same, to the south bank of the channel thereof; thence down the same to the beginning; comprehending all the bays, harbors, creeks, rivers, and waters, within the said boundaries, shall be, and the same is hereby ordained, constituted and declared, to be from time to time and forever hereafter, a city and town-corporate, and shall henceforth be called, known and distinguished by the name of, "The city of Perth-Amboy;" and all persons at present residing within the said limits and boundaries, or who shall hereafter reside within the same for the space of one year, and shall take the oaths or affirmations prescribed by law, for the security of the government established in this State, under the authority of the people, before the mayor, recorder, or one of the aldermen of, or before one of the judges or justices of the peace, in the said city, and shall file in the office of the clerk of the corporation, or of the town clerk, a certificate thereof, which certificate, the officer, administering the same, is required to give, excepting only such persons who, during the late war, have been guilty of licentious cruelties in plundering, or murder, contrary to the usages of civilized nations, shall from thenceforth be freemen of the said city, and shall be entitled to have and receive the same protection of their persons and properties, which the citizens of the State are entitled to have and receive therein, any law, usage, or custom, to the contrary in anywise notwithstanding.

What persons may be freemen of the said city, and how.

II. AND for the preservation of the peace and good order, and for the better governing the said city, *It is further enacted by the authority aforesaid*, That there shall and may be, in the said city, one mayor, who shall be keeper of the city seal, one recorder, who, besides the said office of recorder, shall, in the absence of the mayor, have and execute the several offices annexed to the mayoralty, or any, or either of them, and such and so many aldermen, not exceeding three, as shall, from time to time, be found necessary to carry into execution the purposes of this act, which mayor, recorder, and aldermen, shall be justices of the peace, ex officio; and six common council men; which mayor, recorder, aldermen and common council men, and their successors, are hereby made, constituted, and ordained, and they shall forever hereafter be one body corporate and politic, and they the said body corporate and politic, shall and may have a perpetual succession in deed, fact, name and law, to be known and distinguished in all deeds, grants, bargains, sales, evidences, writings, muniments, or otherwise howsoever, by the name and style of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," and that they and their successors, by the same name of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," be, and forever hereafter shall be persons, capable and able in law to purchase, take, acquire, hold, receive, enjoy, have, and possess, messuages, houses, buildings, lands, tenements, rents, possessions, and other hereditaments, and real estate whatsoever, within or without the limits and boundaries of the said city, in fee simple and forever, or for term of life, or lives, or years, or in any other manner whatsoever; PROVIDED ALWAYS, That the annual income of such estate shall not exceed the sum of one thousand pounds, proclamation money of New-Jersey; and also goods and chattels, and all other things of what nature, kind, or quality soever: and also, that they and their successors, by the same name of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," shall and may, under the seal of the said city, or otherwise, give, grant, bargain, demise, assign, sell, and convey, or otherwise dispose of, all or any of the messuages, houses, buildings, lands, tenements, rents, possessions and other hereditaments, real estate, and all other goods and chattels, and things aforesaid, now or hereafter belonging, or to belong to the said city or corporation, in such manner and form, as to them shall seem meet, at their own will and pleasure; and also, that they and their successors, by the same name of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," be, and forever hereafter shall be, persons capable and able in law, to sue and be sued, implead and be impleaded, appear, answer and be answered unto, defend and be defended, in any of the courts of judicature, either in law or equity, in this State, or elsewhere, in as full and ample manner and form, as any of the citizens or inhabitants of this State; and also that they, the said mayor, recorder

To be, in the city, a mayor, recorder, three aldermen, and six common council men,

Who shall be a body politic.

The corporation may hold lands, the annual income whereof shall not exceed 1000 £.

May sell and dispose of real and personal estate;

May sue and be sued;

A. D. 1784.

corder, aldermen, and commonalty of the said city of Perth-Amboy, and their successors, shall and may make, and forever hereafter have and use one common seal, the same may alter and break, and a new seal may make, have, and use as the common seal of the said city; the said common seal to be used for the sealing all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers, and authorities, and all and singular other instruments, affairs and business, anyways touching, concerning, and relating to the said corporation, or to the certifying or assuring of any matter or thing of a private nature, necessary to be certified, or assured by the said corporation, or by the mayor thereof in any of the offices appertaining to the mayoralty; and that there shall also be in the said city, one sheriff, one coroner, one marshal or sergeant at mace, each of whom shall be water bailiffs, one treasurer or chamberlain, one clerk of the corporation and of the several courts within and for the same, one clerk of the market, and one or more notary or notaries public, and so many other subordinate officers of the city and port, as the mayor, recorder, aldermen, and commonalty of the said city of Perth-Amboy, in common council assembled, shall think necessary; either for the better ordering and governing the said city, or for the convenience, safety and advantage of commerce; to be nominated, elected, appointed, chosen and sworn, as herein after is directed and mentioned.

And have a common seal.

Subordinate officers to be appointed.

III. And be it enacted *by the authority aforesaid*, That every officer, to be elected by the freemen, or to be appointed by the common council of the said city of Perth-Amboy, shall be notified of his election or appointment by the clerk of the corporation, within three days after his election or appointment, and shall, within three days thereafter, take the oath or affirmation prescribed by law for the security of the government, and also an oath or affirmation of office, which oath or affirmation of office shall be, truly, faithfully and impartially to discharge and execute the trust, or trusts, reposed in him by the said office or offices, as the case may be, without favor to any, to the best of his judgment, so long as he shall continue in the said office or offices: and if any or either of them shall refuse or neglect to take the said oaths or affirmations, for three days after being notified of his election or appointment, as aforesaid, his election or appointment shall be void, and there shall be another election or appointment to fill the vacancy.

Officers to have notice of their election, and to take the oath of allegiance and of office.

IV. And be it further enacted *by the authority aforesaid*, That the mayor, recorder, and aldermen of the said city of Perth-Amboy, shall be appointed by the council and general assembly of this State in joint meeting, to remain in office for the same space of time, and shall be commissioned by the governor in the same manner, as the judges and justices of the peace in the several counties in this State are appointed and commissioned; and they the said mayor, recorder, and aldermen, shall severally take the requisite oaths or affirmations within three days after the receipt of their commissions; or his or their appointment or appointments shall be void; and each and every of them the said mayor, recorder, and aldermen, shall be amenable to, and removable by, the council and general assembly, in the same manner, as judges and justices of the peace are amenable to, or removable by them.

The mayor, recorder, and aldermen to be appointed by the legislature.

Their duration in office.

To whom amenable, and by whom, and for what removable.

V. And be it further enacted *by the authority aforesaid*, That no person shall be appointed mayor, recorder, or alderman, of the said city, unless he shall be a freeman of the same, possessed of a freehold estate therein, and the said mayor shall, within the time herein before limited, take the oath or affirmation herein before prescribed, before any of the judges of the pleas, or justices of the peace, of the county of Middlesex; and the said recorder and aldermen shall, within the said time, take the said oath or affirmation before the mayor, or any of the said judges or justices; and every other officer to be chosen or appointed, shall take the said oath or affirmation before the mayor, recorder, or one of the aldermen.

Freemen only to be elected mayor, recorder, and aldermen.

In what time, and before whom such officers shall take the necessary oaths.

VI. And be it further enacted *by the authority aforesaid*, That the freemen of the said city of Perth-Amboy, at the annual town meeting, to be held on the second Tuesday in March, shall choose, by plurality of votes, for the said city, all the accustomed officers, directed by any statute of this State to be chosen within the several townships and precincts thereof; any thing in this act to the contrary thereof notwithstanding: and at the same time they, the said freemen, shall, in like manner, elect the common council men, sheriff, coroner, and marshal

What officers to be elected, and when, by the freemen of the city.

How long to continue in office.

marshal or sergeant at mace, who shall continue in office until the next annual election, and thereafter until other fit persons shall be chosen and sworn into the said offices; and in case of death, removal, refusal, or other disability, in any of the said officers, to serve in, or execute the said offices, a town meeting shall be summoned to elect another, or other fit person or persons instead of him or them so disqualified; and the freemen of the said city, who shall assemble and meet together at the time and place to be appointed for that purpose, on the days of annual or special town meetings, shall constitute a town meeting, and the votes of the said freemen so met, or of the major part of them, shall be deemed, esteemed, and taken to be the votes of the city.

In case of death &c. others to be chosen.

The freemen, who shall assemble, shall constitute a town meeting.

VII. And be it further enacted *by the authority aforesaid*, That the treasurer or chamberlain shall be appointed by the mayor, recorder, aldermen, and commonalty, and shall continue in office one year, and thereafter until a fit person shall be appointed to the said office; and the clerk of the corporation and of the courts, the clerk of the market and the notary or notaries public, shall be appointed in like manner, and shall continue in their respective offices for three years, and from thence until other fit person or persons shall be appointed to said office or offices, provided such extra continuance does not exceed one month; and each and every of the subordinate officers of the said city shall, in like manner, be appointed and continue in office during good behavior; and all officers of the city or port, to be chosen by the freemen, or appointed by the common council, shall be amenable to the mayor, recorder, aldermen and commonalty of the said city, and for malepractices in office, may be removed from their said offices, according to such modes and forms, as by the by-laws and ordinances of the said city shall be established.

The corporation to chuse the treasurer, clerk, and notaries public.

Their continuance in office.

Subordinate officers to continue during good behaviour.

All the officers amenable to and removable by the corporation.

VIII And be it further enacted *by the authority aforesaid*, That the sheriff, when chosen, shall be commissioned by the governor, and vested with all the powers and authorities, and entitled to all the privileges, within the said city, and subject to all the penalties for neglect of duty, which the sheriffs in the several counties within this State are vested with, entitled or subject to in like cases and circumstances, and shall give security for the due performance of his office in like manner; and in all cases where he cannot, according to the laws and customs of the State, execute his office, the same shall be executed by the marshal, or by the coroner, or by such other fit person, as the corporation court shall appoint; and the constables, chosen by virtue of this act, shall be vested with all the powers and authorities, and entitled to all the privileges, within the said city, and subject to all the penalties for neglect of duty, which the constables, in the several townships and precincts within this State, are vested with, entitled or subject to, in like cases and circumstances.

Sheriffs to be commissioned by the governor. Their powers and duties.

Constables, their powers, and duties.

IX. And be it further enacted *by the authority aforesaid*, That the said mayor, recorder, aldermen, and commonalty of the said city of Perth-Amboy, shall and may make, pass, seal with the common seal of the said city, and publish such and so many by-laws or ordinances, as to them shall seem meet, for the regulation of elections, of corporation officers, of markets and vendues; of inspectors of the produce of this or any other of the United States, sold in, or shipped from the said port; of gaugers, measurers, weigh-masters, cullers, wardens, brokers, pilots, cartmen, draymen and porters; and of the merchants, artificers, tradesmen, watermen, seamen; and of all the officers and persons inhabiting, or making a temporary residence in the said city; and of the commerce thereof; and for the regulation of weights and measures, relative to the produce of this or any other of the United States, sold in, or shipped from the said port; to the goods, wares and merchandizes necessary to be gauged, measured or weighed; to the inspection of vessels, passengers, or goods; pilotage and the fees and fares of all officers to be chosen by the freemen, or appointed by the mayor, recorder, aldermen, and commonalty of the said city; and to the fares and rates of ferriage to and from the said city, not otherways regulated; relative to the anchoring and mooring of vessels within the harbor of the said city; relative to the wharfs, public and private; to wharfing and wharfage; to the laying out and regulating of streets or highways within the said city; to nuisances within the said city or haven; to trees for use or ornament, and the fruit of such trees; to public walks; to trespasses committed in gardens and other enclosures; to buildings, public and private; to sweeping of chimnies; to the preventing and extinguishing

Corporation may make by-laws, not repugnant to the constitution or laws of the State.

A. D. 1784.

tinguishing of fires in said city; to the oaths or affirmations of office of all officers, not provided for by this act, or other statutes of this State; to the summoning or calling a meeting of the common council, and of extraordinary courts, and town meetings, and the times and places when and where they shall be holden; to qualifications of all, or any of the officers of the said city or port; to the penalties on all officers for refusing or neglecting to qualify into office, when elected, or otherwise appointed, and penalties for the breach of by-laws; relative to a city watch, the burial of the dead, public lights and lamps, restraining horses, cattle, sheep, goats, swine, and geese, from running at large, or otherwise regulating them; the mode of taxation, and amount of taxes, to be levied by the vote of a legal town meeting, for the use of the said city; and for the recovery and appropriation of all fines, forfeitures and amercements, and penalties, not provided for by this act, or other statute of the State. PROVIDED NEVERTHELESS, That no fine or penalty laid by any such by-laws, shall in any case exceed twelve pounds lawful money of this State. AND PROVIDED ALSO, That no by-law of said city shall be made repugnant to the constitution or laws of this State: and the said mayor, recorder, aldermen, and commonalty of the said city of Perth-Amboy, shall and may regulate the assize of bread within the said city from time to time, and at all times hereafter.

Proviso.

What members, and their number necessary to constitute a common council.

X. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, aldermen, and commonalty of the said city, in common council met and assembled, or the major part of them, the mayor or recorder, always being one, shall constitute a common council, and in all business done in and by the said common council, a majority of votes of the members present shall decide, and in case of the votes being equal, it shall and may be lawful for the mayor, or in his absence, for the recorder, to give a second vote, in order to make a majority of votes. PROVIDED NEVERTHELESS, That no by-law, or ordinance of the said common council, without the concurrence of a majority of the votes of the members belonging to the said common council, shall be sealed, or of force; two votes of the mayor, or of the recorder, being president, being admissable, if necessary, to give a decision.

Proviso.

Who to take cognizance of fines, and forfeitures.

XI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said mayor, recorder, and aldermen of the said city of Perth-Amboy, shall and may, either severally or collectively, have and take cognizance of all fines, amercements, forfeitures and penalties, to be laid by the by-laws or ordinances of the common council of the said city of Perth-Amboy, or any of them.

The mayor, recorder and aldermen, or any three of them to license taverns.

XII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, and aldermen of the city aforesaid, shall, or any three of them may, license such and so many tavernkeepers, innkeepers, victuallers, and sellers of liquors by retail, within the said city, under the same limitations, regulations, and restrictions, as the courts of quarter sessions in the several counties in this State, may or can do within their respective counties; and no other license for such purposes, within the said city, granted by any other court in the county, shall be lawful.

The mayor, recorder, and aldermen, or any three of them, to constitute a court of record.

XIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, and aldermen of the said city of Perth-Amboy, for the time being, or any three of them, whereof the mayor or recorder always to be one, shall and may hold, and keep a court of record, which shall be a commercial court, to be called and held as often as occasion requires, for the prosecution and determination of all causes of a commercial nature, wherein the matter in dispute shall have arisen within the said corporation, and subsists between foreigner and foreigner, or foreigner and citizen, or citizen and citizen of the said city, or of any of the United States: all which causes shall be proceeded in and determined, in the most summary way, agreeably to the regulations and practice to be from time to time established and directed by the by-laws of the said corporation, and the settled rules of such court, saving to either party the right of trial by jury; that all judgments entered by said court shall be final to the parties therein, and execution shall issue thereon accordingly, without appeal or removal by writs of certiorari, habeas corpus, or writ of error, unless, previous to the allowance of any such writ by the said commercial court, the defendant shall enter into recognizance with one or more sufficient securities, freeholders within the

the said corporation, in double the sum recovered, with condition to prosecute such writ to effect, within two terms, including the term, to which said writ may be returnable, and to pay all such sums, with the costs of suit, as shall be finally adjudged against him, within one week after such final adjudication. A. D. [illegible]

XIV. And be it further enacted, That if it should so happen, that the said mayor, and recorder, should be interested in any cause or causes, before the said court or courts, to be tried, then, and in that case, it shall and may be lawful to and for the aldermen of the same city, or any, or either of them, to adjourn the trial of the cause or causes, to another time, and so from time to time, until a court shall be convened, capable of doing the necessary business therein, or they, the said aldermen, shall proceed to try and determine the said cause or causes, without the said mayor or recorder, or either of them; and also, that in case the same mayor, and recorder shall be both absent at the time or times fixed, or appointed for the holding of the same courts, then, that the said aldermen, or any one of them, may, and they are hereby authorized to adjourn the same court or courts. [illegible] recorder [illegible]

XV. And be it hereby further enacted *by the authority aforesaid*, That the fees of the officers and courts, in the said city of Perth-Amboy, shall in all cases be the same, as are and shall be established by law, for the officers and courts in the several counties of this State, as nearly as may be. Fees of the court and officers.

XVI. AND WHEREAS it will greatly tend to promote the good purposes of this act, to grant to foreigners, who may come to make a temporary residence within the city, and who yet may not be able, consistent with the allegiance they owe elsewhere, to take the oaths already prescribed for the security of the government, the right and privilege of purchasing and holding real estates for places of residence; *Be it enacted by the authority aforesaid*, That it shall and may be lawful for all foreigners, who shall or may, at any time hereafter, come to and reside in the said city, and they are hereby authorized, to accept, take, purchase, hold and enjoy, any right, title, or interest, in any real estate whatsoever, within the bounds thereof, for any term or time, not exceeding the term of twenty one years, and the same real estate again to sell and convey to any purchaser or purchasers at their pleasure, such foreigners conforming themselves to the laws of the State, and the by-laws and ordinances of the said city. Provided always, That nothing, in this clause contained, shall be construed to admit, within the same city, any person or persons as foreigners, who have been subjects of this, or any of the United States of America, and have withdrawn themselves out of the same, within ten years last past. And provided always, That the by-laws of the said city shall not impose any other or greater taxes, fines, fees, or other impositions, on any such foreigners, than the freemen of the said city shall be subjected to. And provided also, That nothing in this act contained shall be construed to extend to alter any part of the act, entitled, "An act for the settlement and relief of the poor," passed the eleventh day of May, one thousand, seven hundred and seventy four. For [illegible] hold, [illegible] conditions and [illegible] for [illegible] years, and [illegible] the same. Proviso's.

XVII. And be it further enacted *by the authority aforesaid*, That the said city and port of Perth-Amboy, as now established, shall be a free city and port, for the reception of foreign and domestic ships and other vessels, and of foreign and domestic goods, wares, and products, for twenty five years, to commence on the first day of January next, provided the said foreign goods, wares, and products, shall be brought into the said free port immediately from some foreign port or place, and shall be there landed, and all foreign goods, wares, and merchandize, except slaves, imported from any foreign port or place, directly into the said port of Perth-Amboy, and which shall be there landed and put on shore, within the said term of twenty five years, from the said first day of January next, shall be free from all duties and impositions whatsoever, except such as may be levied by virtue of an act or acts of the United States, in congress assembled, agreeably to the federal constitution, and except also, such as may be levied by the laws of this State, upon such goods, wares, and merchandize, as they may conceive injurious to the manufactories of this State; and no foreign ship, or other vessel, shall pay any other or greater fees, or port charges, at the said port of Perth-Amboy, than shall be paid by ships or other vessels of the same descriptions, belonging to this, or any other of the United States. Perth-Amboy a free port for 25 years for the reception of vessels and goods.

A. D. 1784.

Merchants not to be taxed for their stock during the term of 25 years.

XVIII. AND IT IS HEREBY FURTHER ENACTED *by the authority aforesaid*, That all merchants, whether freemen and citizens, or foreigners actually employed in commerce, within the limits and boundaries of the said city of Perth-Amboy, shall be exempted from all taxes and assessments, to be levied by this State, for the use of the State, or for the federal government of the United States, as well for their professions as merchants, as for their stock and vessels employed in commerce, for the said term of twenty five years, from the said first day of January next.

XIX. This section is executed.

Property of the former corporation vested in the present.

XX. AND WHEREAS, previous to the late revolution, the corporation of the said city of Perth-Amboy, may have been possessed of, or entitled to, real or personal estate, in the said city, or elsewhere; *Be it enacted*, That the said property, and a right and title to the same, shall henceforth vest in the corporation of the said city, and their successors as now established by this act, and be and remain to them for the use of the said city, according to such estate and interest, as the said former corporation had, or might legally claim therein.

This act declared to be a public act.

XXI. AND BE IT ENACTED *by the authority aforesaid*, That this act shall be deemed, adjudged, and taken to be a public act, and shall be judicially taken notice of as such, by all judges, justices, and other persons whatsoever, without specially pleading the same.

An ACT *for incorporating the town and port of Burlington.*

Passed the 21st of December, 1784.

Preamble.

WHEREAS sundry freeholders and inhabitants of the town and port of Burlington have, by their petition to the legislature, prayed, that they may, by law, be incorporated and formed into a body politic, with such powers, privileges, and immunities, as will most conduce to the good order and regulation of the citizens thereof, and others visiting the said port, and the advancement of commerce; and as the legislature think it reasonable that the prayer of the said petition be granted, therefore,

The town and port of Burlington made a city and town-corporate.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the town and port of Burlington, as already established by a law of this State, of the length of three miles on the river Delaware, and such part of the same river and islands opposite thereto, appertaining and within the jurisdiction of this State, and extending from the same river, at right angles, one mile into the county of Burlington, including all the lands, country, islands, harbors and waters, within the boundaries aforesaid, shall be, and the same is hereby declared to be, from time to time, and forever hereafter, a city and town-corporate, and shall henceforth be called, distinguished and known, by the name of, "The city of Burlington." And all persons, excepting such as during the late war, have been guilty of licentious cruelties in plundering or murder, contrary to the usages of civilized nations, who have resided, or shall hereafter reside therein, for the space of one year, and who have already, or shall hereafter take, and subscribe the oaths, or, if one of the people called quakers, the affirmations prescribed by law, for the security of the government established in this State, under the authority of the people, shall be freemen of the said city, and shall be entitled to have, hold, and enjoy, all the following rights, privileges, franchises, and immunities, that is to say;

Mayor, recorder, and aldermen, to be appointed by the legislature.

Their duration in office.

II. FOR the preservation of peace and good order, and for the better governing of the said city, *It is hereby enacted*, That there shall, or may be therein, one mayor, who shall be keeper of the city seal, one recorder, who, besides his said office, in the absence of the mayor, shall have and execute the several offices annexed to the mayoralty, or any, or either of them, and three aldermen, all which shall be freeholders in the same city, and all which officers shall be justices of the peace, ex officio, within the said city, and shall be appointed by the council and general assembly of this State, in joint meeting, and commissioned by the governor,

or, in the same manner as the judges and justices of the peace throughout the State are appointed and commissioned, shall continue in office for the same length of time, shall be amenable to the council and general assembly, and removable by them, in the same manner, as the judges and justices of the peace, are amenable to, and removable by them; and six common council men, who shall be chosen by the freemen of the said city, at their annual town meeting; which mayor, recorder, aldermen, and common council men, and their successors, are hereby made, constituted and ordained, and they shall forever hereafter be one body politic and corporate; and they, the said body politic and corporate, shall have perpetual succession in deed, fact, name and law, and shall be known and distinguished, in all deeds, grants, bargains, sales, evidences, writings, or otherwise howsoever, by the name, style, and title of, "The mayor, recorder, aldermen, and commonalty of the city of Burlington."

To who n amenable, by whom, and for what removable.

Common council men, to be chosen by the freemen of the city.

Name of the body politic.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That they and their successors, by the name of, "The mayor, recorder, aldermen, and commonalty of the city of Burlington," be, and they forever hereafter shall be, persons able and capable in law, to purchase, take, acquire, receive, enjoy, have, hold, and possess, messuages, houses, buildings, lands, tenements, rents, possessions, and all other hereditaments, and real estate whatsoever, within or without the limits and boundaries of the said city, in fee simple and forever, or for term of life or lives, or years, or in any other manner whatever; and also, goods and chattels, and all other things, of what nature, kind or quality soever. PROVIDED ALWAYS, That the annual income of such estate shall not exceed the sum of one thousand pounds, proclamation money of New-Jersey; and also, that they and their successors, by the name aforesaid, shall and may, under the seal of the said city or otherwise, give, grant, bargain, demise, assign, sell, and convey, or otherwise dispose of, all or any of the messuages, houses, buildings, lands, tenements, possessions, or other real estate, and all other goods, chattels, and things aforesaid, at any time belonging, or to belong to the said city or corporation, in such manner and form, as to them shall seem meet; and also, that they and their successors, by the name aforesaid, be, and they shall for ever hereafter be, persons able and capable in law, to sue and be sued, plead and be impleaded, appear, answer and be answered unto, defend and be defended, in all or any of the courts of judicature, either in law or equity, in this State or elsewhere, in all manner of actions, suits, plaints, pleas, causes, matters and demands whatsoever, in as full and ample a manner and form, as any of the free inhabitants of this State; and also, that they, the said mayor, recorder, aldermen, and commonalty of the said city of Burlington, and their successors, shall and may make, and forever hereafter use, one common seal, and the same may alter and break, and a new seal may make, have and use, as the common seal of the said city; the said common seal to be used for the sealing of all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers and authorities, and all and singular other instruments, affairs and business, any way touching, concerning, and relating to the said corporation, or to the certifying or assuring of any matter or thing of a private nature, necessary to be certified or assured by the said corporation, or by the mayor thereof, or any of the offices appertaining to the mayoralty.

The corporation may hold lands, the annual income whereof shall not exceed 1000 £.

May sell and dispose of real and personal estate;

May sue and be sued;

And have a common seal.

IV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That there shall be, in the said city, one marshal or sergeant at mace, who shall be a water bailiff, one coroner, and two or more constables, who shall be chosen by the freemen of the said city, at their annual town meeting, on the first Tuesday in March, which they are hereby authorized to hold, in the same manner with the several townships and precincts in the State; which marshal or sergeant at mace, so chosen, shall be commissioned by the governor, and vested with all the powers and authorities, and entitled to all the privileges within the said city, and subject to all the penalties for neglect of duty, which the sheriffs in the several counties within this State are vested with, entitled or subject to, in like cases and circumstances, and shall give security for the due performance of his office in like manner; and in all cases, when the marshal or sergeant at mace, cannot, with propriety, execute his office, on account of being interested therein, the same shall be executed by the coroner, or by such other fit person, as the corporation court shall appoint; and the constables so chosen, shall be vested with all the powers and authorities, and entitled to all the privileges, within the said city, and subject to all the penalties for

Marshal, coroner, and constables, to be chosen annually, by the freemen of the city;

Their powers and duties.

A. D. 1784.

for neglect of duty, which the constables in the several townships and precincts in this State are vested with, entitled, or subject to, in like cases and circumstances.

Subordinate officers to be appointed.

V. And be it further enacted *by the authority aforesaid*, That there shall be, in the said city, one treasurer or chamberlain, one clerk of the corporation and of the commercial court, one clerk of the market, and one notary public, and such and so many subordinate officers of the city and port, as the mayor, recorder, aldermen and commonalty, of the said city in common council assembled, shall think necessary, either for the better ordering and governing the said city, or for the convenience, safety and advantage of commerce; all which officers shall be appointed by the mayor, recorder, aldermen and commonalty, in common council assembled, and shall continue one year from the time of their entering upon their office, and until others are appointed to succeed them, and sworn into office, and the notaries public, who shall be commissioned by the governor, and continue in office for five years. Provided always, That all the officers, appointed in, or acting under the authority of this present act of incorporation, shall, before they severally take upon them the execution of their respective offices, take and subscribe, before the mayor, recorder, or one or more of the aldermen of the corporation, who are hereby authorized to administer the same, the oaths or affirmations prescribed by law, for the security of the government of this State; and likewise an oath or affirmation, that they will faithfully and impartially discharge and execute the trusts reposed in them, according to the best of their judgments and abilities, so long as they shall hold or continue in the same.

The duration of their office.

All the officers of the corporation to take the oath of allegiance, and an oath of office.

Vacancies, how to be supplied.

VI. And be it further enacted *by the authority aforesaid*, That in case of the death, removal, refusal, or other disability, of any of the above officers, to serve in and execute their said offices, other fit persons shall be appointed to supply their places in the same manner in which they were appointed.

What town meetings deemed legal.

VII. And be it further enacted *by the authority aforesaid*, That the freemen of the said city, who may assemble and meet together at the time and place appointed for that purpose, on the day or days of the annual town meeting, or of town meetings, to be especially called by the mayor, recorder, and aldermen of the said city, shall constitute and be a legal town meeting; and the vote of the said freemen, so met, or a major part of them, shall be deemed, esteemed, and taken to be the vote of the city.

Corporation may make by-laws, not repugnant to the constitution or laws of the State.

VIII. And be it further enacted *by the authority aforesaid*, That the said mayor, recorder, aldermen, and commonalty of the said city of Burlington, in common council assembled, shall and may make, pass, seal with the common seal of the said city, and publish such and so many by-laws or ordinances, as to them shall seem meet for the regulation of elections of their officers; for the regulation of markets, vendues, and taverns; of inspectors of the produce of this, or any of the United States, sold in, or shipped from the said port; of gaugers, measurers, weight masters, cullers, wardens, brokers, pilots, cartmen, draymen, and porters; and of the merchants, artificers, tradesmen, watermen, seamen; and of all the officers and persons inhabiting, or making a temporary residence in the said city; and of the commerce of the said city; relative to weights and measures; relative to the produce of this, or any other of the United States, sold in or shipped from the said port; to the goods, wares and merchandize, necessary to be gauged, measured or weighed; to the inspection of vessels, passengers, or goods; to pilotage, and the fees and fares of all officers, to be chosen by the freemen, or appointed by the mayor, recorder, aldermen, and commonalty of the said city; and to the fares and rates of ferriage to and from the said city; relative to the anchoring and mooring of vessels, within the harbors of the said city; relative to the public wharfs, to wharfing and wharfage, to the laying out and regulating of streets or highways within the said city; to nuisances within the said city or haven; to trees for use or ornament, public or private, and the fruit of such trees; to public walks; to trespasses committed in gardens, and other enclosures; to buildings, public and private; to sweeping of chimnies; to the preventing and extinguishing of fires in said city; to the summoning or calling a meeting of the common council, and of extraordinary courts and town meetings, and of the times and places when and where they shall be holden; to qualifications of all the officers of the said city and port; to the penalties on all officers for refusing or neglecting

to

to qualify into office, when elected, or otherwise appointed; the fees of all subordinate officers, and penalties for the breach of by-laws; relative to the city watch, public lights and lamps, restraining horses, cattle, sheep, goats, swine, and geese, from running at large, or otherwise regulating them; the mode of taxation, and of collecting such taxes as shall be levied or ordered to be raised by any legal town meeting, for the use of the said city; and for the levying, recovery, and appropriations of all fines, forfeitures, amercements, and penalties, not provided for by this act, or the laws of the State. PROVIDED ALWAYS, That no fine or penalty, laid by any such by-law, shall, in any case, exceed twelve pounds lawful money of this State, and the said by-laws, at their discretion, they the said mayor, recorder, aldermen, and commonalty, in common council assembled, shall and may amend, alter or repeal, and others in their stead, make and establish; all which by-laws, so as aforesaid made, passed and sealed, shall be deposited in the office of the recorder of the said city, and the contents thereof, shall be made known by advertisements, in two of the most public places in the said city; five days after which said publication, they shall be in force, and so remain until repealed, altered or amended, by the mayor, recorder, aldermen, and commonalty of the said city, or by the legislature of the State, or by a judgment of the supreme court of judicature in this State, be declared to be repugnant to the constitution or laws of the State, in which case such by-laws or ordinances of the said city, so declared repugnant to the laws or constitution of the State, shall be considered as null and void; and the said mayor, recorder, aldermen, and commonalty of the said city shall and may regulate the assize of bread from time to time, and at all times hereafter.

Proviso.

By-laws how to be published, and when to be in force.

IX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, aldermen, and commonalty, met and assembled, or the major part of them, the mayor or recorder being always one, shall constitute a common council; and in all business to be done in and by the said common council, a majority of the votes of the members present shall decide, and in case of the votes being equal, it shall and may be lawful for the mayor, or in his absence, for the recorder, to give a second vote, in order to make a majority of votes. PROVIDED ALWAYS, That no by-laws or ordinance of the said common council shall pass, without the concurrence of at least seven votes, of which the second vote, to be given by the mayor or recorder, may, when necessarily given, be one.

What members, and their number necessary to constitute a common council.

But no by-law to pass without seven votes.

X. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, and aldermen of the said city of Burlington, shall and may, either severally or collectively, have, and take cognizance of all fines, amercements, forfeitures, and penalties, to be laid by the by-laws or ordinances of the common council of the said city, or any of them.

Who to take cognizance of fines and forfeitures.

XI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, aldermen, and commonalty, in common council assembled, shall and may license such and so many tavernkeepers, innkeepers, victuallers and retailers of spiritous liquors, as may be necessary within the said city, under the same limitations, regulations and restrictions, as the courts of quarter sessions in the several counties of this State may, or can do within their respective counties; and no other license for such purpose within the said city, granted by any other court in the county, shall be lawful.

The corporation to license taverns.

XII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the mayor, recorder, and aldermen of the said city of Burlington, for the time being, or any three of them, whereof the mayor or recorder always to be one, shall and may hold and keep a court of record, which shall be a commercial court, and shall be holden once in every month, or oftner if necessary, for the prosecution and determination of all causes of what nature and kind soever, except such as relate to the title of lands, wherein the matter in dispute shall have arisen, and subsist between foreigners and foreigners, or between foreigners and citizens of the said city; all which causes shall be proceeded in and determined in the most summary way, agreeably to the regulations and practice to be from time to time established and directed by the by-laws of the said corporation, and the settled rules of such court, and shall give judgment, and issue execution accordingly. PROVIDED ALWAYS, That nothing herein contained, shall be construed to deprive any person of being tried by a jury of the city, if he shall request the same; and all judgments, entered

The mayor, recorder, and aldermen, or any three of them, to constitute a court of record, to be held monthly.

Proviso.

A. D. 1784.

tered by the said court, shall be final to the parties therein, without appeal or removal by writs of certiorari, habeas corpus, or writ of error, unless, previous to the allowance of any such writ by the said commercial court, the defendant shall enter into recognizance with one or more sufficient securities, freeholders within said corporation, in double the sum recovered, with condition to prosecute such writ to effect, within two terms, including the term, to which said writ may be returnable, and to pay all such sums, as shall be finally adjudged against him, together with costs of suit, within one week after such final adjudication.

Fees of the court and officers.

XIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the fees of the officers and courts, in the said city of Burlington, shall in all cases be the same, as are and shall be by law established for the officers and courts in the several counties of this State, as near as may be.

Duty of marshal and constables to attend the courts.

XIV. AND WHEREAS it is necessary, that all courts of record should have a respectable deference paid to them, to give efficacy to their proceedings and decisions, *Be it therefore enacted by the authority aforesaid*, That the marshal, or sergeant at mace, and the constables, shall attend at all the city courts, with their staves, in term time; and if it shall so happen, that, at the time or times of holding the said courts, the mayor or recorder shall be absent or disqualified, by being interested in the event of the suit, that then it shall and may be lawful for the aldermen, to call to their aid, one of the judges of the court of common pleas of the county of Burlington, who shall, for the time being, be vested with all the powers and authorities, which the mayor or recorder would be, if present, and not disqualified.

If the mayor or recorder be absent or disqualified, how the court shall be formed.

First election of officers when to be held.

XV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the first election of corporation officers, in the said city of Burlington, shall be held at the courthouse, on the first Tuesday in February next; the said corporation officers, when chosen and sworn into their respective offices, according to the direction of this act, to continue and remain therein until the second Tuesday in March following; that the mayor, recorder, and aldermen, to be appointed or elected, shall take the necessary oaths or affirmations to government, and of office, before the clerk of the peace, or any one of the judges of the pleas, in the county of Burlington; that there shall be a meeting of the mayor, recorder, aldermen, and commonalty of the said city of Burlington, on the Tuesday next after the election of the corporation, as aforesaid, in order to appoint such and so many officers as may be immediately necessary for the organization of the police, and may do such other things as shall be necessary in the premises; and that the first commercial court, in the said city, shall be held on the fourth Monday in April next, and on the fourth Monday in every month thereafter, as often as may be judged necessary.

Times of holding the court.

Property of the former corporation vested in the present.

XVI. AND WHEREAS, previous to the late revolution, the corporation of the said city of Burlington may have been entitled to real and personal estate, *Be it enacted*, That the said real and personal estate, and the right, title, interest and property of, in, and to the same, shall according to such estate and interest as the said former corporation had, or of right ought to have therein, be vested in the corporation of the said city of Burlington, and their successors, as now established by this act, and shall be and remain to the same for the use of the said city.

This act not to affect a certain act.

XVII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That nothing in this act contained, shall be construed to repeal or alter any part of the act, entitled, "An act for the settlement and relief of the poor," passed the eleventh of March, one thousand, seven hundred and seventy four.

This act declared to be a public act.

XVIII. AND BE IT FURTHER ENACTED, That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all courts of justice within this State.

An ACT

An ACT *for the better securing of the surplus of personal estates, after payment of debts, of persons, who die intestate, leaving no relations entitled to the administration thereof.* A. D. 1784.

Passed the 22d of December, 1784.

WHEREAS no sufficient provision hath hitherto been made for securing the personal estates of foreigners, and others, who die intestate, leaving no relations entitled to the administration of such estates; therefore, Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That whenever any person shall hereafter die intestate within this State, and shall leave no relations, justly entitled to the administration of his or her personal estate, or, if so entitled, shall not claim the same within fifty days next after the death of such person, so dying intestate, it shall and may be lawful for the ordinary, or his surrogates, to grant letters of administration on such decedent's estate, to any fit person or persons applying therefor, taking his or their bond for the faithful execution of the trust reposed in him or them; which person or persons, so applying, and taking out letters of administration, shall, at the expiration of one year after the death of such intestate, put the surplus of said estate, after payment of debts and necessary expenses, out to interest, and pay the interest thereof annually, to the overseers of the poor of the township, in which such intestate shall so die, to, and for the use of the poor of the said township. Persons dying intestate, leaving no relations, ordinary to grant letters of administration to any proper applicant. The interest of the moneys to be paid annually to the overseers of the poor.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That the person or persons, so administering on the estate of any person, dying intestate as aforesaid, shall, whenever applied to for that purpose, pay the principal of such personal estate, if thereto required, within seven years next after the decease of such intestate, to his or her legal representative or representatives, applying for the same, by assigning to him, her, or them, the bond or other security therefor, or by otherwise satisfying them for the same. The principal to be paid to the intestate's representatives, if applied for in seven years.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That if no person or persons, legally entitled to the personal estate of such intestate, shall, within the said seven years next after his or her decease, make application to such administrator or administrators for the said principal, he, she, or they, so entitled, shall, forever thereafter, be debarred from all right, title or claim, to such decedent's personal estate; and the said administrator or administrators shall, immediately after the expiration of the said seven years, pay the whole of the said principal, with the interest that may then be due thereon, to the overseers of the poor of the township, in which such intestate died, to and for the use of the poor of the said township. PROVIDED ALWAYS, That the right of foreigners, by treaty or otherwise, shall not be affected by any thing in this act contained. If no representative shall apply, to be paid to the overseers of the poor. Proviso.

An ACT *to repeal an act, entitled,* "*An Act for the better regulation of juries.*"

Passed the 20th of February, 1786.

WHEREAS the act, entitled, "An Act for the better regulation of juries," passed the thirteenth day of December, seventeen hundred and eighty three, is found, by experience, not to answer the good purposes thereby intended; therefore, Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the act, entitled, "An Act for the better regulation of juries," passed the thirteenth day of December, seventeen hundred and eighty three, be, and the same is hereby repealed. Repealing clause

An ACT

A. D. 1786.

An ACT *to ratify and confirm an agreement made between the commissioners appointed by the legislature of the State of Pennsylvania, and the commissioners appointed by the legislature of the State of New-Jersey, for the purpose of agreeing upon, and accurately describing which of the islands, islets and insulated dry land, mentioned in the agreement between the two States, bearing date on the twenty sixth day of April, seventeen hundred and eighty three, belong to each of the said States, according to the purport of that agreement.*

Passed the 16th of March, 1786.

Preamble.

WHEREAS commissioners duly appointed on the part of the State of Pennsylvania, and a commissioner duly appointed on the part of the State of New-Jersey, for the purpose of dividing the islands in the river Delaware, between the falls of Trenton, and the station point, or north-west corner of the State of New-Jersey, have executed two articles of agreement, one for each State, which is contained in the following words:

Recital of an agreement between Pennsylvania and New-Jersey, respecting the division of the islands in the Delaware, from the falls at Trenton, northerly, to the station point.

AN agreement made and concluded upon, between George Wall, John Okeley, and Jonas Hartzell, commissioners appointed by the supreme executive council of the State of Pennsylvania, for dividing the islands and insulated dry land in the river Delaware, with the State of New-Jersey, from the falls at Trenton, to the station point, or north-west corner of the said State, and Moore Furman, commissioner appointed by the said State of New-Jersey, for the like purpose.

FIRST. The parties aforesaid, in pursuance of the authority to them severally given, and in behalf of the respective States aforesaid, do agree, that from the said falls of Trenton, to the station point, or north-west corner of the State of New-Jersey, aforesaid, the following islands, opposite to the county of Bucks, and the townships hereafter named, that is to say, opposite to the Falls township, Bird's island; opposite to Lower Makefield township, Slack's three islands, Duer's island, and Harvey's lower island; opposite to Upper Makefield township, Harvey's upper island, and Lownes' island; opposite to Solebury township, Smith's island and bar, and Paxton's island and bar; opposite to Tinnicum township, Pratt's two islands, Wall's island, Resolution island, Marshall's island, Wall's two islands, Fishing island, and Pennington's island; opposite to Nockamixon township, Loughley's island; and opposite the county of Northampton, and the townships hereafter named, that is to say, William's township, Pohatcung island, Shoemakers island, and Loor's island; opposite to the Forks township, Easton island; opposite to Mount Bethel, Mason's island and bar, Mason's island, Foul Rift island, M'Elhany's island, and Attin's two islands; opposite to Lower Smithfield, Handy's island and bar, Goodwin's two islands, Shawanagh, or I. and B. Van Campen's island, N. Depew's island and two bars, Chambers's island, and Van Oken's island; opposite to Delaware township, Swartwood's island, and Isaac Van Campen's island; opposite Upper Smithfield township, Punkey's island and five bars, shall be annexed to the State of Pennsylvania, and considered as parts and parcels thereof.

AND that the following islands, opposite to the county of Hunterdon, in the State of New-Jersey, and the townships hereafter named, that is to say, opposite to the township of Trenton, Yard's Island, Mott's two islands, and Gould's two islands; opposite to the township of Hopewell, Stout's island; opposite to the township of Amwell, Smith's Mill island, Coryell's island, Holecombe's two islands, Eagle island, and Bull's island; opposite to the township of Kingwood, Rush island, Ridge's island, Shyhawk's three islands, Pinkerton's island, and Man of war island; opposite to the township of Alexandria, Stull's island, Lowrey's island, and Loughley's island and bar; and opposite to the county of Sussex, and the townships hereafter named, that is to say, opposite to the township of Greenwich, Rope's island, Champman's island, Stout's island and bar, and Bar island; opposite to the township of Oxford, Capush island, Foul Rift island, and Mack's island; opposite to the township of Knowlton, Mack's island and three bars, and Gap island; opposite to the township of Walpack, Hoops's two islands, Chambers's island, A. Van Campen's fishing island, Opaughanaugh island, and Necesseas island; opposite to the township of Sandyston, Nominack island, and Westfall's island; opposite to the township of Montague, Minisink island, Quick's

[WAL-

two islands and bar, Shabbacung great island and bar, and Westfall's two islands, shall be annexed to the State of New-Jersey, and hereafter be considered as parts and parcels thereof, agreeably to a map or chart of the said river, and description of the several islands and insulated dry land therein, made under our direction, by Mr. Reading Howell, surveyor, and herewith exhibited to each State. A. D. 1786.

SECONDLY. That all other islands, which may hereafter be formed within said river, between the falls of Trenton and the station point, or north-west corner of the State of New-Jersey aforesaid, shall hereafter be deemed and considered as parts and parcels of the State, to which such islands may be nearest. IN WITNESS whereof we, the commissioners of the States aforesaid, have set our hands and seals to two instruments of writing, one for each State, dated this second day of December, Anno Domini, one thousand, seven hundred and eighty five.

GEORGE WALL, (L. S.) JONAS HARTZELL, (L. S.)
JOHN OKELEY, (L. S.) MOORE FURMAN, (L. S.)

THEREFORE,

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the aforesaid agreement, and every article, clause, matter and thing therein contained, shall be, and the same is hereby fully and amply ratified and confirmed, and shall be, and ever hereafter remain in force, agreeably to the true tenor and extent thereof. The agreement confirmed.

A SUPPLEMENT *to an act, entitled, "An Act to ascertain the power and authority of the ordinary, and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphan's court in the several counties of the State."*

Passed the 22d of March, 1786.

WHEREAS the act, entitled, "An Act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphan's court in the several counties of the State," doth not provide for the division of real estates, devised by will and testament between two or more children or devisees, any of whom being minors; nor to divide the real estate of any person, who died intestate, leaving two or more children, previous to the passing the above recited act; therefore, Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That where any person, heretofore deceased, died seized of a real estate in fee simple, or hereafter shall die so seized, leaving a legal will and testament, devising his or her real estate to two or more devisees, not ascertaining the metes or bounds of each devisee's share, any of whom being under age, and their shares not yet divided according to law, may apply to the orphan's court held in the county, where the lands so devised are situated; the said court, on application of any one of the devisees, may order and direct a division of such real estate to be made agreeably to the true intent and meaning of the said testator's last will and testament; the metes and bounds of each devisee's share to be ascertained by three indifferent persons, to be appointed by the court, and a report made thereon in writing by them, or any two of them, under their hands and seals, to the next orphan's court after such division shall be made; such report, being approved of by said court, and entered on the records of the same, shall be conclusive to all parties concerned. Where there are several devisees, some being under age, and the bounds of their respective lands not ascertained by the will, the orphan's court may appoint persons to make partition of the same.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That where any person, seized of a real estate in fee simple, died intestate, since the publication of an act of this State, entitled, "An Act to alter the law directing the descent of real estates," leaving heirs entitled thereto, or hereafter may die intestate, leaving such heirs, any of whom, in either case, being under age, upon application being made to the orphan's court in the county, where the land shall lie, the said court, on such application, may order and direct a division of such real estate to be made, agreeably to the aforesaid act, entitled, "An Act to alter the law directing If any heirs of an intestate be under age, the orphan's court may appoint persons to make partition of the lands agreeably to law.

A. D. 1786.

recting the descent of the real estates," passed the twenty fourth day of May, seventeen hundred and eighty; the metes and bounds of each heir's share to be ascertained by three indifferent persons to be appointed by the court, and report made thereon in writing by them, or any two of them, to the next orphan's court, after such division shall be made; which said report, after being approved of by the court, and recorded as aforesaid, shall be conclusive to all parties concerned.

Costs of dividing real estates, how to be apportioned and recovered.

III. And be it enacted *by the authority aforesaid*, That the necessary costs arising upon the division of real estates, ordered to be divided by the authority of the orphan's court, shall be assessed, by one of the judges of said court, upon each devisee's or heir's share, in proportion to the value divided to him or her; which may be recovered by a warrant from said court, directing distress to be made on so much of the timber, wood, herbage, or whatever other salcable property, belonging to the said owner, may be found on his or her land as will pay the costs aforesaid, with the costs of such distress.

If waste or injury be done, how to be considered and charged in the partition of the land.

IV. And be it further enacted, That, upon any division of real estate to be made as aforesaid, where any proprietor or proprietors thereof, having a share therein, hath or shall, after the decease of the said testator or intestate, under whom the same may be claimed, have cut, or made use of any timber, or injured the land in anywise, it shall and may be lawful, in the division to be made, to make such a division, that the minor, devisees, or heirs, shall have as valuable a share thereof, as though no such waste had been committed or damage done; which waste or damage shall be charged, in the division, to the person or persons committing or doing the same.

Orphan's court may order estate of testatator or intestate to be sold for payment of debts.

V. And be it further enacted, That the powers of the said orphan's court shall extend to the settlement of all estates of testators or intestates, and shall be construed to authorize the said courts, upon application made for that purpose, to direct the sale of any part or parts of such estates for the payment of debts in all cases, whether any person or persons, entitled to a share thereof, are minors or not.

For the act to constitute the orphan's court, see page 59 of this volume.

If the personal estate of the testator or intestate be inadequate, the orphan's court may order the executor or administrator to sell the real estate for the payment of debts. See the act making lands liable to be sold for the payment of debts, passed in February, 1799.

An ACT *to explain and amend an act, entitled, "An Act to pass estates in fee by certain devises in wills and testaments, and to limit estates in tail."*

Passed the 23d of March, 1786.

Preamble.

WHEREAS doubts have arisen, respecting the true intent and meaning of a part of the second section of the act, entitled, "An Act to pass estates in fee by certain devises in wills and testaments, and to limit estates in tail;" for remedy whereof,

Certain words in the second section of the recited act, how to be construed.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the words, "Passed through one descent, since the death of the testator, and is now in the second or more remote descent from the testator," contained in the second section of the above recited act, shall be deemed, and construed to mean, "Been possessed by the first devisee in tail, and is now the property of the next devisee in tail, after the decease of the first devisee in the line mentioned in the devise in tail, under which they may claim;" and that the words, "The line of descent," contained in the above section, shall be construed to mean, "The line of entailment," any matter or clause in the said recited act, bearing a different construction, to the contrary notwithstanding.

See page 53 of this volume, for the act of which this is explanatory.

An ACT

An ACT *to regulate the mode of fishing in Hackinsack river, in the county of Bergen.* A. D. 1786.

Passed the 2d of November, 1786.

WHEREAS the setting of nets across, and the stopping of fish from going up the said river, is extremely detrimental and injurious to the people, inhabiting the upper parts thereof; for the preventing and remedying of which, Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the publication of this act, all and every person or persons whatsoever, who shall fasten, fix, or set any net or nets, or other device or devices, in or across the said river, so as to obstruct or hinder the fish from going up or down the same, shall pay the sum of five pounds, for every such offence, to be recovered by action of debt, before any justice of the peace of said county, with costs of suit, by any person, who will sue for the same, to be applied, one half thereof to the use of the poor of said town, division or precinct, where the same shall be recovered, and the other half to the person or persons, who shall sue for and prosecute the same to effect; and if the setter, or person fixing any such net or other device across the said river, be an apprentice, a servant, or a slave, he, or she, so offending, shall, unless the master or mistress of such apprentice, servant, or slave, shall pay the fine, be committed to the common gaol of the county, and there maintained at the expense of the master or mistress, until such fine be paid. PROVIDED ALWAYS, That nothing in this act contained shall extend to prevent any person or persons, from sweeping with seines or nets, or setting of that kind of nets, called hoop-nets, in said river, for a distance not exceeding one fourth of its width at the place of setting.

Penalty on any person, who shall set any net in or across the said river.

But this act not to extend to certain nets.

A SUPPLEMENT *to the act, entitled, "An Act to regulate the practice of physic and surgery within the State of New-Jersey."*

Passed the 2d of November, 1786.

WHEREAS the law for regulating the practice of physic and surgery in this State is found highly beneficial; but the execution thereof, as it now stands, is attended with much difficulty, by reason of the great distance the examiners live apart, and the inconvenience of their being convened on every occasion; for remedy whereof, Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful, after the passing of this act, for the justices of the supreme court of this State, for the time being, or their successors in office, or any two of them, and they are hereby authorized and empowered, when any person or persons, shall apply to them for license, for the practice of physic and surgery, to nominate and appoint such persons, as they shall judge well qualified, and competent to the business, to examine, and, if approved, give a certificate under their hands and seals, without their being personally present with the said justices; and such certificate shall be sufficient to satisfy them in granting a license in due form of law, as full and effectual, to all intents and purposes, as though they were all personally present at the time of granting the said license, as in the before recited act, any former law, usage, or custom, to the contrary notwithstanding.

Justices of the supreme court or any two of them may grant a license to practise physic or surgery on the certificate of the examiners, without the said justices being present at the examination.

For the original act, see page 51 of this volume.

An ACT

A. D. 1786.

An ACT *to repeal an act, entitled, "An Act to direct the mode and proceedings on writs o fieri facias, and for transferring of lands and chattels for the payment of debts.*

Passed the 22d of November, 1786.

Preamble.

WHEREAS the great scarcity of cash induced the legislature to pass an act on the twenty third day of March, seventeen hundred and eighty six, entitled "An Act to direct the mode and proceedings on writs of fieri facias, and for transferring of lands and chattels for the payment of debts;" and as the bills of credit, issued by this State, will, in a short time be put in circulation, the said act has become unnecessary; therefore,

Repeal of a certain act.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the act, entitled, "An Act to direct the mode and proceedings on writs of fieri facias, and for transferring of lands and chattels for the payment of debts," passed the twenty third day of March, seventeen hundred and eighty six, from and after the first day of April next, shall be, and the same is hereby repealed.

An ACT *to discourage the keeping of dogs, by imposing a tax on the owners or keepers thereof.*

Passed the 24th of May, 1787.

Preamble.

WHEREAS many of the inhabitants of this State have been greatly injured by dogs killing their sheep, to the discouragement of our own manufactures, and to the great injury of the State in general; for remedy whereof,

Tax on dogs, what, and how to be raised and applied.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That every inhabitant of this State, who shall keep or harbor any dog or dogs, shall be taxed yearly and every year for the same, two shillings and six pence per year for one dog, and seven shillings and six pence per year for every other dog, that shall be more than six months old, so kept or harbored as aforesaid; which tax shall be assessed and collected by the assessors and collectors, appointed for assessing and collecting of the State taxes in the several townships, precincts or districts, in each county in this State, and by said collectors accounted for at their annual town meetings; and the monies so arising, to be appropriated for the use and benefit of each township, precinct or district, where the same is respectively collected; and each and every inhabitant, who shall neglect or refuse to deliver in to said assessor their number of dogs, so kept or harbored as aforesaid, shall, for every such neglect or refusal, forfeit and pay the sum of twenty shillings for each dog not given in, to be recovered, with costs of suit, by the collector of each township, precinct or district, wherein the offence was committed, to be disposed of in manner aforesaid; and the said tax shall be assessed and collected in the same manner, and at the same time as other taxes raised for the use of the State, and the same fees shall be allowed for assessing and collecting the same, as are allowed for assessing and collecting the State taxes; and the officers, so appointed by this law to assess and collect the said taxes, shall be subject to the same fines and penalties for neglect of duty, as are enjoined by the act for assessing and collecting taxes for the use of the State.

An ACT *to regulate waggons and other wheel-carriages within the State of New-Jersey.*

Passed the 30th of May, 1787.

Preamble.

WHEREAS sundry inhabitants of this State have, by their petition, set forth, that they find great inconvenience, and labor under considerable difficulties, by the difference in the track or running of waggons, and other wheel-carriages in the counties of this State; for remedy whereof,

I. BE

A. D. 1787.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all waggons and other wheel-carriages of any kind or description whatever, drawn by one or more horse, or horses, oxen or other cattle, made and constructed, and all axletrees, made or repaired, from and after the first day of October next, travelling or passing on or through the roads or highways within this State, belonging to persons resident therein, shall run or track on the ground, from centre to centre of the fellies, not less than four feet and ten inches, under the penalty of twenty shillings, to be recovered from the owner or owners, proprietor or proprietors of such waggon, or other wheel-carriage, for each and every offence, before any one justice of the peace of this State, where the fact shall be committed, upon the oath or affirmation of one or more witness or witnesses; which said fine, when recovered, shall be paid, one moiety thereof to the overseers of the highways for the township, division or precinct, where the fact was committed, to be applied towards repairing the highways in the same, and the other moiety to be paid to the person or persons prosecuting the same to effect: and the said overseers are hereby made accountable for all monies they may receive in virtue of this act, in the same manner and form, as they are, for other fines and forfeitures: PROVIDED ALWAYS, That the above fine shall not be set or levied more than once upon one journey; and that every information, relative to any breach of this act, be made within twenty days after the offence is committed.

Tracks of waggons and wheel-carriages ascertained.

Penalty for using carriages of a different track, what and how to be recovered and applied.

Proviso.

II. AND BE IT ENACTED *by the authority aforesaid*, That the act, entitled, "An Act to regulate carriages of burden within this colony," passed June the twenty fourth, seventeen hundred and sixty seven, shall be, and the same is hereby repealed.

Former act repealed.

An ACT *for the limitation of suits respecting titles to land.*

Passed the 5th of June, 1787.

WHEREAS the laws, now in force, for the limitation of suits respecting real estates, are found insufficient to answer the good purposes of quieting claims, and securing titles; therefore,

Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That sixty years actual possession of any lands, tenements, or other real estate, uninterruptedly continued by occupancy, descent, conveyance or otherwise, in whatever way or manner such possession might have commenced, or have been continued, shall vest a full and complete right and title in every actual possessor or occupier of such lands, tenements, or other real estate, and shall be a good and sufficient bar to all claims, that may be made, or actions commenced by any person or persons whatever, for the recovery of any such lands, tenements, or other real estate.

Sixty years possession shall vest a good title, and be a bar to all claims.

II. AND BE IT FURTHER ENACTED, That thirty years actual possession of any lands, tenements, or other real estate, uninterruptedly continued as aforesaid, wherever such possession commenced, or is founded upon a proprietary right duly laid thereon, and recorded in the surveyor general's office of the division, in which such location was made, or in the secretary's office, agreeably to law, or wherever such possession was obtained by a fair bona fide purchase of such lands, tenements, or other real estate, of any person or persons whatever in possession, and supposed to have a legal right and title thereto, or of the agent or agents of such person or persons, shall be a good and sufficient bar to all prior locations, rights, titles, conveyances or claims whatever, not followed by actual possession as aforesaid, and shall vest an absolute right and title in the actual possessor and occupier of all such lands, tenements, or other real estate. PROVIDED ALWAYS, That if any person or persons, having a right or title to lands, tenements or other real estate, shall, at the time of the said right or title first descended or accrued, be within the age of twenty one years, feme covert, non compos, imprisoned, or without the United States of America, then such person or persons, and his and their heir and heirs, may, notwithstanding the aforesaid times are expired, be entitled to his or their action for the same, so as such per-

In what cases thirty years possession shall be a bar to prior locations, rights, and conveyances.

Proviso in favor of infants, feme coverts, persons insane, imprisoned, or out of the United States.

A. D. 1787.

son or persons, or his or their heirs, commence or sue forth his or their action within five years after his or their full age, discoverture, coming of sound mind, enlargement out of prison, or coming within any of the United States, and at no time after. AND PROVIDED ALSO, That any citizen or citizens of this or any other of the United States, and his or their heirs, having right or title to any lands, tenements, or other real estate within this State, may, notwithstanding the aforesaid times are expired, commence his or their action for such lands, tenements, or other real estate, at any time within five years next after the passing this act, and not afterwards.

Proviso, that persons having title may sue within five years after this act.

III. AND BE IT FURTHER ENACTED, That any survey, made of any lands within either the eastern or western division of the proprietors of the State of New-Jersey, and inspected and approved of by the general proprietors, or council of proprietors of such division, and by their order or direction entered upon record in the secretary's office of this State, or in the surveyor general's office in such division, shall, from and after such record is made, preclude, and forever bar such proprietors and their successors, from any demand thereon, any plea of deficiency of right or otherwise notwithstanding.

Surveys inspected, approved, and recorded, shall be a bar against the proprietaries.

IV. AND BE IT FURTHER ENACTED, That if any person or persons, for the purpose of establishing the boundaries of lands between them, shall, by certificate under their hands and seals, executed in the presence of two or more subscribing witnesses, certify unto the clerk of the county or counties, wherein such line or partition shall lay, any lines, corners, and boundaries, as shall by them be allowed and acknowledged to be the true bounds betwixt their lands, and the said certificate filed in said clerk's office, and recorded by said clerk in a book to be by him provided for that purpose, shall be as fully conclusive and binding to the parties so certifying, and their heirs and successors, as could have been done by deeds of quit-claim, or in any other manner whatsoever.

Boundaries of lands between persons, how to be ascertained.

V. AND BE IT FURTHER ENACTED, That so much of the act, entitled, "An Act for the limitation of actions, and for avoiding of suits," and such and so many of the statutes in England, now in force in this State, as are affected by, and repugnant to this act, be, and the same are hereby repealed, made void and of no effect.

Repealing clause.

See a supplemental act of the 28th of November, 1789.

An ACT *to repeal such acts, or parts of acts, as may be in force in this State, that are repugnant to the treaty of peace between the United States and his Britannic Majesty.*

Passed the 5th of June, 1787.

Preamble.

WHEREAS certain laws or statutes, made and passed in some of the United States, are regarded and complained of as repugnant to the treaty of peace with Great Britain, by reason whereof, not only the good faith of the United States, pledged by the treaty of peace, has been drawn into question, but their essential interests under that treaty greatly affected; therefore, although there are not supposed to exist in this State, any acts or laws, which may be construed to contravene said treaty, yet, in order to remove every possibility of doubt, and to comply with the representation and recommendation of Congress on this head,

All acts repugnant to said treaty, repealed.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That such acts, or parts of acts of the legislature of this State, as may be repugnant to the treaty of peace between the United States and his Britannic Majesty, or any article thereof, so far as relates to the subjects of the said King of Great Britain, shall be, and are hereby repealed.

An ACT

An ACT *to authorize the people of this State to meet in convention, deliberate upon, agree to, and ratify the constitution of the United States, proposed by the late general convention.* A. D. 1787.

Passed the 1st of November, 1787.

IN pursuance of this act, the citizens of this State elected delegates, who met in convention, and, on the 18th of December, 1787, unanimously ratified and adopted the constitution of the United States.

An ACT *to repeal two certain acts therein mentioned for the relief of insolvent debtors.*

Passed the 3d of November, 1787.

WHEREAS the acts, now in force, for the relief of insolvent debtors, have been found by experience not to have answered the designs and good purposes thereby intended; therefore, Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the act, entitled, "An Act to amend, revive, and continue an act, entitled, "An Act for the relief of insolvent debtors," passed June the eighteenth, seventeen hundred and eighty three; and also the act, entitled, "An Act for the relief of poor and insolvent debtors," passed June the first, seventeen hundred and eighty six, and every matter, article, and clause therein contained, shall be, and the same are hereby repealed. Acts repealed;

PROVIDED ALWAYS, *and be it further enacted,* That nothing herein contained shall be construed, or operate to affect any persons, who, being in confinement at the time of passing this act, have previously advertised their intentions to make application for the benefit of the before recited acts. But such repeal not to affect certain persons in confinement.

An ACT *to repeal two certain acts, giving to the secretary of this State an annual salary, and also so much of a certain act therein mentioned, as respects fees to be taken by the said secretary upon commissions, granted to justices, coroners, and militia officers.*

Passed the 11th of November, 1788.

WHEREAS heretofore the secretary has had an annual salary in lieu of fees on justices, coroners, and military commissions; therefore, Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the act, entitled, "An Act for granting an annual salary to the secretary of this State, in lieu of his fees on the commissions of justices, coroners, and militia officers," passed March the seventeenth, one thousand, seven hundred and seventy seven; and the act, entitled, "An Act to repeal an act, entitled, "An Act for granting an annual salary to the secretary of this State, in lieu of his fees on the commissions of justices, coroners, and militia officers, and to make more proper provision for defraying the expense of granting said commissions," passed December the nineteenth, one thousand, seven hundred and eighty three, shall be, and the same are hereby repealed. Two acts repealed.

II. AND BE IT ENACTED *by the authority aforesaid,* That so much of the act, entitled, "An Act for the better enabling the judges, and justices of this colony, to ascertain and tax bills of costs, and for making provision, by law, for the payment of the services of the several officers of the colony, and for preventing the said officers from taking exorbitant fees," as respects the fees to be taken by the secretary, on commissions granted to justices, coroners, and militia officers, shall be, and the same are hereby repealed. Part of act to ascertain and tax bills of costs, repealed.

An ACT

A. D. 1788.

An ACT *to enable the owners of the tide swamps and marshes to improve the same, and the owners of meadows already banked in, and held by different persons to keep the same in good repair.*

Passed the 29th of November, 1788.

On application of the owners of tide-swamps and marshes, the court of common pleas to appoint commissioners; who may lay out the bank, dam, and other works, and make a survey thereof, and give a name to the company.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if the owners of two thirds of any body or tract of marsh or swamp, exposed to the overflow of the tide, and capable of being laid dry, and put in a proper state for improvement by one general bank or dam, are desirous to improve the same, and the whole cannot agree, such owners, desirous of improving as aforesaid, after giving three weeks previous notice to those, who refuse or neglect to join in such improvement, by notice left at each of their places of abode, or by advertising their intentions in three of the most public places in the neighborhood, at least three weeks previous thereto, may apply to the court of common pleas of the county, in which such marsh doth lie; or in case a county line shall run through the marsh or swamp proposed to be improved as aforesaid, to the court of common pleas nearest thereto; on which application the members of such court, who are disinterested, and unconnected with the parties, shall, and they are hereby required to, appoint, by a certificate under their hands and seals, three or more judicious and disinterested men, well acquainted with banking and improving tide meadows, as commissioners; which commissioners, after giving notice of the time and place of meeting, shall view the premises, and hear the parties, and, if they then think proper, lay out the bank, dam, sluices, floodgates or other works necessary for securing the marsh or swamp from the overflow of the tide, in such place or places as may appear most safe and beneficial to the whole of the owners of the marsh or swamp, intended to be secured from the overflow of the tide, and make an actual survey thereof, describing the place of beginning, courses and distance, and places where the sluice or sluices, or floodgates, shall be laid, and where the bank or dam shall join the fast land, and also fix a name for the company, and appoint the time and place of their first meeting, and deliver a certificate of their proceedings, signed by a majority of them, to the clerk of the court, from which they received their appointment, which clerk shall forthwith record the said certificate in the road book kept in his office. PROVIDED ALWAYS, That no navigable water shall be stopped by virtue of this act, the use of which navigation may, in the opinion of the majority of the men appointed as aforesaid, be of more than half the value to the inhabitants of the neighborhood, that the improvement of the meadow would be to the owners thereof. AND PROVIDED ALSO, That nothing in this act shall be construed to authorize the stopping out any creek or river, capable of navigation for shallops or flats, that can carry eight cords of wood.

Their proceedings to be certified and recorded.

But certain navigable streams are not to be stopped.

Expenses of banking to be defrayed by a tax on the meadows.

II. AND BE IT FURTHER ENACTED, That the expense of erecting, making, and maintaining the banks, dams, sluices, floodgates, and other works, laid out as aforesaid, and also all the general watercourses, necessary for draining the marsh, swamp, or meadow ground, secured from the overflow of the tide, by the aforesaid banks or works, as well as the expense of laying out the banks, works, and watercourses, and every other necessary expense for the benefit of the company, shall be defrayed by a tax, laid on the meadow ground secured from the overflow of the tide as aforesaid, in manner hereafter directed.

Banks when laid out, owners to meet,

III. AND BE IT FURTHER ENACTED, That after the banks, dams, and works are laid out, and a certificate thereof recorded as aforesaid, some one or more of the company shall give at least one week's notice of the time and place of the aforesaid first meeting, by notice left at the house of each owner, or by advertising the same in three of the most public places in the neighborhood, at least one week previous to the said time of meeting.

And choose managers, treasurer and clerk, and also three appraisers of the swamp or marsh.

IV. AND BE IT ENACTED, That it shall and may be lawful for the owners and possessors of land, lying within the bank or dam laid out as aforesaid, their legal agents or representatives, to meet at the place appointed, and, between the hours of one and five in the same afternoon, to choose, by ballot or otherwise, and by plurality of votes of those met, such person or persons as they may think proper for managers, and a treasurer, and clerk for the ensuing year, or until the next annual

nual meeting thereafter, and three or more indifferent men, to value all the marsh, swamp or meadow ground, secured by the bank, from the overflow of the tide.

Marsh to be measured, valued, and then assessed to defray the expenses.

V. And be it enacted, That the managers, when appointed as aforesaid, or a majority of them, shall, as soon as may be, cause all the lots and parcels of the marsh, meadow ground or swamp, belonging to each owner, usually overflowed by the tide, and lying within the bounds of the proposed bank or dam, and waterworks, to be carefully and strictly measured, and a draught or plot to be made, shewing the quantity held by each owner; and cause a valuation to be made, by the men appointed as aforesaid, of the meadow ground of each owner separately; and shall, thereupon, make an estimate of the sum or sums of money, which will be necessary to defray the expenses of the different services required by this law, and also of making and erecting the bank, dam, and other works, necessary to keep the tide from overflowing the meadows within them, until the said meadows shall be laid dry, and put in a proper state for improvement; and shall assess the same, ratably, on the said meadow, agreeably to the valuation and quantity each owner may have within the bank or dam; and shall state the said assessment in a regular duplicate, containing the names of the owners or possessors, the number of acres and parts of acres held by each, the sums assessed on them, severally, and the time or times of payment; which duplicate shall be delivered by them to the treasurer chosen as aforesaid.

Treasurer to recover sums assessed.

VI. And be it enacted, That the treasurer, on receipt of the said duplicate, shall, in person, or by notice in writing, left at the usual place of abode of each owner or possessor, demand of, and from each owner and possessor, twenty days before the time of payment, the sum assessed as aforesaid; and if any of the said owners or possessors shall neglect or refuse to pay the sum assessed as aforesaid, for the space of twenty days after the time fixed for payment thereof, it shall and may be lawful to and for the said treasurer to seize and rent out, by public vendue, to the highest bidder, for so long time, and no longer, as will be requisite, so much of the meadow ground within said bank belonging to, or in possession of such delinquent owner or possessor, as may suffice to discharge such assessment, and all expenses attending the recovery thereof, having first advertised the same for the space of three weeks, in three of the most public places in the neighborhood, where the said meadow lies, or may be sold.

If assessment be insufficient, another may be made.

VII. And be it enacted, That if said estimate, so made and collected as aforesaid, should not produce a sufficient sum of money to fulfill the purposes above mentioned, the said managers shall make, in like manner, an estimate of such sum as may be further necessary, which shall be collected in like manner, as is herein before directed.

Managers to examine the banks, and works, quarterly, and to keep them in repair.

VIII. And be it enacted, That the said managers shall, from time to time, at least once in every three months, inspect and examine the banks, sluices and waterworks whatsoever, erected or made for the benefit of the aforesaid company; and shall cause, or procure to be made or done, all such repairs and amendments, as to them, or a majority of them shall seem necessary; and for defraying the expense thereof, shall assess, in manner aforesaid, such sum or sums of money as may be requisite, which shall be collected in maner aforesaid.

At what time and place the company shall hold their annual meeting to elect officers.

IX. And be it enacted, That, after the meeting of the said owners and possessors, at the time and place appointed as aforesaid, it shall and may be lawful for the said owners and possessors, to meet and assemble statedly, on the first Monday in April, yearly and every year, at one o'clock in the afternoon of that day, at such place as a majority of those met at the first meeting, or at the last preceding annual meeting, may have from time to time appointed; and there, between the hours of one and five in the afternoon, by ballot or otherwise, and plurality of votes of those met, appoint managers, a treasurer and clerk as aforesaid, to continue for one year, and from thence until others are appointed to supply their places; and the manager or managers, treasurer and clerk, shall have the like powers as those herein before mentioned. Provided always, That nothing in this act contained shall be construed to prevent a manager from being treasurer, clerk, or both.

Proviso.

X. And

A. D. 1783.

Clerk's duty.

X. And be it enacted, That it shall be the duty of the clerk, chosen as aforesaid, from time to time, to enter into a book, to be provided for that purpose, all votes, proceedings, orders and assessments, made by the said owners and possessors, or the managers, and all transactions whatsoever, which the said owners and possessors, or managers shall direct.

Executors, administrators, guardians, and agents authorized to vote.

XI. And be it enacted, That it shall and may be lawful for the executors or administrators of any person deceased, to whose estate a part of meadow ground lying in company did belong, and to and for the guardians of minors, and to and for the agents of single women, or other persons, who cannot attend the meeting of the owners and possessors, such agents being appointed in writing, to vote at said meetings.

In case of the death or disability of any of the officers, others to be elected.

XII. And be it enacted, That if any of the managers, or treasurer, or clerk, should, at any time within the year for which they are elected, by death or other disability, become incapable of executing the duties required by this act it shall and may be lawful for the managers, or a majority of them, or the survivors, or a majority of them, or the survivor, or if none remain, any two of the owners or possessors, to call a meeting by notice in writing left at the place of abode of each owner or possessor, or by advertising the same in three of the most public places in the neighborhood, at least two weeks previous thereto, for the purpose of supplying the vacancy or vacancies; and the persons appointed in consequence shall have the like powers for the remainder of the year, as those had in whose places they may be appointed.

Wages of the officers to be fixed by the company.

XIII. And be it enacted, That the owners and possessors of meadow ground, lying in company as aforesaid, or their representatives, at the annual meeting, from time to time, shall fix and determine, by the vote of a majority of those met, the wages or salaries to be paid to the managers, treasurer and clerk, from year to year.

Mud and earth, where to be dug.

Outer works may be erected.

XIV. And be it enacted, That it shall and may be lawful for the manager, or managers, or a majority of them, to dig or cause to be dug mud, sand or other earth, for the erecting and repairing the banks and works, from time to time, in such places as shall be most convenient to the banks and works under his or their direction, and least detrimental to the owners of the soil; and whenever it shall, in the opinion of the manager or managers, or a majority of them, appear necessary to lay or erect any works without the banks, to prevent the wash from damaging the banks or works, the said manager or managers are hereby empowered to cause such works to be made or done, and to defray the expense thereof, as herein before directed for defraying the expense of other works and repairs.

What line ditches and drains declared to be lawful fences, and how to be maintained.

XV. And be it enacted, That all line ditches, or drains of nine feet wide at the surface of the meadow, four feet and an half wide at bottom, and three feet deep, and lying on a mud or miry bottom, shall be deemed and reputed, and the same are hereby declared to be lawful fences, and shall be divided in the same manner, and made and maintained in the same proportion, as line fences are by law directed to be divided, made and maintained; and the mud, earth or rubbish, shall be cast as equally as may be on each side, except the owners by agreement determine otherwise.

Mode of proceeding against the owners of meadows, who neglect or refuse to maintain their part of the banks and other works.

XVI. AND WHEREAS many owners of meadows, already banked from the tide, suffer great loss and damage by the conduct of others, who own meadow lying within the same bank, and neglect or refuse to keep their part or parts of the bank, works and water courses in good repair; therefore, *Be it enacted*, That in all cases where several persons own meadow ground within one and the same bank, dam or other enclosure, and liable to be overflowed or damaged by a breach in any part of such bank, dam or other works; and any of the owners or occupiers of any part thereof shall neglect or refuse to keep his, her or their part or parts of said banks or works in repair, to the damage or danger of the other owner or owners, any owner or owners so damaged, or in danger of being damaged by such neglect, may, upon six days notice being given to the other owners or occupiers, apply to the judges of the inferior court of common pleas of the county, where such meadow may be, who shall appoint, by a certificate, under the hands of a majority of them, three or more men as before described, who

A. D. 1788.

who, after giving ten days previous notice to all concerned, of the time and place of meeting, shall hear the parties, view the premises, and after taking into consideration every circumstance, matter and thing, which may tend to enable them to do justice between the parties, divide the bank and other works, necessary for the safety and improvement of the meadows; and give and allot to each owner or occupier, his or her respective share or part to keep up and maintain; or direct, that the whole of such bank and works shall be supported by a tax, laid from time to time, agreeably to the quantity and quality of the meadow, enclosed from the tide by said bank; and likwise, in either case lay out all the necessary general watercourses, in such places as may be most convenient and beneficial for the purposes of draining the meadows generally, and least detrimental to the owners of the soil; and order the maintenance of the watercourses in the same manner, as the banks and works, either by giving each owner his or her share or part of the bank and works to make, keep up and maintain; or order that the whole of the bank, dam and other works, and general watercourses, shall be made and maintained by a general tax; and give a certificate of their proceedings, with the courses and distances, if required by any owner or owners, signed by a majority of the commissioners appointed as aforesaid.

Owners aggrieved by the commissioners, how to be redressed.

XVII. And be it further enacted, That if any owner or owners shall think him, her, or themselves aggrieved by the proceedings of the commissioners appointed as aforesaid, he, she or they, conceiving themselves so aggrieved, shall apply to the court of common pleas, in the manner directed in the first section of this act, which is hereby directed to appoint double the number of commissioners as were appointed for the proceedings complained of, a majority of whom, after giving notice, hearing the parties, and viewing the premises as before directed, may, and they hereby are empowered and directed, to make a different order of maintenance or division, as to the bank and works; and alter, shut up, or relay the watercourses at their discretion, in such manner, as to them may seem most beneficial for the safety and improvement of the meadows, and just and equitable between all parties concerned; and likewise alter the place of making and repairing any banks or works, whenever such alteration may become necessary, by wash, breaches or otherwise; and make a certificate thereof in manner aforesaid, which certificate, as well as all other certificates of laying out the banks, works and watercourses, or either of them, or of dividing into shares, any banks, works and watercourses, shall be recorded in the road book, by the clerk of the court as aforesaid.

Sudden breaches, how to be repaired.

XVIII. And be it further enacted, That in all cases, where sudden breaches may happen, or other circumstances render immediate repairs necessary, either, where the banks and works are under the direction of managers, or divided into parts to be maintained by the different owners or occupiers, and the manager or managers, owner or owners, or occupiers, whose duty it is to stop or repair the same, shall neglect or refuse to stop such breach or breaches, or make the repairs immediately necessary, then, and in all such cases, it shall and may be lawful for any owner or owners, or possessors, to enter upon the premises, and make the necessary repairs in the same manner, and under the same restrictions, as the manager or managers, owner or owners, or occupiers, are by this law directed and empowered to do and perform the same, and recover the expense attending such repairs, in any court, wherein the same may be cognizable, with costs, from the person or persons, or managers, whose duty it was to do and perform such repairs.

Owners damaging the bank, to make it good.

XIX. And be it enacted, That if any owner or possessor of any meadow, lying in company, or any other person by his or her order, shall wilfully cut his or her bank or dam, or open his or her floodgate, or sluice or sluices, and thereby let in the tide, at any time between the first day of April, and first day of December, in any year hereafter, without the consent of the other owner or owners, or possessors, of meadows lying within the same bank or dam, and thereby damage the property of his or her neighbors, such person or persons, so offending, shall make good all damages occasioned thereby, to be adjudged by two or more freeholders, chosen by the parties, and recovered by the owner or owners, or possessor or possessors, receiving the damage, in any court, in which the same may be cognizable, with costs of suit.

XX. And

A. D. 1789.

Horses, cattle and swine not to be put on the bank, contrary to the directions of the managers.

XX. And be it enacted, That in all cases where banks or dams are maintained by a tax, and divided from the adjoining meadows by a lawful fence, ditch or drain, made and repaired at the expense of the company, if any owner or occupier shall put or keep on, or suffer to be put or kept on the part of the bank or dam assigned as his or her part to occupy, any horses, horned cattle, or swine, by his or her consent or order, contrary to the directions of the manager or managers, and thereby damage the bank, dam or works, such owner or occupier, so offending, shall make good all damages occasioned thereby, to be valued by two freeholders of the township, to be chosen, one by the managers or manager, and the other by the offender; and if the person, so offending, shall neglect or refuse to join in the choice, then, and in such case, the manager or managers shall choose both; and if the two so chosen cannot agree, they shall choose a third, any two of whom shall value the damage; which damage shall be recovered by the managers or manager from the person, who had offended as aforesaid, and applied towards repairing the bank or other works under the direction of the managers.

To what banks and drains this act shall not extend.

Provided always, That nothing herein contained, except the twentieth section of this act, shall extend to interfere with any private law heretofore passed, or any agreement heretofore made, for banking and draining of meadows, without the consent of all persons concerned therein.

Fees of the court, clerk of the court, and commissioners.

XXI. And be it enacted, That the fees to be paid for the different services required by this act shall be as follows:

To the court, for appointing commissioners and giving a certificate, or for hearing the applicants, where no certificate is granted, the sum of ten shillings.

To the clerk of the court, for recording the certificate of the appointment of commissioners, seven-pence per sheet, allowing ninety words to a sheet.

And to each of the commissioners, seven shillings and sixpence per day, for every day he may be employed in laying out the banks, works and watercourses, to be paid by the applicants; but in all cases where the banks, works and watercourses, or either of them, are maintained by a tax, the above costs shall be paid by the treasurer of the company; and the receipts of the court, clerk and commissioners, shall be sufficient vouchers for so much of the company's money.

An ACT *for the preservation of cranberries.*

Passed the 10th of November, 1789.

Preamble.

Whereas it has been represented to the legislature, that cranberries, if suffered to remain on the vines until sufficiently ripened, would be a valuable article of exportation; therefore.

Penalty on persons, who shall gather cranberries on lands not their own, and how to be recovered and applied.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person or persons shall, after the passing of this act, take or gather from the vines, at any time after the first day of June, and before the tenth day of October, cranberries, on the common or unlocated lands within this State, or on any lands, not their own property, or for which they pay no tax, such person or persons shall forfeit and pay, for every such offence, the sum of twenty shillings, and also, the further sum of ten shillings for every bushel so taken or gathered within the times aforesaid, and so in proportion for a greater or lesser quantity, to be sued for and recovered in any court, where the same may be cognizable, with costs of suit, to be applied, one half, if on the common or unlocated lands, to and for the use of the county, where the offence shall have been committed, or if on any of the located lands, one half to be paid to the owner or possessor of said land, and the other half, together with the cranberries, so as aforesaid taken and gathered, to the use of the persons, who shall sue for and recover the same.

An ACT

An ACT *for the more easy partition of lands held by coparceners, joint tenants, and tenants in common.* A. D. 1789.

Passed the 11th of November, 1789.

WHEREAS the proceedings, at common law, upon writs of partition between coparceners, joint tenants, and tenants in common, are found to be very tedious and expensive, and in many instances oppressive, by reason, of the plaintiffs or demandants being obliged to pay the whole cost and charges of such writs and actions, although many other persons may be equally benefited thereby, whereby frequent applications have been made to the legislature for private acts, for the partition of particular tracts of land; which applications are troublesome and inconvenient to the persons applying, consume the time of the legislature, and retard the business of the State; for remedy whereof in future, Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That any person, being a coparcener, joint tenant, or tenant in common, in any tract or tracts of land within this State, may at any time apply to any one or more of the justices of the supreme court of this State, or to any three or more of the judges of the inferior court of common pleas of the county, wherein such lands may lie, for a partition of such tract or tracts of land; whereupon the said justice or justices, or judges, shall ascertain the number of equal shares, or parts, in which such tract or tracts were, or at the time of such application, are held by the original coparceners, joint tenants, or tenants in common, and shall nominate three persons, not interested in the said land, as commissioners, to make partition of such tract or tracts, into as many parts or shares, as the same was originally held; and the said justice or justices, or judges, shall thereupon order an advertisement to be inserted in one of the public newspapers of this State, and in such other public newspapers or places, as the said justice or justices, or judges shall direct, for six weeks successively, to the following or like effect, he or they making such alterations or additions, as the nature of the case may require.

Judges of the supreme court, and of the courts of common pleas authorized to appoint commissioners to make partition of lands.

Application for such partition, and names of the commissioners to be advertised.

Form of advertisement.

By esquires, chief justice (or justices) of the supreme court of New-Jersey, or judges of the inferior court of common pleas of the county of

NOTICE is hereby given, that on application to me, or us, by of who claims an undivided part of all that tract of land, (giving a description of the tract or tracts intended to be divided) I, or we, have nominated A B, C D, and E F, commissioners, to divide the said tract, (or tracts) of land into equal shares or parts, and unless proper objections are stated to me, or us, at on the day of next, (which is to be at least two months from the date of the notice) the said A B, C D, and E F, will then be appointed commissioners to make partition of the said land, pursuant to an act, entitled, "An Act for the more easy partition of lands, held by coparceners, joint tenants, and tenants in common," passed the day of given under our hands this day of

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if no objections are made before the said justice or justices, or judges, on the day appointed by him or them for that purpose, to the persons nominated as commissioners, then the said justice or justices, or judges, shall, in writing, under his or their hands and seals, appoint the persons, so nominated, to be commissioners to divide the said land, pursuant to the directions prescribed in this act, and the said justice or justices, or judges, shall, in the said writing, describe the tract or tracts so to be divided, and direct the number of parts or shares into which the same is to be allotted; but if objections are made to the persons nominated as commissioners, or to any of them, the said justice or justices, or judges, shall then proceed to hear and determine such objections, and in case he or they find them well founded, then to appoint under his or their hands and seals, other fit and disinterested persons in the room of those, he or they may think proper to remove.

The judges, in the instrument appointing commissioners, to describe the land, and to ascertain the number of shares into which it is to be allotted.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the commissioners so appointed, before they proceed to the execution of the powers and authority

Commissioners to take an oath of office.

A. D. 1789.

authority vested in them by this act, shall be severally sworn or affirmed befor one of the justices of the supreme court, or any judge of any inferior court c common pleas, that they will honestly, faithfully, and impartially make the partiti on intended, and perform the trust, duties and services required of them by thi act, to the best of their skill, knowledge and jugdment.

Commissioners to cause a survey to be made of the land, and then to divide the same into the requisite number of shares.

IV. And be it further enacted *by the authority aforesaid*, That the com missioners shall cause a survey to be made in their presence, of the tract o tracts to be divided, and shall then proceed to divide the same into the number o parts or shares directed by the said justice or justices, or judges, in the writing containing their appointment, each part or share to contain one or more lots, a the commissioners may think proper, they having due regard in the partition t the situation, quantity, quality, and advantages of each part or share, so that they may be equal in value, as nearly as may be; and if the bounds of any tract o tracts, so to be divided, shall be controverted, the commissioners are hereby di rected, if such controverted part is valuable, to separate the same from the un controverted part, and to make partition of the tract or tracts, in such manner that a proportion of the controverted part may be allotted to each share, as wel as a proportion of the uncontroverted part; and the said commissioners, previous to the said survey, shall administer an oath or affirmation to the surveyor, and chainbearers, that they will well and truly perform their respective duties honestly and impartially; which oath or affirmation, any one of the said commis sioners is hereby empowered to administer.

Commissioners to administer an oath to the surveyor and chain bearers.

Commissioners to number the shares, and make a field book of each lot.

V. And be it further enacted *by the authority aforesaid*, That the said com missioners shall number the several parts or shares by them laid off, from number one, progressively, and shall in the same manner number each lot in the several shares, if the same contain more than one lot, and shall make a true field book, specifying the bounds and numbers of each lot, and also a map or maps of the tract or tracts, on which the several shares or lots shall be laid down and num bered, and shall keep an exact and particular account of their time expended in the execution of the duties of this act, and of the money due for the same, and also of all expenses accrued for surveying or otherwise, agreeably to the directions of this act; and the said commissioners shall thereupon give notice, by advertisement in manner aforesaid, for three weeks successively, that on a certain day by them named, not less than one month from the date of such notification, attendance will be given at a place therein named, and an allotment, by ballot, take place, of the several parts or shares of the tract or tracts therein described, to the original coparceners, joint tenants, and tenants in common, their heirs or assigns.

After which notice to be given of the time and place of making allotment by ballot.

Judges to assist the commissioners, if required.

Mode of making the allotments.

VI. And be it further enacted *by the authority aforesaid*, That on applica tion made to the said justice or justices, or judges, by any one of the parties to the partition intended to be made, the said justice or justices, or judges shall at tend at the time and place specified in the advertisement of the commissioners, and shall, with the assistance of the said commissioners, proceed to allot the several parts or shares of the tract or tracts intended to be divided in the manner herein after described; but if no application shall be made to the said justice or justices, or judges, for his or their attendance, then the said commissioners shall on the day appointed for that purpose, proceed, in a public manner, to number as many tickets, as there are shares of land marked on the map, which shall be put in a box, and the names of the original coparceners, joint tenants, or tenants in common shall be put, in separate tickets, into another box, when a person appointed by the said justice, or justices, or judges, or commissioners, shall proceed to draw a ticket of the names, and then a ticket of the numbers, and so proceed until all the tickets are drawn, and the share on the map, bearing the numbers of the ticket drawn next after drawing the ticket with the name, shall be the separate and divided share of that original coparcener, joint tenant or tenant in common, his or her heirs, or assigns, in the land so divided; of which balloting the said justice or justices, or judges, or commissioners shall make a full and ample certificate under his or their hands and seals, specifying particularly the time, place, and manner of balloting, and the allotment of the shares.

VII. And be it further enacted *by the authority aforesaid*, That the said justice or justices, or judges, and the said commissioners, are hereby author-

ized,

ized, as the case may require, to issue his or their precept or precepts, under his or their hands and seals, commanding such person or persons, who are able to give any necessary information, to come before him or them, when and where, he or they may direct, to testify, by an oath or affirmation, concerning such acts, matters or things, as it may be necessary for the said justice or justices, judges or commissioners to investigate in the execution of the trust, duties and services required of them by this act, and to bring with them all such patents, surveys, maps, records, deeds, or other writings, as may be necessary to be examined by the said justice or justices, judges or commissioners.

A. D. 17[illegible]

Judges and commissioners to issue precepts for witnesses.

VIII. And be it further enacted *by the authority aforesaid*, That the said commissioners shall transmit the writing containing their appointment, and their oath or affirmation of office, properly certified by the person administering the same, and the map and field book, and also their accounts, to the justice or justices, or judges, from whom they received their appointment, or in case of their death, resignation or removal, then to any other justice or justices, or judges of the same court, who, after inspecting the same, shall order the said instruments, excepting the account of expenses, to be recorded in the clerk's office of the supreme court, or in the clerk's office of the county, in which the lands lie, which shall be good evidence of such partition; and which partition shall be as valid, and effectual in law to divide and separate the said lands, as if the same had been made on writs of partition, according to the course of the common law.

[illegible] commissioners [illegible] the clerk's office.

IX. And be it furtiier enacted *by the authority aforesaid*, That the said justice or justices, or judges, shall be allowed for the services required of them by this act, at the rate of thirty shillings, and the said judges at the rate of ten shillings a day each, while employed in the said business, and the said commissioners at the rate of fifteen shillings a day each, and the witnesses at the rate of six shillings a day each.

Fees of judges, commissioners, and witnesses.

X. And be it further enacted *by the authority aforesaid*, That in case of the death, resignation, neglect, or refusal of any of the commissioners to be appointed by virtue of this act, before the trust, duties and services hereby required of them shall be completed, that then the said justice or justices, or judges, or in case of his or their death, resignation or removal, any other of the justice or justices, or judges, shall, by writing under his or their hands and seals, appoint another commissioner or commissioners, who shall be vested with the like powers and authority, as if he or they had been originally appointed.

[illegible] of a commissioner, another to be appointed.

XI. And be it further enacted *by the authority aforesaid*, That after the said justice or justices, or judges, shall have ascertained the whole expense of such partition, he shall divide the same among the several parts or shares, which shall be paid by the persons, to whom such shares were alloted, their heirs or assigns, within four weeks after the same shall be ascertained, or in default of payment of such expense, the said justice or justices, or judges, are hereby authorized to direct a sale to be made, by the commissioners, of so much of those parts or shares, deficient in paying the expense, as will be sufficient to pay their respective proportions thereof, together with the expense accruing on such sale; and the said justice or justices, or judges, shall direct the same to be sold by the said commissioners, at public auction, to the highest bidder, whereof four weeks notice shall be previously given in one of the said newspapers, and in three of the most public places in the county, in which the land lies; and the said commissioners' deed to the purchaser shall pass as good a title for the separate enjoyment of the same, as if all the owners and claimants of shares of the entire tract divided had joined therein.

Expense of partition, how to be [illegible] and paid.

XII. And be it further enacted *by the authority aforesaid*, That nothing in this act contained shall be so construed, as to tend to injure, prejudice, defeat or destroy the estate, right, or title, of any person or persons claiming such tract or tracts of land, or any part thereof, or any thing therein, by title under any other person or persons, or by title paramount or superior to the title of such coparcener, joint tenant, or tenant in common, among whom partition is to be made; and that nothing in this act contained shall extend to the partitioning of the lands held in common by the general proprietors of the eastern or western divisions of this State.

[illegible]

The ACT

A. D. 1789.

An ACT *to ratify on the part of this State certain amendments to the Constitution of the United States.*

Passed the 20th of November, 1789.

Preamble.

WHEREAS the Congress of the United States, begun and held at the city of New-York, on Wednesday, the fourth day of March, one thousand, seven hundred and eighty nine, resolved, two thirds of both houses concurring, that sundry articles be proposed to the legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said constitution: AND WHEREAS the President of the United States did, in pursuance of a resolve of the Senate and House of Representatives of the United States of America, in Congress assembled, transmit to the Governor of this State, the amendments proposed by Congress, which were by him laid before the legislature, for their consideration; wherefore,

Ratification of certain articles of amendment, passed by Congress, to the constitution of the United States.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the following articles, proposed by Congress in addition to, and amendment of the constitution of the United States, to wit,

ARTICLE THE FIRST.

"After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred; after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which, the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor more than one representative for every fifty thousand persons.

ARTICLE THE THIRD.

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.

ARTICLE THE FOURTH.

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 THE FIFTH.

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 THE SIXTH.

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 THE SEVENTH.

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

W""

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 be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. A. D. 1789.

ARTICLE THE EIGHTH.

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 favor, and to have the assistance of counsel for his defence.

ARTICLE THE NINTH.

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 THE TENTH.

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

ARTICLE THE ELEVENTH.

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

ARTICLE THE TWELFTH.

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;" be, and the same are hereby ratified and adopted by the State of New-Jersey.

The 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 articles of amendment have been adopted by three fourths of the legislatures of the several states, and are become a part of the constitution of the United States. The 1st and 2d articles have not been adopted.

An ACT *empowering certain creditors to secure their debts by mortgage, and for other purposes therein mentioned.*

Passed the 25th of November, 1789.

WHEREAS it has been doubted, whether an alien friend can secure debts due to himself, from subjects of the State of New-Jersey, by deed of mortgage of lands and tenements within this State, given and executed, or to be given and executed by any of the citizens or subjects of this State, to such alien friend; and as the removing such doubts, and providing security for foreigners, the better to enable them to recover their debts at the day assigned for payment, will greatly conduce to promote and encourage trade, and increase the credit of the citizens of this State; therefore, Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the right, title, and claim of any alien friend or friends, his or their heirs, executors, administrators or assigns, under any deed of mortgage of any lands, tenements, or real estate, lying and being within the State of New-Jersey, granted or made to such alien or aliens, at any time before or after publication hereof, shall not be defeated, merely upon pretence of alienism in the grantee or mortgagee, grantees or mortgagees; but that such right, Rights of alien friends, being mortgagees, not to be defeated on account of alienism.

A. D. 1789.

title and grant, by mortgage, shall be adjudged to be good in the mortgagee o mortgagees, his and their heirs, executors, administrators and assigns, the plea or pretence of alienism in such case notwithstanding.

Executors, administrators or assigns of such alien mortgagee may commence suits upon mortgages.

II. And be it further enacted *by the authority aforesaid*, That all and every person or persons, his or their executors, administrators or assigns, being alien friend or friends, shall and may hereafter lawfully commence and prosecute any action or actions, suit or suits, in any court or courts of law or equity in this State, upon any deed or deeds of mortgage, of any lands, tenements or rea estate, lying and being within this State, as fully, freely, and effectually to all intents and purposes, as if such mortgagee or mortgagees, his or their executors administrators or assigns, had been naturalized, or natural-born subjects.

An ACT *to establish and confirm the charter, rights and privileges of the Borough of Elizabeth.*

Passed the 28th of November, 1789.

Borough of Elizabeth constituted a free town.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the said free borough and town of Elizabeth from henceforth for ever may and shall be, and is hereby made and constituted a free town and borough of itself; and that all the houses and buildings, lands, water, watercourses, ponds, pools, rivers, brooks, meadows, marshes, soils, ground and grounds, situate, lying, and being in the borough and town of Elizabeth aforesaid, beginning at the mouth of Rahway river, where it falls into the sound; thence running up said river to the mouth of Robinson's branch; thence westerly along the division line, between the counties of Essex and Middlesex, until it comes to Green Brook, which divides the two counties of Essex and Somerset; thence north-easterly along Green Brook to the head thereof; thence along the line of the county of Somerset, on a direct line to the lower corner of William Dockwra's patents on Passaick river; thence down Passaick river to where Minisink path crosses the same; thence on a direct line to the bluff end of the mountain, called the North Mountain; from thence along the foot of the said mountain to the division line between Newark and Elizabeth town; thence as that line runs to dividend hill; thence to the head of the creek, called Bound Creek; thence down the said creek to Auther Cull bay; thence down the said bay to the sound, which parts Staten Island from Elizabeth town; and thence down the sound to where it began; shall from henceforth be the metes, bounds and jurisdictions of the said free town and borough of Elizabeth, and that the same, as herein butted and bounded shall be, and the same is hereby ordained, constituted and declared to be from time to time, and for ever hereafter, a town-corporate; and that all and singular the inhabitants thereof, who, by the laws of this State, are entitled to a residence therein, and their successors from henceforth and for ever, may, and shall be one body corporate and politic, in deed, fact, and name, and shall be called, named, and distinguished, by the name of, "The Borough of Elizabeth;" that there shall, in the said borough, from henceforth be a body politic, consisting of a mayor, deputy-mayor, recorder, seven aldermen, twelve common council men or assistants, one sheriff, one coroner, one chamberlain or treasurer, one town clerk, one marshal, one high constable, seven constables, four assessors, four collectors of taxes, and six overseers of the poor, to be assigned, nominated, elected, chosen, appointed and sworn, in and for the said borough, as is herein and hereby appointed, directed, and mentioned, to continue in succession for ever: and for the more full and perfect erection of the said corporation or body politic, to consist, contain, and be of the before mentioned officers and ministers of the said borough;

Its boundaries and extent.

Its inhabitants constituted a body politic by the name of the borough of Elizabeth.

The officers of the said borough.

The mayor, deputy mayor, recorder, aldermen, and town clerk to be appointed by the legislature, and to be amenable to the same.

II. Be it further enacted *by the authority aforesaid*, That the mayor, deputy mayor, recorder, aldermen, and town clerk, shall be appointed by the council and general assembly of this State, in joint meeting, and commissioned by the governor, in the same manner as the judges and justices of the peace, and clerks of the inferior courts of common pleas, and quarter sessions of the peace, throughout the State, are appointed and commissioned, and shall be in like manner amenable to the council and general assembly: that the said mayor, deputy mayor, and recorder

recorder shall be judges of the court, and justices of the peace, within the said borough, and that the said mayor, and in his absence, the deputy mayor, for the time being, shall be clerk of the market within the same, with full power to execute the said office of clerk of the market throughout the said borough; and also, that the said aldermen shall be justices of the peace, for the borough of Elizabeth; that the common council men or assistants, and all other the before mentioned officers and ministers of the said borough, whose appointments are not herein otherwise provided for and prescribed, shall be chosen by the freeholders and freemen thereof, at their annual meetings, which shall be held at the same time, that the annual town meetings in the other townships in the county of Essex shall by law be held; that the sheriff and coroner, being elected by the said freeholders and freemen, and commissioned by the governor, upon a certificate of their election, signed by the mayor, deputy mayor, or recorder, with any three or more of the aldermen, and being so commissioned, shall or may continue in office one year thereafter, and shall be vested with all the power and authority during said year, and entitled to all the privileges respectively, within the said borough, and subject to all the penalties for neglect of duty, which the sheriffs and coroners in the several counties within this State are vested with, entitled or subject to in like cases and circumstances, and shall give security for the due performance of their respective offices in like manner; and the constables, assessors, collectors, and overseers of the poor, so chosen as aforesaid, shall be vested with all the powers and authorities, and entitled to all the privileges within the said borough respectively, and be subject to all the penalties for neglect of duty, which the like officers in the several townships and precincts in this State are vested with, entitled, or subject to in like cases and circumstances; that the chamberlain or treasurer shall be from time to time elected by the mayor, recorder, aldermen and common council men of said borough, in common council assembled, or the greater number of them; and also, that the said mayor, deputy mayor, recorder, aldermen, and common council men, in common council assembled, shall and may from time to time, elect, nominate and appoint such other subordinate officers of the borough aforesaid, not herein named, as they, or the greater number of them, the mayor, deputy mayor, or recorder being one, shall think necessary, for the better ordering and governing the said borough; which officers, so appointed, shall continue in office until others shall be appointed to succeed them, and be sworn into office. PROVIDED ALWAYS, That all the several officers, appointed pursuant to the directions of this act of incorporation, before they severally take upon them the execution of their respective offices, shall take and subscribe the oath of allegiance to this State, and also take oaths of office.

The mayor, deputy mayor, and aldermen to be judges of the court.

The aldermen to be justices of the peace of the borough.

When and by whom certain other officers of the borough shall be elected.

Their duration in office, powers, and duties.

Common council to elect the treasurer and subordinate officers.

Proviso, that all the said officers take the oath of allegiance and of office.

III. BE IT FURTHER ENACTED *by the authority aforesaid*, That the aforesaid mayor, aldermen, and common council men, be, and their successors shall for ever hereafter be in deed, fact and name, a body corporate and politic, and that they the said body corporate and politic, shall be known and distinguished in all deeds, grants, bargains, sales, writings, evidences or otherwise howsoever, and in all courts for ever hereafter plead and be impleaded by the name of "The mayor, aldermen, and commonalty of the borough of Elizabeth," and that they shall be able, and in law capable to have, get, acquire, purchase, receive, take, and possess lands, tenements, hereditaments, jurisdictions and franchises, as well without as within the said borough, to them and their successors, in fee simple or otherwise howsoever; and also, goods, chattels and other things, of what nature or quality soever, to the amount of one thousand pounds proclamation money per annum, and to grant, bargain, sell, let, set, or assign lands, tenements, hereditaments, goods and chattels, and to do all other things whatsoever, by the name aforesaid, in as full and ample manner, to all intents and purposes, as any person, or any body politic and corporate is able to do.

The mayor, aldermen, and common council constituted a body politic.

Their name.

May acquire and hold property to the amount of 1000 £. a year.

IV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said mayor, recorder and aldermen, for the time being, shall and may, from time to time, and as often as they shall think meet, admit and receive under the common seal of the said corporation, to be of the commonalty of the said borough, such, and so many persons, as they the said mayor, deputy mayor, recorder and aldermen, or the greater part of them, shall think meet, and every person and persons, so as aforesaid admitted and received, shall immediately thereafter be freemen of the said

The mayor, recorder and aldermen may admit persons to be freemen of the borough.

A. D. 1730.

said borough, and have and enjoy all such privileges, as if the said person o persons had been especially and particularly named herein.

Powers vested in the mayor and deputy-mayor.

V. And be it further enacted *by the authority aforesaid*, That the mayor and his successors, mayors of the said borough, for the time being, shall have the charge and free government of the said borough, during the time of his o their bearing the said office, in as full and ample manner, as is usual and customary for mayors of corporations to have; that the deputy mayor shall, in al matters and respects, act and do all things, which, to the said office of mayor o the said borough, do, or ought to belong, during the sickness, absence or other disability of the said mayor for the time being, which deputy shall have full power and authority to act and do in the absence or during the sickness or other disability of the mayor, for the time being, all and singular those things, which to the office of mayor of the said borough belongs, or shall belong, or appertain, to all intents and purposes whatsoever; and in case it should happen that the mayor of the said borough, or any of his successors, mayors of the said borough, for the time being, shall decease during the time of his mayoralty, then and in such case, upon, and after the death of such mayor, the said deputy mayor shall be, and he is hereby appointed and declared mayor of the said borough, to continue and be continued in, and to execute the same office of mayor of the said borough, from the death of such mayor, until another shall be chosen, appointed and sworn into the said office of mayor of the said borough, and so as often as such case shall happen.

The mayor, deputy mayor, recorder, and aldermen to constitute a court of common pleas.

Times of holding the same.

VI. And be it further enacted *by the authority aforesaid*, That the said mayor, deputy mayor, recorder, and aldermen of the said borough, and their successors for ever, shall and may have and hold, in the name of the State of New-Jersey, one court of common pleas within the said borough, to begin upon the first Tuesday in the month of March, June, September, and December in every year, to continue and be held for any time not exceeding four days, before the mayor, deputy mayor, or the recorder for the time being, and any two or more of the aldermen, for the time being, or any three or more of them, whereof the mayor, recorder, or deputy mayor, to be one, who shall and may hold pleas, and have the full cognizance of all, and all manner of plaints, actions, and pleas of trespass vi et armis, replevin, trover, and conversion, trespass on the case, debt, detinue, covenant, deceit, contracts, contempts, penalties, forfeitures, and all other personal actions arising and accruing within the said borough, with full power and authority to hear and determine the same, and such actions and pleas, and judgment therein to render, and an execution thereof to award and make, and to act and do every thing therein in such manner and form, and by such and the like methods, process and proceeding, as fully and amply, as in any other court of record, in such and the like cases is used, or can or may be acted and done, according to the laws and customs of the State of New-Jersey.

The mayor, deputy mayor, recorder, and aldermen to constitute a court of general sessions of the peace.

Times of holding the same.

VII. And be it further enacted *by the authority aforesaid*, That they the said mayor, deputy mayor, recorder and aldermen of the said borough, for the time being, or any three or more of them, whereof the mayor, deputy mayor, or recorder, for the time being, to be one, shall and may for ever hereafter hold and keep four courts of general sessions of the peace in and for the said borough, to begin, one of them, on the first Tuesday, in the month of March, one other, on the first Tuesday in June, one other, on the first Tuesday in September, and the other on the first Tuesday in December, in every year, each of which sessions of the peace shall and may last and continue, and be held for any time not exceeding four days, and shall and may for ever hereafter have the full power and authority to enquire of, hear, and determine, within the said borough, all, and all manner of felonies, imprisonments, riots, routs, oppressions, extortions, forestallings, trespasses, offences, and all and singular other wills and deeds whatsoever, within the said borough, from time to time perpetrated, done, committed, arising or happening, and all actions of debt, and other actions whatsoever within the said borough, which to justices of the peace are incumbent, or do in any manner belong, or which shall hereafter belong, or be incumbent on them, or which in any manner before justices of the peace ought or may be enquired into, heard and determined, together with the correction and punishment thereof, and that they, in their said court of quarter sessions, shall have the sole, only, and exclusive right and power of licensing all and every innkeeper, tavernkeeper, and retailer of strong liquor, inhabiting within the said borough, as to them shall seem convenient.

convenient, and from them and every of them, so to be licensed, to require and take recognizance agreeable to the laws of this State, and no other license for such purpose within the said borough, granted by any other court, shall be lawful. A. D. 1789.

VIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said town clerk, who shall be called clerk of the borough of Elizabeth, and his successors for ever, shall act and do all things within the borough aforesaid, which any town clerk of, and in any borough or town-corporate by virtue of his office, can or ought to do; that for ever hereafter the clerk of the said borough, for the time being, shall also be clerk of the said court of common pleas, to be held as aforesaid, and also clerk of the peace, and of the sessions of the peace, for and in the said borough, from time to time to be held, and all and singular those things, which to the office and offices of such clerk do and shall appertain, to do, execute, and perform; and also, shall and may require, demand, take, accept, hold, keep, and enjoy all fees, perquisites and profits, which to any clerk of the peace and sessions of the peace, or to any clerk of any court of common pleas, in any county of this State, do or ought to belong; that the said town clerk, and his successors, clerks as aforesaid, upon their appointment, shall take the oath of allegiance to the State, and also the usual and legal oath of office, before the mayor, deputy mayor, or the recorder of the said borough, for the time being, each of whom are hereby authorized to qualify into office, as aforesaid, such clerk of the said borough; that the said clerk, for the time being, shall be, and hereby is authorized and empowered to administer the oath of allegiance aforesaid, and also the usual and legal oaths of office to the mayor, deputy mayor, recorder, aldermen, sheriff, coroner, and all and every other officer and minister, who have been, are, or shall be appointed or elected to serve in and for the said borough, and who are, and shall be by law, entitled to the same; but in case the said clerk shall be absent, dead or removed, the said mayor, deputy mayor, or recorder, shall and may administer the oaths aforesaid, to all such officers, when duly elected or appointed, and report the same to the said clerk, or his successor, to be enrolled.

The town clerk to be clerk of the pleas and sessions.

To take the oath of allegiance and of office.

The clerk to administer the said oaths to all persons, who shall be elected into office in and for the said borough.

IX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said mayor, deputy mayor, or recorder, and commonalty of the said borough, and their successors, shall and may make, and for ever hereafter use one common seal, and the same may alter and break, and a new seal may make, have, and use, as the common seal of the said borough, for the sealing of all and singular deeds, grants, conveyances, contracts, bonds, articles of agreements, assignments, powers, and authorities, and all and singular other instruments, affairs, and business, any way touching, concerning, and relating, to the said corporation, or to the certifying or assuring of any matter or thing, of a private or public nature, necessary to be certified, or assured, by the said corporation, or by the mayor thereof, or of any of the officers, appertaining to the mayoralty. That the mayor, recorder, aldermen, and common council, shall and may build, or cause to be built, at the place, or within half a mile of the place where the old common hall stood, a common hall, or town house, to be called by the name of, "The Common Hall of the borough of Elizabeth;" wherein the said mayor, recorder, aldermen and common council men shall, and may from henceforth for ever, lawfully assemble themselves together, to deliberate and consult, touching the public welfare of the said borough; and also one or more gaol or gaols within the said borough, as they may think convenient and necessary.

The corporation may make and use a common seal;

May build a common hall or town house,

And a gaol.

X. AND WHEREAS the common hall and gaol of the said borough, were lately burned by the enemy; therefore, *Be it further enacted by the authority aforesaid*, that the said borough of Elizabeth shall have the free use of the gaol of the county of Essex, and that it shall and may be lawful for the courts and magistrates of said borough, and each of them, and the sheriff and coroner of the said borough, to send, carry, commit, and confine every person or persons, offender or offenders, (whom, by law, they or either of them, are authorized to commit to gaol or imprison,) to and in the said gaol, of the said county of Essex, and the sheriff, and gaoler, of said county, is hereby directed and required to receive and confine him, her, or them, in close custody, until remanded back by legal authority, to the said borough, or until he, she, or they, be from thence discharged by due course of law. And that the said mayor, deputy mayor, recorder, aldermen, and common council men, or the greater number of them, and their successors,

Borough of Elizabeth to have the use of the gaol of Essex.

The corporation empowered to make by-laws.

A. D. 1789.

(of which the mayor, or his deputy, or the recorder, to be one,) shall and ma from time to time, in their public councils, freely and lawfully make and establis all such ordinances, orders and by-laws, as may tend to the good and wholeson government of the said borough, and of the several officers and ministers theree and for the laying out, and dividing the said borough into wards and precincts, ar to the public benefit of the inhabitants of the same, and such ordinances, order and by-laws, which shall as aforesaid be made, are hereby confirmed, and sha be duly put in execution.

The corporation empowered to build certain houses.

XI. BE IT FURTHER ENACTED *by the authority aforesaid*, That the act, entitle "An Act to enable the mayor, recorder, aldermen and common council men of th free borough and town of Elizabeth, to build a poor house, work house, and hous of correction, within the said borough, and to make rules, orders and ordinance for the government of the same, and to repair the gaols of the said borough,"* pa sed June 21, 1754, shall be applied to the mayor, deputy mayor, recorder, alde men, and common council men of the said borough of Elizabeth, hereby estal lished and confirmed, which said corporation, in said act named, shall hereafte be called, and known by the name of the managers of the poor house of the bo rough of Elizabeth; and until the common hall of the said borough shall be re built, and at any time, when they shall by any means be destitute of a commo hall, they shall and may meet at any other place in said borough, and appoint o ficers, and do other business, as in and by said act is directed; and also, agre upon and order such sum and sums of money to be raised, as well for buildin the common hall and gaols aforesaid, as for the other purposes, in the said ac mentioned pursuant to the directions thereof.

Mayor and recorder may summon a council.

The mayor, recorder, or any two aldermen may summon a general meeting of the freeholders.

By-laws not to be repugnant to the constitution or laws of this State.

XII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the may or and recorder, for the time being, shall, and may, from time to time, so often a either of them shall think necessary, summon a common council of the said bo rough; and in case of the death, removal, or refusal, or other disability of any of th said officers to be elected and chosen by the freeholders and freemen as aforesaid or on any other occasion, that a general meeting of the freeholders and freemen may be thought necessary, the mayor, or deputy mayor, or the recorder, and an two aldermen, shall and may summon such general meeting, to elect another o other fit person or persons, instead of him or them, so dead, removed, refusing or disabled, or for such other occasion, which said freeholders and freemen so met, or the greater number of them, shall and may elect such officer or officers so wanted, and do every other act, that may be proper and necessary to be done at a general meeting. PROVIDED ALWAYS, That none of the by-laws, ordinances and regulations of the said mayor, recorder, aldermen and commonalty, shall be repugnant to, or inconsistent with the constitution or laws of this State.

Estate of the former corporation vested in the present.

XIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all the lands, tenements, hereditaments, goods, chattels, and rights whatsoever of the corporation, known by the name of the mayor, aldermen and commonalty of the free borough and town of Elizabeth, be and they are hereby vested in the corporation hereby erected and established.

The names of persons appointed to certain offices.

XIV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That Samuel Potter, John Scudder, Benjamin Pettit, John Tucker, Obadiah Meeker, Jesse Clark, John Hendricks, Amos Morse, William Harriman, Samuel Tyler, William Darby, and David Crane, be the present common council; that William Halsted, shall be, and he is hereby appointed present sheriff of the said borough and town-corporate; and William Shute, present chamberlain and treasurer of the said borough and town-corporate; and Nathan Woodruff present marshal of the said borough and town-corporate; and also, Amos Morse, John Scudder, William Woodruff, and Matthias Meeker, assessors; Jeremiah Ballard, John Craig, Jesse Clark, and Robert Wade, collectors; David Ross, high constable; William Southwell, Joseph Stansberry, Samuel Norris, Noadiah Potter, Charles Guilman, and Moses Austin, constables; and Edward Thomas, John Craig, Jesse Clark, and David Crane, overseers of the poor of the said borough and town-corporate, until others shall be elected and appointed, as herein before is directed.

* For the act referred to in this section, see Allison's edition, page 198.

XV. AND

XV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all persons and courts of justice whatsoever within this State.

A. D. 1789.

This act a public act.

PROVIDED ALWAYS, That the powers, privileges, and authorities granted by this act, to the said mayor, recorder, aldermen, and commonalty of the borough of Elizabeth, shall only continue, and be held by them during the will and pleasure of the legislature of this State, and nothing in this act shall be so construed, as to prevent the repealing the same, and revoking and annulling the powers, privileges, and authorities hereby granted.

Proviso; that this act shall continue in force during the will of the legislature.

A SUPPLEMENT *to an act, entitled, "An Act for the limitation of suits respecting titles to land."*

Passed the 28th of November, 1789.

WHEREAS there may be divers ancient surveys of land fairly made, which by the neglect of officers, or through some casualty, have not been put on record, and others, the records whereof have been destroyed by fire, or lost; by reason whereof, and the natural decay of marked lines and corners, the ancient metes and bounds cannot be clearly ascertained but by testimony and reputation; and whereas, it hath been found on running the lines of divers such surveys, that they hold more, or extend further than their strict length of chain, large measure having been formerly allowed, even by the proprietors, as an encouragement to location, of which avaricious persons do, or may take advantage against the owners and possessors of such lands, by confining their surveys to the nett length of chain, thereby making vacancies of valuable improved parts, some whereon buildings are erected and made, and on causing surveys to be made of such overplus, have procured, and may procure the same to pass the council of proprietors without legal notice, or due preference given to the possessors, who may have innocently supposed their title was indefeasible, or otherwise would have willingly re-surveyed, covered, and secured the same; for remedy whereof in future,

Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no such newly made partial survey, now lying with the council of proprietors, or which may hereafter be returned to them, or made on any lands improved or unimproved within what has been usually taken, and deemed to be the ancient reputed boundary of such lands, shall be recorded or be of any avail to the person so surveying, unless it shall be made appear by the testimony of at least two good and sufficient witnesses, that the possessor or possessors, holding such lands by survey, deed or otherwise, had been duly notified for the space of six months previous to the making such survey, of the intention of doing thereof, and had refused or neglected to re-survey and cover such overplus lands.

What surveys shall be of no avail, without previous notice to the possessor of the land.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if the council of proprietors shall refuse or neglect to give the preference to any prior survey, legally made, or to the possessor or possessors of any tract of land, enabling such possessor or possessors to cover with rights, and secure such overplus lands, which may be found within their ancient bounds, on such possessor or possessors making a re-survey of his or their lands within six months after such legal notice as aforesaid, that it shall and may be lawful for such possessor or possessors, or any other person legally authorized on his, her, or their behalf, to cause a re-survey to be made, agreeable to the ancient reputed lines and boundaries, either by a deputy surveyor, or some other person understanding the art of surveying, and appropriate so many rights thereon as will be sufficient to include the overplus, which surveyor or person so surveying, being duly qualified before a justice of the peace of the county wherein the land may lie, that the survey, so by him made, is just according to the best of his knowledge, the same may be produced to the clerk of the county, who is hereby required, on the receipt thereof, to record the same in the book directed to be kept in the respective counties, by the act, entitled, "An Act for the limitation of suits at law respecting titles to land,"

The council of proprietors to give preference to prior surveys; if they should not, the possessor may re-survey the land, and cover the surplus by rights.

A. D. 1790.

land," passed at Burlington the fifth day of June, seventeen hundred and eighty seven, which survey so made and recorded, shall give such owner and possessor an absolute title in fee.

To what cases this act shall not extend.

III. And be it further enacted, That nothing in this act contained shall be construed or taken to authorize any person or persons to make any survey within the certain or reputed bounds of any survey, or re-survey made and entered on record agreeable to the said recited act, any large or overplus measure therein contained, notice as aforesaid given, deficiency of rights or other plea to the contrary notwithstanding.

For the original act, see page 81 of this volume.

An ACT *for incorporating a certain number of the physicians and surgeons of this State, by the style and title of, "The Medical Society of New-Jersey."*

Passed the 2d of June, 1790.

Preamble.

Forasmuch as a number of the physicians and surgeons of this State, have, by their petition, set forth, that they have long since formed themselves into a society, by the name of, "The Medical Society of New-Jersey," and that the objects of their association have been to maintain an uninterrupted intercourse and communication of sentiments with one another, to cultivate liberality and harmony among themselves, to promote uniformity in the practice of physic, on the most modern and approved systems, to correspond with and receive intelligence from the like societies abroad, and generally to improve the science of medicine, and to alleviate human misery; and have prayed the aid of the legislative authority to enable them more fully to carry into effect the good purposes of their society; and the legislature being willing and desirous, that they might be enabled to make such laws and regulations for the admission and government of their own members, to preserve with safety such valuable curiosities of the animal, vegetable, and mineral kingdoms, as may be discovered in this country, or sent to them from abroad, and to record and preserve their experiments and discoveries, and the success of their various investigations; therefore.

Certain persons constituted a body politic, by the name of, "The Medical Society of New-Jersey," for the term of 25 years.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That Moses Bloomfield, John Griffith, William Burnett, Ebenezer Blackley, Isaac Harris, Thomas Wiggins, Hezekiah Stites, James Newell, Isaac Smith, Jabez Canfield, Samuel Kennedy, Thomas Henderson, Jonathan Elmer, Thomas Barber, John Beatty, Elisha Newell, Benjamin Stockton, Moses Scott, Lewis Dunham, Jonathan F. Morris, John G. Wall, Hezekiah S. Woodruff, John A. Scudder, Abraham Howard, Robert Henry, James Stratten, David Greenman, Thomas Griffith, Benjamin Tallman, George W. Campbell, Edward Taylor, Lewis Morgan, John Cooper, Archibald M'Calla, Thomas Montgomery, Isaac Ogden, William Canfield, Abraham Canfield, Samuel Covenhoven, Abel Johnson, Samuel Shute, Francis B. Sayre, Cyrus Pierson, John Reeves, Samuel Forman, William Stillwell, Paul Mercheau, Ebenezer Elmer, Hendrick Schenk, John Abraham Denormandie, and such other persons, as shall be admitted into the said society, according to the rules thereof, shall be, and they are hereby declared to be a body politic and corporate, for the term of twenty five years, and from thence to the end of the next sitting of the legislature, and shall henceforth be called, distinguished and known by the name of, "The Medical Society of New-Jersey," and by that name they shall have succession.

The said corporation may hold property to the amount of 500 *l.* may sue and be sued; and may make and use a common seal.

II. And be it enacted *by the authority aforesaid*, That the above named Moses Bloomfield, John Griffith, William Burnett, Ebenezer Blackley, Isaac Harris, Thomas Wiggins, Hezekiah Stites, James Newell, Isaac Smith, Jabez Canfield, Samuel Kennedy, Thomas Henderson, Jonathan Elmer, Thomas Barber, John Beatty, Elisha Newell, Benjamin Stockton, Moses Scott, Lewis Dunham, Jonathan F. Morris, John G. Wall, Hezekiah S. Woodruff, John A. Scudder, Abraham Howard, Robert Henry, James Stratten, David Greenman, Thomas Griffith, Benjamin Tallman, George W. Campbell, Edward Taylor, Lewis Morgan, John Cooper,

Cooper, Archibald M'Calla, Thomas Montgomery, Isaac Ogden, William Canfield, Abraham Canfield, Samuel Covenhoven, Abel Johnson, Samuel Shute, Francis B. Sayre, Cyrus Pierson, John Reeves, Samuel Forman, William Stillwell, Paul Mercheau, Ebenezer Elmer, Hendrick Schenck, John Abraham Dehonnandie, and their successors be, and they are hereby authorized in law to purchase, take, hold, receive, and enjoy, any messuages, houses, buildings, lands, tenements, rents, possessions, and other hereditaments, in fee simple or otherwise; and also goods, chattels, legacies and donations, given to the said society in any way or manner, to the amount of five hundred pounds; and also, that they and their successors, by the name of, "The Medical Society of New-Jersey," shall and may give, grant and demise, assign, sell, or otherwise dispose of all or any of their messuages, houses, lands, tenements, rents, possessions, and other hereditaments, and all other goods, chattels, and other things aforesaid, as to them shall seem meet; and also, that they and their successors, by the name of "The Medical Society of New-Jersey," be, and for the term aforesaid, shall be able in law, and capable to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever; and further, that the members for the time being, and their successors, shall and may for the term aforesaid hereafter, have and use a common seal, with such device or devices, as they shall think proper, for sealing all and singular deeds, grants conveyances, contracts, bonds, articles of agreement, assignments, powers, authorities, and all and singular their instruments of writing, touching or concerning their corporation; and also, that the said members and their successors for the term aforesaid, may, as often as they shall judge expedient, break, change, and new make the same, or any other their common seal. A. D. 179 .

III. And be it further enacted *by the authority aforesaid*, That for the preservation of good order, and carrying more fully into effect the good principles and objects of the said society, there shall and may be in the said society, one president, who shall be the keeper of the common seal, and a vice president, who shall preside in the absence of the president, a treasurer, and recording secretary, all which officers shall be appointed by ballot, and shall continue one year from the time of entering on their respective offices, and until others are appointed in their stead; and there shall likewise be one other secretary, to be considered and called the corresponding secretary, whose office shall continue during the pleasure of the said society. What officers shall be elected by the corporation.

IV. And be it further enacted *by the authority aforesaid*. That Moses Scott be, and he hereby is appointed president, Thomas Barber, vice president, Thomas Wiggins, treasurer, and Francis Bowes Sayre, recording secretary, to hold the said respective offices, and to perform and execute the duties thereunto appertaining, until the first Tuesday in November, one thousand, seven hundred and ninety, and henceforth, and for the term aforesaid, it shall and may be lawful for the members of the said society on the first Tuesday in November yearly and every year, to elect by ballot, a president, vice president, secretary, and treasurer, who shall continue in office until superseded by a new election, and that John Beatty, be, and he is hereby appointed corresponding secretary, to continue in office as prescribed in the section immediately preceding. Appointment of the first officers.

V. And be it enacted *by the authority aforesaid*, That the said society, or any fifteen of the members, when met, whereof the president or vice president, and one of the secretaries, always to be a part, shall constitute a quorum, to do all business relative to the society. Provided always, That no measure entered into at any meeting of the society, where not more than seventeen members are present, shall be binding, unless nine be consenting thereto, and in all other cases, where more than seventeen are present, a majority of the members shall decide. How many members shall constitute a quorum.

VI. And be it further enacted, That the said society, when met, shall have full power and authority from time to time, and at all times hereafter, to make such laws, ordinances, and constitutions, for the well ordering and governing the said society, or which shall have any tendency to promote the benevolent objects and principles of the institution, and which shall be obligatory on the members thereof, and the same to alter, diminish, and reform, as to them shall seem necessary and convenient: Provided always, That such laws, ordinances, The corporation to be [illegible]

A. D. 1790.

and constitutions be not repugnant to the laws of this State, or of the United States.

An ACT *to repeal an act, entitled, "An Act to establish and confirm the charter, rights, and privileges of the borough of Elizabeth, so far as the same extends to that part of said borough lying on the west side of the east branch of Rahway river."*

Passed the 11th of November, 1790.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An Act to establish and confirm the charter, rights, and privileges of the borough of Elizabeth," passed at Amboy, the twenty eighth day of November, in the year of our Lord, one thousand, seven hundred and eighty nine, so far as the said act includes and relates to that part of the said borough lying on the west side of the east branch of Rahway river, be, and the same is hereby repealed.

An ACT *to prescribe the manner of appointing Senators of the United States, and Electors of the President and Vice President of the United States, on the part of this State.*

Passed the 12th of November, 1790.

Senators of the United States when to be appointed.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That senators of the United States, on the part of this State, shall be appointed by the Council and General Assembly of this State, in joint meeting assembled, on the first Tuesday of November of every year, in which this State is authorized to elect a senator or senators of the United States, at the place where the legislature shall then sit, and on such other day or days as may be appointed by the Congress of the United States. And in case a vacancy or vacancies shall happen by death or otherwise, at any other time or times after the said first Tuesday of November of any year hereafter, and during the sitting of the legislature, then and in such case, the vacancy or vacancies so happening may and shall be filled on such other day or days as shall be appointed during such sitting, by the Council and Assembly of this State. And if a vacancy or vacancies by the death of either or both of the said senators, or otherwise howsoever shall happen, during the recess of the legislature, then the governor of the State, or in case of his death, absence or other disqualification, the vice president of the council may make a temporary appointment or appointments until the next meeting of the legislature, which shall then fill such vacancy or vacancies in the manner before mentioned.

Vacancies how to be supplied.

Electors of President and Vice President of the United States when to be chosen.

II. AND BE IT FURTHER ENACTED, That the Council and General Assembly of this State, in joint meeting assembled, on the said first Tuesday in November of every year, in which a President and Vice President of the United States is to be chosen, or at such other times as the Congress of the United States may determine, during the sitting of the legislature, shall elect so many duly qualified persons as this State shall be entitled, by the constitution of the United States, to appoint as electors on the part of this State, for the purpose of voting for the President and Vice President of the United States, or either of them. And if any vacancy or vacancies by death, removal or otherwise, of such electors shall happen between the time of their appointment and the day which shall be affixed for the execution of the duties required of them by the constitution of the United States, it shall be lawful for the governor of the State, or in case of his death, absence or other disqualification, the vice president of the council, to fill up such vacancy or vacancies, which may so happen.

Vacancies how to be supplied.

Electors to meet at Trenton.

III. AND BE IT FURTHER ENACTED, That the electors so appointed shall meet at Trenton, on the day which the Congresss of the United States shall appoint for that purpose, and shall then and there proceed to execute the duties and services required of them by the constitution of the United States, in the manner therein prescribed; and the said electors shall receive for their services the daily pay

Their recompensation.

pay and other allowance, which at such time shall be allowed by law to the members of the Legislature of the State, to be paid by the treasurer of the State on warrants to be signed by the president of the said electors, and the warrants in favor of said president, signed by a majority of the electors. A. D. 1790.

IV. Executed.

V. And be it further enacted, That every person, who shall be elected a senator or elector on the part of this State, shall be commissioned by the governor of this State, or the person administering the government for the time being, under the great seal of the State. Senators and electors to be commissioned by the governor.

See a supplement, passed the 31st of October, 1796.

An ACT *for vesting in the United States of America, the jurisdiction of a lot of land at Sandy-Hook, in the county of Monmouth.*

Passed the 16th of November, 1790.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the jurisdiction of this State, in and over a lot of land, situate at the point of Sandy-Hook, in the county of Monmouth, containing four acres, on which a light-house and other buildings are erected, shall be and the same is hereby ceded to, and vested in the United States of America, for ever hereafter.

An ACT *to revive the orphan's court, and for other purposes therein mentioned.*

Passed the 20th of November, 1790.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the business, pending before any orphan's court, in any county of this State, shall be proceeded upon before said court, although a term or terms may have intervened, in which no court was formed, by reason of sickness or other cause for the non attendance of three judges at such term or terms; and that hereafter the business, pending before any orphan's court in this State, shall, in like manner, be continued from term to term, in case a court shall not be formed, by the non attendance of any of the judges of said court. Business before the orphan's court to be continued, when the number of judges, sufficient to constitute a quorum, shall not attend.

An ACT *for altering and re-settling part of the boundary line, between the counties of Somerset and Middlesex.*

Passed the 24th of November, 1790.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the middle of the main six rod road, as established by law, from the ferry at the city of New-Brunswick, formerly called Inian's ferry, to the boundary line of the county of Hunterdon, on the road to Trenton, shall be the boundary line of those parts of the counties of Middlesex and Somerset, which are on the south side of the river Raritan. The middle of the main road, leading from New-Brunswick to Trenton, to be the boundary line between Middlesex and Somerset.

II. And be it further enacted *by the authority aforesaid*, That all the lands and tenements, lying to the northward of the line herein before established, and heretofore belonging to the county of Middlesex, shall be, and are hereby annexed to the county of Somerset; and all the lands and tenements on the southward of said line, heretofore belonging to the county of Somerset, shall be, and are hereby annexed to the said county of Middlesex. Provided always, That nothing in this act contained, shall be construed or taken to discharge, or acquit any person Land lying northward of the line, annexed to Somerset, and lands southward, annexed to Middlesex.

A. D. 1790.

But such partition not to affect antecedent taxes, judgments, and executions.

son or persons, whose lands and tenements, are by this act annexed to either the counties aforesaid, from any judgment or execution, in consequence of a action, which may have been instituted, or from the payment of any tax or taxe which have been, or may be assessed, before the publication of this act; and th the sheriffs, constables, and collectors in each of said counties, may proceed collect the said taxes, and to raise the money on such executions, in the sam manner, as if this act had not been passed.

An ACT *for fixing a permanent seat of government in this State, and for altering place of the first meeting of the legislature after the annual elections.*

Passed the 25th of November, 1790.

Seat of government at Trenton.

BE IT ENACTED *by the Council and General Assembly of this State, and it hereby enacted by the authority of the same*, That Trenton, in the county of Hunte don, shall henceforth be considered as the seat of the government of this Stat and that the first meeting of the legislature, after the next, and every future a nual election for the members thereof, shall be at Trenton, in the county Hunterdon.

An ACT *to incorporate the contributors to the society for establishing useful manufactures and for the further encouragement of the said society.*

Passed the 22d of November, 1791.

Preamble.

WHEREAS it is represented to this legislature, that a subscription ha been made, for the purpose of introducing and establishing useful manufactures to an amount which already exceeds two hundred thousand dollars; AN WHEREAS the State of New-Jersey, having been deemed by the contributors th most suitable for carrying the same into effect, the aid of the legislature ha been requested, in promotion of the views of the said contributors; and whereas it appears to this legislature, that the granting such aid will be conducive to th public interest; therefore,

The subscribers for carrying on manufactories incorporated.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereb enacted by the authority of the same*, That all those persons, who have already sub scribed, and who, according to the terms hereafter mentioned, shall subscribe fo the purpose of establishing a company, for carrying on the business of manufac tures in this State, their successors, and assigns, shall be, and they are hereb

Their name.

incorporated, by the name of, "The Society for establishing useful manufac tures;" and by the same name, they and their successors, and assigns, are hereb constituted a body politic and corporate, in law, and shall be able and capabl to acquire, purchase, receive, have, hold, and enjoy, any lands, tenements, hereda taments, goods, and chattels, of what kind or quality soever, to an amount in va lue, not exceeding four millions of dollars, and the same, or any part thereof t sell, grant, demise, alien, and dispose of; also to sue or be sued, implead and b impleaded, in courts of justice, or any other place whatever, to make and use

The society may hold property not exceeding four millions of dollars, may use a common seal, and make by-laws.

common seal, and the same to alter and renew at their pleasure; and also to or dain, establish, and put in execution, such by-laws, ordinances, and regulations, a shall seem necessary and convenient, for the government of the said corporation provided the same are not contrary to the laws and constitution of the United States, or of this State.

Capital stock not to exceed 1,000,000 dollars.

II. AND BE IT ENACTED *by the authority aforesaid*, That the original, or capita stock of the said society or company, shall not exceed the sum of one million o dollars, to be employed in manufacturing or making all such commodities or arti cles, as shall not be prohibited by law, and to that end in purchasing such lands, tenements, and hereditaments, and erecting thereupon such buildings, an digging, and establishing such canals, and doing such other matters and things as shall be needful for carrying on a manufactory or manufactories of the said commodities or articles.

III. AND

A. D. 1791.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said corporation shall not deal, nor trade, except in such articles as itself shall manufacture, and the materials thereof, and in such articles as shall be really and truly received in payment or exchange therefor.

Restrictions respecting trade.

IV. AND the more effectually to encourage so useful and beneficial an establishment; *Be it further enacted by the authority aforesaid*, That all the lands, tenements, hereditaments, goods and chattels, to the said society belonging, shall be, and they are hereby declared to be free, and exempt, from all taxes, charges and impositions whatsoever, under the authority of this State, whether for State or county uses, or for any other use whatsoever. PROVIDED ALWAYS, That the said exemption shall not be construed to extend to the private or separate property of any member of the said corporation, in his or her individual capacity; and as touching the lands, tenements, and hereditaments, of the said society, shall continue in force for the term of ten years only, after which term it shall be lawful to lay such taxes, for the use of the State upon the said lands, tenements, and hereditaments, as shall be laid upon other lands, tenements, and hereditaments, of like value, nature or description. PROVIDED NEVERTHELESS, That in case the said taxes shall be laid by way of assessment, it shall be according to a certain rate per centum, to be prescribed in the law, laying such taxes, of the true and absolute value of the lands, tenements, or hereditaments, whereupon the same shall be laid or assessed, and shall not extend directly or indirectly to the monies, goods, or chattels, whether in possession or action, or to the profits, real or supposed, of the said society.

Lands and goods of the society exempt from taxes.

But such exemption not to extend to the private or separate property of the members; and to continue for ten years only as to the lands of the society.

V. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all artificers, or manufacturers, in the immediate service of the said society, shall be free and exempt from all poll and capitation taxes, and taxes on their respective faculties or occupations, and from all taxes in the nature of general assessments, upon their persons, faculties or occupations; PROVIDED, That this shall not be construed to exempt their property of whatsoever kind, from taxes of a specific and definite nature per quantity, or per article, or according to a certain rate per centum of the true and absolute value thereof.

Artificers and manufacturers in the service of the society exempted from certain taxes.

Proviso.

VI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the original or capital stock aforesaid shall consist of one hundred thousand shares, each share being one hundred dollars, and that any person, copartnership, or body politic, may subscribe for such number of shares, in the stock of the said company, which yet remain to be subscribed, as he, she, or they, shall think fit, until the whole number of shares subscribed, shall amount to five hundred thousand dollars, after which it shall be in the discretion of the directors to permit or not, further subscriptions, from time to time, and in such proportions, as shall seem to them expedient, not exceeding on the whole, the said sum of one million of dollars. And it shall be lawful for subscriptions to the said stock to be continued in the same manner, and under the same direction, as they have been heretofore conducted, until the day herein after named, for the first election of directors, after which it shall be the province of the said directors, to regulate the manner of receiving further subscriptions. And in case it should happen, that the subscriptions, which may be made after the passing of this act, together with those made prior thereto, should exceed the sum, which, in the judgment of the said directors, should be sufficient in the first instance to constitute the stock of the said society, not being less than five hundred thousand dollars, it shall be lawful for the said directors, to make a proportional reduction from the number of shares, which, after the passing of this act, shall have been subscribed by any person, copartnership, or body politic, so as to reduce the total amount to the sums subscribed, to the sum by them deemed sufficient as aforesaid, not being less than five hundred thousand dollars; all which subscriptions, made prior to the said first election of directors, shall be payable, one half in the funded six per cent stock of the United States, or in the three per cent stock, at the rate of two dollars of such stock for one, and the other half, in what is commonly called deferred stock, or at the option of the party subscribing, such subscriptions may be paid for in specie, computing the said six per cent stock at par, and the said deferred stock, according to the present value thereof at the time of payment, which value shall be determined by a calculation founded upon a rate of interest of six per centum per annum, during the period for which the payment

Number of Shares, and amount of each share.

Manner of receiving subscriptions how regulated.

A proportional reduction to be made in case of an excess of subscription.

A. D. 1791.

of interest upon the said deferred stock is suspended; and the payments for suc subscriptions, as shall be made prior to the first election of director shall be made in four equal parts, that is to say, the first within forty fi

Times of payment.

days after the period of such first election, the second within six calendar montl after the time of the first, the third within six calendar months after the time the second, and the fourth within six calendar months after the time of th third payment, and such subscriptions as shall be made, after the said first electic of directors, shall be payable according to such regulations, as shall have bee

Proviso.

previously prescribed by the directors of the society, for the time being; PROVIDED, That nothing herein contained shall prevent any subscribing party from pa ing, with consent of the said directors, the whole amount of his, her, or the subscription at one payment.

Stock consisting of public debt, to be placed on the books of the treasury of the United States.

VII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That so muc of the capital stock of the said company, as may consist of public debt, shall b placed on the books of the treasury of the United States, in the name of the sai corporation, except so much thereof as may be converted into stock of the ban of the United States; and that it shall be lawful for the directors thereof to in vest any monies, which may be received on account of the said capital stock, i the purchase of such debt, and likewise to invest both the said debt, and monie in stock of the bank of the United States, in the name of the said corporation and that in either case, the said directors, on the request of any stockholde shall grant to him a license, to inspect and examine the amount of stock, whic may at any time stand in the name of the said corporation, either on the book of the treasury of the United States, or on the books of the bank of the Unite States.

Dividend of profits, when to be made.

VIII. AND BE IT FURTHER ENACTED, That there shall be a yearly dividend for the first five years immediately ensuing the last day of December next, an thenceforth a half yearly dividend, of so much of the profits of the said society as to the directors thereof shall seem expedient.

The stock of the society how to be invested or transferred.

IX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the stock o the said society may be invested, secured, assigned, and transferred according t such rules, as shall be instituted in that behalf, by its laws and ordinances.

First election of directors.

X. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That there shal be holden an election of directors of the said corporation, on the last Monday o this present month of November, at Trenton, in this State, which election shal begin between the hours of twelve and two in the afternoon of the same day and may be continued by adjournment, from day to day, for three days, count ing the first as one, and may be conducted under the superintendance of any three persons, whom the stockholders, then and there convened, may, by majority of voices, nominate for that purpose; and there shall be holden, on the firs Monday of October next ensuing the said time of the said first election, and o

Succeeding directors when to be chosen.

the first Monday of each succeeding October, an election for directors of the said society, at such place as shall have been previously appointed for that pur pose, by some law or ordinance of the said society; and the directors, chosen at one election, shall be capable of serving, by virtue thereof, until another election shall have been had; and each stockholder shall be entitled to one vote, in person or by attorney, for each share he or she may hold; but neither the United States, nor any State, which may become a subscriber, shall be en titled to more than one hundred votes.

Number of directors to be chosen.

XI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That at every such election, thirteen directors shall be chosen by ballot; and the directors, so chosen, shall, at the first meeting after their election, not less than a majority of the whole number being present, elect, from among themselves, one person to be governor, and another, to be deputy governor: that any five of the directors, the governor,

Number to constitute a board.

or deputy governor, being one, shall constitute a board for the transaction of business, except as hereafter excepted; but that if it shall at any time happen, that there are two separate meetings, of five or more directors each, but in neither of such meetings a majority of the whole, and the governor be present at one, and the deputy governor at the other, that shall be deemed the legal board, at which the governor shall be present; and that if it shall happen, that the gover-

nor

nor and deputy governor, are both absent, seven of the said directors shall constitute a board for the purpose aforesaid: that no director shall receive any emolument on account of his office, unless the same shall have been allowed by the stockholders, at a general meeting; but the directors may appoint such officers, and assign such compensations as they shall think fit, not less than a majority of the whole number of directors being present, when the same shall be done.

A. D. 1791.

May appoint officers, and assign compensations.

XII. And be it further enacted *by the authority aforesaid*, That there shall be a stated meeting of the directors of the said society at the place, which shall have been chosen and designated as the principal seat of the manufactories, to be carried on by the said society, on the first Tuesday in the months of January, April, July, and October, annually; but the governor, or in his absence, or inability, the deputy governor, or in case of their refusal, any three of the directors may, from time to time, by writing under his or their hands, directed to the other directors, and left at their respective places of abode, at least fourteen days prior to the time of meeting, or by advertisements, printed in one public gazette of this State, and in one of the public gazettes printed in the cities of Philadelphia and New-York, respectively, thirty days prior to the time of meeting, convene special meetings of the directors, for the transaction of business, and the directors at such stated or special meetings, shall have power to make all by-laws, ordinances, rules, and regulations, requisite for conducting the affairs of the corporation, and to transact such other business, as may be necessary, touching the same. Provided, That no by-law shall be made or altered, nor any new manufactory undertaken by any board of directors, at which less than a majority of the whole number shall be present; And provided further, That the stockholders, lawfully convened at any general meeting, may alter or abolish any by-laws, rules, or regulations, which may have been made by the directors, and may make and establish such by-laws, rules, and regulations, as to them shall seem meet; and that no by-law, rule or regulation, which may have been abolished by the stockholders, at any general meeting, can be re-established by the directors; and further, that no by-law, rule, or regulation, which may have been ordained by the said stockholders, at a general meeting, can be altered or repealed by the directors.

Times of stated meetings of the directors.

Special meetings, how to be obtained.

Power to make by-laws at such meetings.

The power to make by-laws by the board of directors, how restricted.

XIII. And be it further enacted *by the authority aforesaid*, That any board of directors shall have power to call a general meeting of the stockholders, giving thirty days previous notice thereof, in three public gazettes, one printed in this State, and one in each of the cities of Philadelphia and New-York respectively; and that each stockholder, being present at any general meeting in person, or by attorney, shall be entitled, in all questions and cases whatsoever, to one vote for each share such stockholder may hold.

Directors may call a general meeting of stockholders, who may vote in person, or by attorney.

XIV. And be it further enacted *by the authority aforesaid*, That every treasurer or cashier of the said corporation, shall, before he enters on the duties of his office, give sufficient security to the satisfaction of the directors, in a sum not less than twenty thousand dollars.

Cashier to give security.

XV. And be it further enacted *by the authority aforesaid*, That at every annual meeting of the stockholders, for the purpose of choosing directors, the directors shall lay before them a general state of the affairs of the company, exhibiting the amount of its stock, debts, and credits, the different kinds of manufactures carried on, the number of persons employed in each, and their respective compensations, and an account of the profit and loss. And that the stockholders may, if they think fit, at any general meeting, elect, by ballot, any five of their number, for the purpose of examining into the state of the affairs of the said company, who shall have a right of access and examination, to, and of all the books of the said company; and the said persons or a majority of them may, at any time, call a general meeting of the stockholders, giving the like notice, as is above directed to be given by a board of directors for the like purpose. And that the United States, or any State, which shall subscribe for not less than one hundred shares, may appoint a commissioner, who shall have a right at all times to inspect the proceedings of the corporation, and the state of its affairs, but without any authority to controul; and such commissioner shall have the like right of access and examination, as is herein before assigned to the five persons, who may be appointed by the stockholders.

At annual meeting of stockholders, directors to lay before them a state of affairs of the company.

Stockholders may at a general meeting appoint examiners.

Their duty.

United States, or any State may appoint a commissioner.

His duty.

XVI. And

A. D. 1791.

In what manner the corporation may be dissolved.

XVI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the sai corporation may be dissolved at a general meeting, specially summoned for tha purpose, provided at least three fourths in value of the stockholders shall be pre sent, or represented therein; and upon such dissolution, the directors for th time being, and the survivors and survivor of them, shall be ipso facto trustee for settling all the affairs of the said corporation, disposing of its effects, recoverin and paying its debts, and dividing the surplus among the stockholders, in propor tion to their respective interest in the stock, unless the stockholders, at such ge neral meeting, shall appoint other persons, not less than nine nor more than thir teen in number, for such purpose, in which case the persons so appointed, an the survivors and survivor of them, shall be trustees and trustee for the purpos aforesaid.

Lands may be surveyed, rivers cleared, and navigable canals cut.

XVII. AND WHEREAS it may be necessary for the beneficial extension o the aforesaid plan, to cut canals, and clear and improve the channels of rivers the advantages of which will not be confined to the members of the said society who ought therefore to be authorized to receive a reasonable toll to defray the ex penses of improvements ultimately so valuable to the State; *Be it enacted*, That i shall be lawful for the directors of the said society, their engineers, artists, an laborers, to enter upon and survey all such land, and land covered with water as shall appear to them most practicable and convenient for effecting navigable ca nals, for the purpose of transporting goods, wares, and merchandizes, to an from some manufactory by them established, and also such parts of such rivers and other waters, as they may propose to open and clear, doing as little damag to the grounds and enclosures as shall be possible; and thereupon shall certify to the governor of this State, in writing, as well the courses and distances of any such canal as they may propose to cut, and of the part of any such river, as they may propose to clear and open, as the width and probable depth thereof, and shal transmit, with such certificate, a draught or plan of such intended canal, or of the part of such river, so intended to be cleared or opened; and in like manner shal certify to the said governor, from time to time, such alterations in the intended course of such canal, as the quality of the ground or other causes may occasion; whereupon it shall be lawful for them, their engineers, artists, and laborers, to enter upon all such land, and land covered with water, as shall be necessary for effecting such navigable canal or canals, or for opening or clearing such river or rivers, and to contract and agree with the owners of any lands and tenements for the purchase of so much thereof, as shall be necessary for the purpose of making, digging, and perfecting such canal or canals, or opening and clearing such river or rivers, and of erecting and establishing all the necessary locks works, and devices, to such navigation belonging, if they can agree with such owners; but in case of disagreement, or in case the owner thereof shall be feme covert, under age, non compos mentis, or out of the State, then it shall and may be lawful to and for the said directors, to apply to two of the justices of the supreme court of this State, who, upon such application, are hereby authorized and empowered, enjoined and required, to frame and issue one or more writ or writs, as occasion shall require, in the nature of a writ ad quod damnum, to be directed to the sheriff of the county, in which such lands and tenements shall be, commanding him, that, by the oaths and affirmations of twelve good and lawful men of his bailiwic, who shall be indifferent to the parties, he shall inquire, whether the person or persons, owning any lands and tenements, necessary to be used by the said directors, or which may be injured in establishing the said canal or canals, or in opening or clearing such river or rivers, which person or persons shall be named, and which lands and tenements shall be described in such writ or writs, will suffer and sustain, and what damages, by reason or means of taking any lands, tenements, mill, mill-pond, water, watercourse, or other real hereditament, necessary for the use of any such canal, or for the opening of the navigation of any such river, and the locks and works thereto belonging, and to return the same writ, together with the finding of the said jury, to the next supreme court of this State, after such finding, and upon such writ being delivered to the said sheriff, he shall give at least twenty days notice in writing, to all and every the owners of the lands and tenements in the said writ described, or to so many of them as can be found, or to the agent or agents of such owners, of the time of executing the same, and shall cause to come upon the premises, at the time appointed, twelve good and lawful men of his bailiwic, who shall be selected in such manner, as struck juries usually are, to whom he shall administer an oath or affirmation,

mation, that they will diligently inquire concerning the matters and things, in the said writ specified, and a true verdict give, according to the best of their skill and judgment, without favor or partiality; and thereupon the said sheriff and inquest shall proceed to view all and every the lands and tenements in such writ specified, and having considered the quantity of land, and land covered with water, mills, buildings, or other improvements, that shall be necessary to be vested in the said company, for the purposes aforesaid, and any watercourse then existing, the use whereof will be necessary for the purposes aforesaid, they shall cause the same to be minutely and exactly described by metes and bounds, or other particular descriptions, and shall value or appraise the injury or damages, if any, which the owner or owners of the said lands, tenements, mills, water, watercourses, buildings or improvements, will, according to their best skill and judgment, sustain and suffer, by means of so much of the said lands and tenements being vested in the said company, or by means of such improvements being destroyed or rendered useless, or of less value, or by means of the said company being permitted to turn such water to fill their canal and locks, or by means of said company being permitted to enlarge any mill-pond, mill-race, or other watercourse, and to use the same as, and for part of such canal and navigation, or by any other means whatsoever, defining and ascertaining as well all such lands and tenements, liberties and privileges, so to be vested in the said company, as the several sums, at which the said injuries and damages shall be so assessed; and the said sheriff and jury shall make an inquisition, under their hands and seals, distinctly and plainly setting forth all the matters and things aforesaid; and the sheriff shall forthwith return the same, together with the said writ, to the office of the supreme court, and at the first supreme court, which shall be held next after the return of any such writ, the justices of the said court shall examine the same; and if the said writ shall appear to have been duly executed, and the return thereof be sufficiently certain to ascertain the lands and tenements, rights, liberties, and privileges, intended to be vested in the said company, and the several compensations awarded to the owners thereof, then the said court shall enter judgment, that the said company, paying to the several owners as aforesaid, the several sums of money in the said inquisition assessed, or bringing the same into the said court over and besides the costs of such writ, and of executing and returning the same, shall be entitled to have and to hold, to them, and their successors, and assigns, for ever, all and every the lands, tenements, rights, liberties, and privileges, in the said inquisition described, as fully and effectually, as if the same had been granted to them by the respective owners thereof; and if any return, so to be made, shall not be sufficiently certain for the purposes aforesaid, the said court shall award an inquisition, de novo; and upon payment or bringing into court all such monies, as by such judgment shall be required to be paid or brought into court, all such lands, tenements, rights, liberties and privileges, shall be fully and absolutely vested in the said corporation, which shall become seized and possessed thereof in like manner, as the then late owner or owners was or were seized or possessed thereof. PROVIDED ALWAYS, That no greater quantity of land shall be in such writ directed to be set out, or shall be set out by any such jury, than shall be sufficient for such canal and navigation, and to leave on each side of any canal intended to be cut, or water intended to be rendered navigable, a space or distance not exceeding two hundred and fifty feet, for the better maintaining and repairing of such canal and the locks, or other works and buildings, which it shall be necessary to erect and maintain, for the purpose of such canal, or other navigable water.

When fords are to be made, and bridges built at the expense of the corporation.

XVIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That wherever such canal shall cross any public or private laid out road or highway, or shall divide the ground of any person into two parts, so as to require a ford or bridge to cross the same, the jury, who shall inquire of the damages to be sustained, in manner herein directed, shall find and ascertain, whether a passage across the same shall be admitted and maintained by a ford, or by a bridge, and on such finding, the said directors shall cause a ford to be rendered practicable, or a bridge fit for the passage of carts and waggons to be built, and for ever hereafter maintained and kept in repair, at all and every the places so ascertained by the said jury, at the cost and charges of the said company: but nothing herein contained shall prevent any person from erecting and keeping in repair, any foot or other bridge across the said canal, at his own expense, where the same shall pass through

A. D. 1791.

his ground; PROVIDED the same shall be of such height above the water, as sha be usual in the bridges erected by the company; AND PROVIDED ALSO, Tha such foot or other bridges, so to be erected by the owners of such land, shall no interfere with any of the locks, buildings, or other works of the company.

In what manner the directors and their agents may enter on lands contiguous to a river, or intended canal.

XIX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall an may be lawful to and for the said directors, their engineers, artists, and laborer with carts, waggons, wains, and other carriages, with their beasts of draught an burden, and all necessary tools and implements, to enter upon the lands cont guous, or near to the said tract of such intended canal or canals, or to such par of any river or other water, as they may propose to clear, and render fit for nav gation; and also, to take and carry away any stone, gravel, sand, or earth ther being most conveniently situate, for making, repairing, or improving such can or navigation, and the same to use in carrying on the said work, first giving no tice of their intention, to the owners of such lands, and doing as little damag thereto as possible, and repairing any breaches they may make in the enclosure thereof, and making amends for any damages that may be sustained by the owr ers of such ground, according to a reasonable agreement with the owners, i they can agree, or if they cannot agree, then according to an appraisement t be made, upon the oath or affirmation of three, or if they disagree, any two in different freeholders, to be mutually chosen, or if the owners neglect or refuse t join in the choice, then according to an appraisement to be made, upon the oat or affirmation of twelve good and lawful men of the bailiwic, to be summoned sworn, and empaneled, by virtue of a warrant from any one justice of the su preme court of the State, or any one justice of the peace in and for the county in which such lands may lie, who, at the request of the said society, or their law ful agent, is authorized and required, to issue his warrant to the sheriff of th said county, commanding him that, by the oaths of twelve good and lawful me of his bailiwic, he make the said appraisement, and return the same forthwith under their hands and seals to the said justice.

Damages, how to be ascertained.

Collectors of toll to be appointed, and rate of toll to be fixed.

XX. AND BE IT FURTHER ENACTED, *by the authority aforesaid*, That it shall an may be lawful to and for the said directors, so soon as any mill, canal or any par thereof shall be perfected, or any river shall be rendered navigable, in any par where the same was not before navigable, to appoint such and so many collectors of tolls, for the passage of boats and vessels, in, through, and along the same and at such places as they shall think proper; and that it shall and may be law ful to and for such toll collectors, and their deputies, to demand and receive o and from the persons having the charge of all boats and vessels, and rafts o timber, boards, plank or scantling, passing through such canal, and the part o such river rendered navigable, and the locks thereto belonging, such tolls an rates, for every ton weight of the ascertained burden of the said boats and ves sels, and for every hundred feet cubic measure of timber, and twelve hundre feet board measure of boards, plank or scantling, in rafts, as the said director shall think proper; PROVIDED, That the whole amount of such tolls and rates, in one year, shall not exceed fifteen per centum on the sums expended in making an establishing such canal, or in opening and clearing such river, over and above the expenses of maintaining and repairing the same, together with the necessary works, and of collecting the said tolls and rates.

But the amount of such tolls not to exceed 15 per cent on the sum expended.

Tonnage of boats, how to be ascertained, and their toll, when to be paid.

XXI. AND in order to ascertain the tonnage of boats using the said canal navigation, and to prevent disputes between the supercargoes or skippers, and collectors of tolls, concerning the same; *Be it further enacted by the authority aforesaid*, That upon the request of the owner, skipper or supercargo, of such boat or raft, or of the collector of the said tolls, at any lock or place, upon any such canal or water rendered navigable, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the number of tons, which the said boat or vessel is capable of carrying, and to mark the same in figures, upon the head and stern of the said boat, in colours mixed with oil, and that the said boat or vessel so measured and marked, shall always be permitted to pass through such canal or water rendered navigable, and locks, for the price per ton, to which the number of tons so marked on her shall amount, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper or supercargo, of such boat or vessel shall decline choosing a person, resident within four miles

miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the said directors, or chosen by the said collector of tolls for the said company, and the toll shall be paid according to such measurement, before any such boat or vessel shall be permitted to pass the lock or place, where such toll shall be made payable by the said company.

For any injury done to a canal or lock, fourfold damages shall be recovered.

XXII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any person or persons whomsoever shall wilfully and knowingly do any act or thing whatsoever, whereby such canal or navigation, or any lock, gate, engine, machine or device thereto belonging, shall be injured or damaged, he or they, so offending, shall forfeit and pay to the said company, fourfold the costs and damages so sustained by means of such known and wilful act, together with costs of suit in that behalf expended, to be recovered by action of debt, in any court having jurisdiction competent to the sum due.

Collectors may stop boats until toll be paid or distrain part of the cargo.

XXIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the collectors of tolls, duly appointed and authorized by the said directors, may stop and detain all boats and vessels, using the said canal and navigation, until the owner, skipper, or supercargo of the same shall pay the tolls, so as aforesaid fixed, or may distrain part of the cargo therein contained, sufficient, by the appraisement of two credible persons, to satisfy the same; which distress shall be kept by the collector of the tolls, taking the same, for the space of five days, and afterwards be sold by public auction, at the most public place in the neighborhood, to the highest bidder, in the same manner and form, as goods distrained for rent are by law sold, and saleable, rendering the surplus, if any there be after payment of the said tolls, and the costs of distress and sale to the owner or owners thereof.

Directors to make return to the legislature, triennially, of the sums expended in erecting canals, and rendering waters navigable.

XXIV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said directors shall, at the expiration of every third year, from the date of their incorporation, lay before the legislature of this State, an abstract of their accounts, touching such canals and waters rendered navigable, shewing the whole amount of the capital expended in purchasing real estates, and in digging, erecting, and establishing the whole of such canals, locks and works, and in rendering such waters navigable, and the whole income and profits arising from the said tolls, for and during the said periods, together with the exact amount of the contingent charges of supporting, maintaining, and keeping the same in repair, for the said periods, to the end, that the clear annual profits may be known; and if at the end of any such period, it shall appear from such abstract, that the clear profits and income of the said company, as touching the said canals and waters rendered navigable, will bear a dividend of more than fifteen per centum per annum, as above limited, then and in such case, the said tolls shall be reduced so much as will reduce the said clear profits and income to a dividend, not exceeding the said rate of fifteen per centum per annum; and the surplus, which may have at any time accrued, shall be paid to the order of the legislature of this State, to be applied in their discretion to the encouragement of literature, arts and sciences within this State.

The society authorized to raise by lottery, 100,000 dollars.

XXV. AND WHEREAS the first attempts towards the establishment of manufactories by the said society, may be attended with loss, so as to impair and diminish the capital thereof, and the said society have prayed that this legislature would authorize them to raise by lottery certain sums for their indemnification against such losses; in compliance with the said request, and for the further encouragement of the said establishment; *Be it enacted by the authority aforesaid*, That the said society be, and they are hereby authorized and empowered, by one or more lotteries, to be drawn within this State, according to such scheme or schemes, and upon such terms as the directors of the said society shall institute, publish and declare, and under the management of such persons, as the said directors shall for that purpose appoint, to raise for the benefit of the said society a sum or sums not exceeding in the whole, one hundred thousand dollars, over and above such charges and expenses, as shall have been incurred in and about the management and drawing of the said lottery or lotteries.

XXVI. AND

A. D. 1791.

Inhabitants within a district, not exceeding six miles square, may be incorporated.

XXVI. AND WHEREAS it is deemed important to the success of the unde taking aforesaid, that provision should be made for incorporating, with the conse of the inhabitants, such district not exceeding in content the number of acr contained within six miles square, as may become the principal seat of the inten ed establishment ; *Be it further enacted by the authority aforesaid*, That at any tin after the directors of the said society shall have made choice of a suitable plac for the principal seat of their said manufactories, and shall have certified th same to the governor of this State, for the time being, it shall be lawful for th said directors, by advertisement, in one or more of the public gazettes, printe in this State, and also by advertisements affixed in the most public and notor ous place within such district, to give notice, that it appears to them conducive the interest of the said society, if agreeable to the inhabitants of the said di trict, that the said inhabitants should be, and become a body politic and corp rate, and if within sixty days after such public notification, a majority of th taxable inhabitants of the said district, shall not express their dissent from th incorporation of the said district in writing, signed with their names, addresse and delivered to the governor of this State, it shall be deemed and taken to b evidence of the assent of the said inhabitants to be, and they shall thereupon b created and become a body corporate and politic, in deed and law, by the nam

Name and title.

and title of, "The Corporation of the Town of Paterson," to have perpetual succes sion ; and they and their successors shall at all times be able and capable in la

The corporation may hold goods and lands, may sue and be sued, may use a common seal, and make by-laws.

to have, hold and enjoy, any lands, tenements, and hereditaments, goods an chattels, of whatsoever kind or quality, and the same to sell, grant, alien, an dispose of, to sue, and be sued, implead, and be impleaded in courts of justic or any place whatsoever ; to make and use a common seal, and the same t alter and renew at pleasure ; and also in manner hereafter mentioned, to ordai establish, and put in execution, all necessary and convenient by-laws, ordinance and regulations ; PROVIDED the same are not contrary to the laws and constitu tion of the United States, or of this State.

An enumeration of the taxable inhabitants to be taken, if any of them signify their dissent to being incorporated.

XXVII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if an number of the said taxable inhabitants shall signify their dissent in manner afore said, and if the said society shall controvert the same, being a majority of the sai taxable inhabitants of the said district, it shall be lawful for the governor of thi State, upon application made to him by the said society in that behalf, to issue writ to the sheriff of the county, in which the major part of such district shall be commanding him to make or cause to be made, an enumeration of the taxable in habitants of the said district, and to return the same within a certain time to b expressed therein, not more than three, nor less than one calendar month, afte the teste of the said writ, and the same writ to renew in case of default, until th said enumeration shall be duly made and returned; and if upon such enumera tion, it shall appear, that the number of persons, who have signified their dis sent, are less than a majority of the whole number of the taxable inhabitant then the dissent so signified shall be void and of no effect.

Mayor, recorder, aldermen, assistants, and town clerk to be appointed by the legislature, and amenable to the same.

What officers shall be elected, and when, by the inhabitants of the town, and their duration in office.

XXVIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That for th well ordering of the affairs of the said corporation, there shall be a mayor, record er, twelve aldermen, and twelve assistants, and town clerk, who shall be appoint ed by the Council and General Assembly of this State, in joint meeting, and com missioned by the governor of this State, in the same manner as the judges an justices of the peace, and clerks of the inferior court of common pleas, and quar ter sessions of the peace throughout the State, are appointed and commissioned and shall be in like manner amenable to the Council and General Assembly ; an all other officers and ministers of the said town, whose appointments are not here in otherwise provided for and prescribed, shall be chosen by the inhabitants of th said town, at their annual town meetings, which shall be held at the same time that the annual town meetings, in the other townships in the county, shall by law be held ; that the sheriff and coroner, being elected by the said inhabitants, free holders within the said town, and commissioned by the said governor, upon a cer tificate of their election, signified by the mayor or recorder, with any three o more of the aldermen, and being so commissioned, shall or may continue in office one year thereafter, and shall be vested with all the power and authority durin said year, and entitled to all the privileges respectively within the said town, an subject to all the penalties for neglect of duty, which the sheriffs and coroners in the several counties within this State, are vested with, entitled or subject to

in like cases and circumstances, and shall be subject to such further penalties for neglect of duty, as he or they may be subjected to by the by-laws made and passed by the corporation of the said town, and shall give security for the due performance of their respective offices, in like manner; and the assessors, collectors, and overseers of the poor, so chosen as aforesaid, shall be vested with all the powers and authorities, and entitled to all the privileges, within the said town respectively, and be subject to all the penalties for neglect of duty, which the like officers in the several townships of this State are vested with, entitled or subject to, in like cases and circumstances; and also that the said mayor, recorder, aldermen, and assistants, in common council assembled, shall and may, from time to time, elect, nominate, and appoint, constables, and such other subordinate officers of the town aforesaid, not herein named, as they or the greater number of them, the mayor or recorder being one, shall think necessary, for the better ordering and governing the said town; which officers, so appointed, shall continue in office, until others shall be appointed to succeed them, and be sworn or affirmed into office. PROVIDED ALWAYS, That the several officers appointed pursuant to the directions of this act, before they severally take upon them the execution of their respective offices, shall take and subscribe the oath or affirmation of allegiance to this State, and also take the oath or affirmation of office.

A. D. 1791.

Common council to elect constables and subordinate officers.

Town officers to take the oath of allegiance and of office.

XXIX. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said town clerk, who shall be called clerk of the town of Paterson, and his successors for ever, shall act and do all things within the town aforesaid, which any town clerk of and in any borough or town-corporate, by virtue of his office, can or ought to do: that the clerk of the said town, for the time being, shall also be clerk of the said court of common pleas, to be held as aforesaid, and also clerk of the peace, and of the sessions of the peace, for and in the said town, and all and singular those things, which to the office and offices of such clerk do, and shall appertain, to do, execute and perform; and also shall and may require, demand, take, accept, hold, keep, and enjoy, all fees, perquisites and profits, which to any clerk of the peace and sessions of the peace, or to any clerk of any court of common pleas, in any county of this State, do or ought to belong: that the said town clerk and his successors, clerk as aforesaid, upon their appointment, shall take the oath or affirmation of allegiance to the State, and also the usual and legal oath or affirmation of office, before the mayor or recorder of the said town, for the time being, either of whom is hereby authorized to qualify into office as aforesaid such clerk of the said town; that the said clerk, for the time being, shall be, and hereby is authorized and empowered, to administer the oath or affirmation of allegiance aforesaid, and also the usual and legal oaths or affirmations of office, to the mayor, recorder, aldermen, assistants, sheriff, coroner, and all, and every other officer and minister, who shall be appointed or elected to serve in and for the said town; but in case the said clerk shall be absent, dead, or removed, the said mayor or recorder shall and may administer the oaths or affirmations aforesaid, to all such officers, when duly elected, or appointed, and report the same to the said clerk, or his successor, to be enroled.

Town clerk to be clerk of the peace, and of the court of quarter sessions, and common pleas.

The said clerk to administer the oath of allegiance to all persons who shall be elected into office.

XXX. AND BE IT ENACTED *by the authority aforesaid*, That in case of a vacancy in the offices of mayor and recorder, by death, resignation, or removal, or otherwise, during the recess of the legislature, that in such case, the governor of this State, for the time being, is hereby authorized to supply such vacancies, and commission them accordingly: which said commissions shall continue in force, till the legislature of this State, at a joint meeting, shall appoint persons to fill said offices, and the said person or persons, so appointed, be duly commissioned and qualified to execute the same.

Vacancy in the offices of mayor or recorder, how to be supplied.

XXXI. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall and may be lawful for the said mayor, recorder, aldermen, and assistants, to make such by-laws, ordinances, rules and regulations, not inconsistant with the laws and constitution of the United States, or of this State, as to them shall appear necessary and beneficial for the good government of the said district, and the same to put in execution, revoke, alter, and make anew, as occasion shall require, and to impose such fines and amercements upon persons transgressing such by-laws, rules and ordinances, as shall appear to them reasonable, to be levied by distress and sale of the goods of the party offending, by warrant under the hand and seal of the said mayor or recorder, or by such other warrant or process,

The common council may make by-laws, impose fines, and the same mitigate or release.

A. D. 1791.

as shall have been prescribed by the laws or ordinances of the said corporatio to be recovered by action, for the use of the inhabitants of the said district; a upon the submission of the parties, the said mayor, recorder, aldermen, and a sistants, shall have powers to mitigate or release such fines and amercemen

What number requisite to constitute a board for certain purposes.

PROVIDED ALWAYS, That not less than a majority of the whole number of t said officers, of whom the mayor or recorder to be one, shall be competent to co stitute a legal board, or meeting for the purpose of making or altering any l law, or ordinance, or of appropriating any of the monies of the said corporatio and that not less than seven, of whom the mayor or recorder to be one, sh be competent to form a board for any other purpose.

The mayor, recorder, aldermen, and assistants, created justices of the peace.

XXXII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the sa mayor, recorder, aldermen, and assistants, for the time being, shall severally a respectively have all the powers and authorities of justices of the peace, and sh have full power and authority to enquire of, hear, try, and determine, agreeably the laws and constitution of this State, all larcenies, forgeries, perjuries, a saults and batteries, riots, routs, and unlawful assemblies, and all other offe ces, which may or shall be committed within the said district, which wou otherwise be cognizable in the court of general quarter sessions of the peac of the county or counties, wherein such district is situated, and to punish a persons so convicted, agreeably to the laws of this State; and also to enquire hear, try, and determine, all offences committed in the said district, against a of the by-laws, rules, and ordinances, made, ordained, and established, in pu suance of this act; and to punish such offenders, as by the said by-laws, rule and ordinances, shall be directed; and also to impose and levy fines on jurym and others, according to law; to award process, take recognizances, and comm to prison, as occasion shall require, without being accountable to the State, f any fines or amercements, to be imposed for the said offences, except such as a or shall by law be made payable into the treasury of this State, for offences agai the State; and that they, in their said court of quarter sessions, shall have th sole, only, and exclusive right and power of licensing all and every innkeepe tavernkeeper, and retailer of spiritous liquor, inhabiting within the said town, a to them shall seem convenient, and from them, and every of them, so to be l censed, to require and take recognizance, agreeably to the laws of this State and every other license for such purpose within the said town, granted by an other court, shall be, and is hereby declared to be null and void; and generall to do all such matters and things, as any court of general quarter sessions of th peace of and for any county within this State, may or can lawfully do within suc county: and for the purposes aforesaid, the said mayor, recorder, aldermen, an

The mayor, recorder, aldermen, and assistants may hold a court of sessions quarterly, and also special courts when necessary.

assistants, or any seven of them, of whom the mayor or recorder to be one shall have full power and authority to hold and keep a court of record, within th said district, four times in each year, by the style and title of, "The court of qua ter sessions of the peace of the town of Paterson," for enquiring, hearing, try ing, and determining, the pleas and matters aforesaid; and doing all such ma ters and things, as, in pursuance of this act, shall be cognizable in the said court which court shall have power to adjourn from day to day, and to hold special ses sions, when to the said mayor, recorder, aldermen, and assistants, it shall appea necessary; and all proceedings in the said court, may be removed by writs o error, certiorari, or other writs, in like manner, as the proceedings in any cou of general quarter sessions of the peace of any county in this State, are by la removable.

The mayor, recorder, aldermen and assistants, may hold a court of common pleas on the first Monday of every month.

XXXIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That th said mayor, recorder, aldermen, and assistants, or any seven of them, of whom the mayor or recorder to be one, shall also have full power and authority to hol and keep, on the first Monday in every calendar month, and the same, if need be to adjourn from day to day, for the term of four days, counting the first as one, on other court of record by the style and title of, "The court of common pleas of th town of Paterson," with power to hold pleas of all such civil actions, suits an controversies, as are cognizable in the several county courts within this State to summon and empanel juries in the said actions or suits, to give judgment there in, and to carry such judgments into execution, in as full and ample a manner, an by all such ways and means, as any court of common pleas within this State, ma or can do; and the proceedings in the said court shall be, as nearly as may be th

the same with those of the several courts of common pleas within this State, and may be removed by habeas corpus, writ of error, or other writ, in like manner, as the proceedings in any such court of common pleas are by law removable. A. D. 1791.

XXXIV. And be it enacted *by the authority aforesaid*, That the said court of common pleas of the town of Paterson shall have a seal, with such device, as shall appear to the said court proper, and all writs, issuing thereout, shall be under the said seal, and tested in the name of the mayor or recorder of the said corporation. Seal of the court of common pleas.

XXXV. And be it further enacted *by the authority aforesaid*, That the justices of the court of general quarter sessions of the peace of the county or counties, in which such district is situated, or any of them, shall not have any power or jurisdiction within the said district, except to compel the attendance of witnesses. The court of sessions of the county not to have jurisdiction within the said town.

XXXVI. And be it further enacted *by the authority aforesaid*, That all artificers and manufacturers within the said district, in the immediate service of the said society, shall be exempt from all military duty, except in cases of actual invasion, or imminent danger: Provided always, That the clerk of the said town of Paterson shall keep a book, in which he shall enter the names of all the artificers and manufacturers, in the immediate service of the said society, at the direction of the said court of general quarter sessions of the peace, in and for the said town; and that no person shall be exempt from any taxes whatever, or from militia duty, except his name shall be entered in the said book as aforesaid. What artificers and manufacturers are exempted from military duty.

XXXVII. And be it further enacted *by the authority aforesaid*, That this act shall in all things be construed in the most favorable manner for the said respective corporations, nor shall any nonuser of the privileges, hereby to the said corporations respectively granted, create any forfeiture of the same; and notwithstanding the members of the said respective corporations should fail to meet and hold their elections as is hereby specified, the said elections may be afterwards holden and made in such manner, as shall have been prescribed by the laws and ordinances of the said respective corporations, and the officers, for the time being, shall continue to hold and exercise their office, until others shall be duly elected to succeed them, at some subsequent meeting. This act to be construed favorable for the corporation.

Nonuser not to create any forfeiture.

XXXVIII. And be it further enacted *by the authority aforesaid*, That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all persons and courts of justice whatsoever within this State. This act a public act.

The district, which has been selected, by the directors of the society, for the principal seat of their manufactories, lies in the counties of Bergen and Essex. It begins at the mouth of Third River, formerly called Yontekaw, where it empties into Passaic river; thence north, fifty one degrees and sixteen minutes west, five hundred and seventy chains, along marked trees, marked with a blaze, and the letters P. A. to a stake and stones; thence north, twenty five degrees east, across Passaic river, above the upper reef of the little falls, fifty chains, to a large Chesnut tree, marked as before; thence north, forty nine degrees east, four hundred and thirty five chains and twenty nine links; thence due east, one hundred and forty four chains; thence south, ten degrees east, four hundred and fifty chains, to near Saddle River bridge; thence south, nineteen degrees west, two hundred and sixty six chains, thence north, fifty one degrees and fifteen minutes west, twenty eight chains, to the place of beginning; and contains thirty six square miles, equal to six miles square. The inhabitants of the district have been incorporated pursuant to the 26th and 27th sections of the act.

See a supplemental act of the 27th of November, 1792.

An ACT

A. D. 1791.

An ACT *to repeal an act, entitled, "A supplemental act to the act, entitled, An Act to punis traitors and disaffected persons."*

Passed the 24th of November, 1791.

BE IT ENACTED *by the Council and General Assembly of this State, and it is her by enacted by the authority of the same,* That the act, entitled, "A supplemental a to the act, entitled, An Act to punish traitors and disaffected persons," passed th third day of October, in the year of our Lord, one thousand, seven hundred an eighty two, and every clause, matter and thing therein contained, shall be, an the same are hereby repealed.

An ACT *to authorize the Governor of this State to subscribe to the general manufactory, be established in this State.*

Passed the 25th of November, 1791.

BE IT ENACTED *by the Council and General Assembly of this State, and it is her by enacted by the authority of the same,* That the governor of this State, for th time being, be, and he is hereby authorized, directed and empowered, to subscrib on the part, and for the use of this State, one hundred shares to the manufactor to be established within this State, agreeably to an act of the legislature, entitle "An Act to incorporate the contributors to the society for establishing useful ma nufactures, and for the further encouragement of the said society," passed a Trenton, the 22d day of November, in the year of our Lord, one thousand, seve hundred and ninety one, and to do and perform all and every act and deed, whic this State shall or may be entitled or authorized to do and perform, by and i consequence of the said subscription; and the treasurer of this State, for th time being, is hereby directed to pay to the governor of this State, for the tim being, such sums of money, as may enable him to comply with the terms of th said subscription.

Pursuant to this act, the governor subscribed one hundred shares in the stock of th society, for which payment has been made.

An ACT *to incorporate a part of the township of Trenton, in the county of Hunterdon.*

Passed the 18th of November, 1792.

Trenton incorporated by the name of the city of Trenton; its boundaries

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is her by enacted by the authority of the same,* That such parts of the township of Tren ton, as are contained within the following limits and boundaries, that is to say beginning at the mouth of Assanpink creek, and running up the same to Bernar Hanlon's mill-dam; from thence, along the road, to the line between Trenton an Maidenhead; thence along the said line, to the road leading from Trenton to Mai denhead; thence on a straight line, to the north-west corner of a lot, late of Davi Brearly, deceased; thence, on a straight line, to the north-west corner of the lan of Lambert Cadwallader, whereon he now lives; thence, down the western lin thereof, to the river Delaware; thence, down the same, to the mouth of Assanpink creek aforesaid, being the place of beginning, shall be, and the same is hereby erected into a city, which shall henceforth be distinguished, known, and called by the name of, "The City of Trenton."

Officers of the city.

The mayor, recorder, and assistants to be a body corporate and politic.

II. AND BE IT FURTHER ENACTED, That for the better ordering, ruling and governing the said city of Trenton, and the inhabitants thereof, there shall hence- forth be in the said city, a mayor, who shall be keeper of the city seal; a record- er, who, besides the office of recorder, shall, in case of the absence, death, or other disability of the mayor, have, hold, use, and execute, the several duties annexed to the mayoralty, and every of them, during such absence or other disability; three aldermen, six assistants, and one town clerk; which mayor, recorder, alder- men,

men, and assistants, shall be one body politic and corporate, in deed, fact, and name, by the name, style and title of, "The mayor, aldermen, and assistants of the city of Trenton," and, by the same name, shall have perpetual succession; and they and their successors, at all times hereafter, by the name, style, and title of, "The mayor, aldermen, and assistants of the city of Trenton," shall be persons able and capable in law to have, purchase, take, and receive, possess, and enjoy, lands, tenements, hereditaments, liberties, franchises, and jurisdictions, goods, chattels and effects, to them and their successors for ever, or for any other, or less estate; and the same lands, tenements, and hereditaments, goods, chattels, and effects, to grant, bargain, and sell, alien, convey, demise, and dispose of; to sue and be sued, implead and be impleaded, in any court of justice whatever; and to make and use one common seal, and the same to alter and renew at pleasure.

A. D. 1792.

Their name.

The corporation may hold lands and other property;

may sue and be sued, and use a common seal.

III. And be it further enacted, That the said mayor, recorder, and aldermen, shall be justices of the peace, ex officio, within the said city, and shall be appointed by the Council and General Assembly of this State, in joint meeting, and commissioned by the Governor of the same, in the same manner, as the judges and justices of the peace, throughout the same are appointed and commissioned, and shall continue in office for the same time, and be amenable in like manner, to the Council and General Assembly; and that the six assistants, the town clerk, and assessor, and collector, shall be chosen by the freeholders, and inhabitants of the said city, at their annual town meeting, which shall be held at the same time, that the annual town meetings, in the several townships in the county of Hunterdon, are directed by law to be held. Provided always, That the said officers, and each and every of them, before they proceed to execute their respective offices, shall take and subscribe the oath or affirmation of allegiance to this State, and likewise an oath or affirmation, that they will faithfully discharge and execute such office, according to the best of their knowledge and understanding.

Mayor, recorder, & aldermen, justices, ex officio, to be appointed by joint meeting, and commissioned by the governor.

The six assistants, town clerk, assessor & collector to be chosen by the people.

The above officers to take the oath of allegiance and of office.

IV. And be it further enacted, That the mayor, recorder, aldermen and assistants, or a majority of them, of which the mayor or recorder is always to be one, shall have full power, from time to time, and at all times hereafter, to hold a common council within the said city, at such convenient place, as the mayor, or in his absence the recorder, shall appoint; and to make such by-laws, ordinances, and regulations, in writing, not inconsistent with the laws and constitution of this State, or of the United States, as to them shall appear necessary, for the good government of the said city, and the inhabitants thereof, and the same to put in execution, revoke, alter, and make anew, as to them shall appear necessary and convenient; and to appoint a city treasurer, city marshal, clerk of the market, and such other subordinate officers, as they may think necessary, for the good government of the said city, and by ordinance, to require such securities from the several officers, and to annex such fees to the several offices of the corporation, and to impose such fines for the refusal of office, or neglect of duty, or misconduct in the same, as to them shall appear necessary; and to make, limit, impose, and tax, reasonable fines and amercements against all, and upon all persons, who shall offend against the laws, ordinances and regulations of the corporation, made as aforesaid, and all, and every such fines and amercements, to take, demand, require, and levy of the goods and chattels of such offender, by warrant issued under the hand and seal of the mayor, recorder, or either of the aldermen, directed to the marshal of the said city, who is hereby required and authorized to execute the same; which fines and amercements shall be paid to the city treasurer, to be appropriated to the use and benefit of the inhabitants thereof. Provided always, That every person, who may think him, or herself aggrieved by the decision of the said mayor, or recorder, or any single alderman, may appeal to the common council, who are hereby required to hear his or her cause of complaint, and to do therein, what unto them shall appear just and equitable.

The mayor, recorder, aldermen and assistants, to hold a common council:

to make by-laws;

to appoint subordinate officers;

and to annex fees, and impose fines.

Fines, how to be recovered.

Party grieved by the decision of the mayor, recorder, or an alderman, may appeal to the common council.

V. And be it further enacted, That the said mayor, recorder, aldermen, and assistants, or a majority of them, in common council met as aforesaid, shall have the sole, only and exclusive right, and power, of licensing all and every innkeeper, tavernkeeper, and retailer of spiritous liquors, residing within the said city, subject to the same provisions, and in like manner, as the same may be lawfully done by the courts of general quarter sessions of the peace, in this State.

The common council to have the exclusive power of licensing taverns in the city.

A. D. 1792.

Vacancy in the office of mayor or recorder, how to be supplied.

Vacancy in any of the offices elected by the people, how supplied.

VI. And be it further enacted *by the authority aforesaid*, That in case a vacancy shall happen in the office of mayor and recorder of the said city, by death, resignation, removal or otherwise, in such case, the aldermen shall meet together, and by plurality of voices, choose one of their number, who shall have and execute the duties annexed to the mayoralty, until a mayor and recorder shall be appointed and commissioned according to law, and that as soon as may be convenient, after the passing of this act; and when by death, removal or otherwise, any vacancy or vacancies shall happen in any of the offices herein rendered elective by the freeholders and inhabitants of the said city, the mayor for the time being, is hereby required and directed, by advertisements or otherwise, giving at least five days notice, to call a meeting of the freeholders and inhabitants of the said city, who, when assembled, are hereby authorized, by plurality of voices, to elect such and so many fit persons, as are necessary to fill up the offices, and supply such vacancy or vacancies; which officers, so elected, shall be sworn in the manner aforesaid, and shall continue in office until the next annual election.

Monies, how to be raised,

assessed,

and collected.

VII. And be it further enacted, That the freeholders and inhabitants of the said city of Trenton, at their annual town meeting, shall vote such sum or sums of money, as they may think necessary to be raised, for the ensuing year, for the exigencies of the said city; which sum shall be assessed upon the inhabitants by the assessor, agreeably to the laws and regulations to be made by the common council of the said city for that purpose, and collected by the collectors at such time, and be paid and disposed of in such manner, as the common council shall direct; and if no sum, or an insufficient sum, shall then be voted to be raised, and the interest of the city require it, the common council are hereby authorized to call a meeting of the freeholders and inhabitants, by advertisement or otherwise, giving at least five days notice, and to propose to them the sum, in their opinion, necessary to be raised, and whatever sum the freeholders and inhabitants shall, by plurality of voices, vote to be raised, shall be assessed and collected, paid and disposed of in manner aforesaid. Provided always, That if any person shall think him or herself aggrieved by any assessment, made as herein before directed, he or she may appeal to the common council, who are hereby authorized and required to hear such complaint, and redress the grievance, if any shall be made to appear.

Appeal from assessments granted to the common council.

VIII. And whereas the common gaol of the county of Hunterdon is at such a distance from that part of the said county, in which the said city of Trenton is situated, as to render it very inconvenient to commit prisoners to the same; *Be it therefore enacted by the authority aforesaid*, That it shall and may be lawful, until other provision shall be made, for the said mayor, recorder, and aldermen, or either of them, to commit every person or persons, offender or offenders, whom by law they or either of them are authorized to commit to gaol or imprison, to, and in the old gaol in Trenton; and the keeper of the said gaol, to be appointed by the common council of said city, is hereby required to receive such person so committed, and him, her, or them, to keep in close and safe custody, until thence discharged by due course of law. Provided always, That nothing in this act contained shall authorize the said mayor, recorder, or aldermen, or any or either of them, to commit to the said gaol any debtor or debtors, not residing in the said city of Trenton.

Where prisoners are to be committed.

Gaoler how appointed.

An ACT *to divide the township of Hardyston in the county of Sussex.*

Passed the 19th of November, 1792.

Preamble.

Whereas a number of the inhabitants of the township of Hardyston, in the county of Sussex, have, by their petition, set forth, that they have long labored under many and great difficulties, by reason of the great length of the said township; for remedy whereof,

Hardyston divided; a new township set off; its boundaries, and name.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Hardyston, lying northward of the following line, to wit, beginning at a tree standing on the east side of the road leading from Jesse Ford's house to Pepocotton bridge, being a corner

corner of Hardyston and Wantage; and running from thence on a due course to a bridge over a branch of Pequonnock river, being on Colonel John Seward's old farm; from thence continuing the same course until it intersects the line of the county of Bergen; shall be, and is hereby set off from the township of Hardyston, and made a separate township, to be called by the name of, "The Township of Vernon." A. D. 1792.

An ACT *to enable the owners of swamp or meadow ground to drain the same, and to repeal a law heretofore made for that purpose.*

Passed the 24th of November, 1792.

Surveyors of the highways and chosen freeholders of the township empowered, on application, to view the land, to lay out ditches, drains, and watercourses, and to cause a survey thereof to be made.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, it shall and may be lawful for any person or persons, who may have any meadow, or land improved, or capable of being improved, into meadow, lying or being so situated as that it cannot be drained sufficiently for the effectual improvement of the same, without clearing out creeks or natural watercourses, or cutting into or through the meadows or other lands belonging to, or in possession of such person or persons, as will not join in cutting, clearing creeks, or natural watercourses, or permit a sufficient ditch or drain to be cut and kept open into or through the same, to apply to the two surveyors of the highways, and the two chosen freeholders of the township, in which the land doth lie, who are hereby directed and required, upon ten days notice given for that purpose, as well to the person through whose land or possession the said ditch is proposed to be cut, or creek or natural watercourse cleared, as to the surveyors and freeholders, particularly specifying the time and place of meeting, to view the premises; when they, or a majority of them, in case the ditch or drain, or clearing the creek or watercourse applied for shall appear necessary and reasonable, shall lay out such ditch, drain or watercourse, as in their judgment shall be sufficient for the purpose, and in such place or places as will be most proper for draining the said meadow or land, with as little detriment, however, as may be to the owner or possessor of the premises, through which the said ditch, drain or watercourse, may run or be laid; causing a proper return of such ditch, drain or watercourse to be made, describing the beginning and several courses and distances thereof, from an actual survey made by a surveyor, and signed by him, and the aforesaid surveyors of the road, and freeholders; which actual survey shall be recorded in the clerk's office of the county, who shall be entitled to receive three shillings for the same, and the record thereof may be given in evidence in any court of law; the expenses thereof to be paid by the owners or possessors, in proportion to the benefit they may receive thereby.

Such survey to be recorded in the clerk's office.

Expences, how to be defrayed.

If any surveyor or freeholder be interested, application to be made to another of the same county, nearest to the premises.

II. AND BE IT FURTHER ENACTED, That in case any or either of the surveyors or freeholders aforesaid should be interested either for or against the watercourse applied for, application shall be made to any other surveyor or freeholder of the same county, chosen as aforesaid, being disinterested and living nearest to the premises; who is and are hereby directed and required, upon notice as aforesaid, to attend in the room and stead of him or them so interested, and to do and perform the same duties, as if he or they resided in the township, where the ditch or drain, or clearing of a creek or watercourse, shall be applied for.

When watercourses are in two townships, the surveyors and freeholders of both to be called.

III. AND BE IT FURTHER ENACTED, That whenever any such creek, ditch, drain, or natural watercourse, is necessary for the improvement of lands as aforesaid, shall happen to be in or on a line between two townships, or leading out of one township into another, it shall and may be lawful for the person or persons applying, and he, she, or they, is and are hereby required to call the surveyors of the highways and chosen freeholders of both the said townships, who, when met, or a majority of them, shall proceed in the same manner as is before directed for the chosen freeholders and surveyors of the highways of a township to proceed; and the decree of them, or a majority of them, shall be equally binding upon all parties. PROVIDED ALWAYS, That nothing contained in this act shall empower the surveyors and freeholders aforesaid, to lay any watercourse through a mill-dam

But this act not to affect mill-dams or iron works, &c.

A. D. 1792.

mill-dam or other works, erected for the accommodation of a mill or the manufacturing of iron.

Fees of surveyors and freeholders, and by whom to be paid.

IV. And be it further enacted, That there shall be allowed to the surveyors and freeholders, for the time they may respectively be employed in performing the duties enjoined them by this act, the sum of seven shillings and sixpence a day each, to be paid by the person or persons requesting such service; and in case either of the surveyors or freeholders, appointed for laying out or clearing the ditches, drains, creeks or watercourses herein before mentioned, shall neglect or refuse to do and perform the duties enjoined him by this act, he so offending shall forfeit and pay, for every such neglect or refusal, the sum of three pounds, to be recovered in an action of debt by the party applying, to and for his use.

Penalty for their neglect of duty.

Damages, which owners of land may sustain, to be assessed by the surveyors and freeholders.

V. And be it further enacted, That in all cases where ditches or drains shall be laid into, or through the land of any person or persons, not benefited by, or requesting such ditch or drain, or clearing a watercourse, that the surveyors and freeholders, laying out the same, shall be, and they are required to assess the damage, the owner or owners of land damaged may sustain thereby, and also the quota each person shall bear, who shall be benefited thereby; which assessment or quota shall become a legal debt, and be immediately paid by each person, so assessed, to the person or persons injured.

Surveyors and freeholders to allot to each person his part of the ditch, drain or watercourse.

How and when the same is to be opened and cleared out.

The earth between different proprietors, where to be thrown.

VI. And be it further enacted, That the said surveyors and freeholders, who shall concur in laying out any ditches or drains, or clearing watercourses as aforesaid, shall, at the same time, allot to each person interested therein, the part or parts thereof, he or she shall clear, make, support and keep open, which part or parts, so allotted, her or his heirs or assigns shall for ever thereafter be empowered and obliged to make, open, and clear out, such ditch, drain or watercourse, from time to time, between the first day of September, and the first day of May, annually, whenever the same may be necessary; and if any person or persons, owners of land and meadow, directed to be drained as aforesaid, shall neglect to make, repair, and keep open, his, her, or their proportion or allotment of said ditch, drain, or watercourse, that then and in such case, any one or more of the owners of such land or meadow may make, open and clear out, the said ditch, drain, or watercourse, from time to time, and recover the expenses thereof, from the person or persons neglecting to do the same, with costs of suit. Provided always, That in all cases where ditches, drains or watercourses, laid out as aforesaid, shall be on lines between different proprietors, the mud, earth, and rubbish, shall be cast equally on each side, except the owners or possessors, by agreement, shall determine otherwise.

Dams, sluices, and other works, how to be made, and kept in repair.

VII. And be it further enacted, That whenever water, conveyed in ditches, drains or watercourses as aforesaid, shall be carried or vented through gates, dams or sluices, or other works, that then all persons interested in such ditches, drains, or watercourses, shall bear such a share or proportion of the expense of keeping such dams, sluices, or works in repair, as shall be fixed and determined by the surveyors and freeholders laying out such drains as aforesaid, in all cases where the surveyors and freeholders shall judge a proportion of such expenses ought to be borne by the owners of land drained as aforesaid.

Ditches and watercourses to be laid on lines between proprietors.

VIII. Provided always, *and be it further enacted*, That in all cases, where ditches, drains or watercourses shall be laid out pursuant to the directions of this act, the same shall be on lines between proprietors of land, where the same can be done with convenience to all parties concerned.

How assessments, which may be laid on the general proprietaries, are to be collected.

IX. AND WHEREAS there are large tracts of land unimproved, and lands held in common by the general proprietors in this State, by means whereof it will be difficult to recover the assessments and expenses directed by this act in case of default; *Be it therefore further enacted*, That it shall and may be lawful, for the recovery of the said assessments and expenses, for any person or persons entitled to recover the same upon his or their giving notice, by advertisement, of the sum assessed or expenses adjudged, in three or more public places in the county, where the lands lie, and in one or more of the newspapers of this State, for the space of six weeks, and the general proprietors refusing or neglecting to discharge the same;

same, the party entitled to receive the same, may make return of such delinquents to one of the judges of the inferior court of common pleas for the county, who shall enter judgment against such delinquent proprietor for such assessment, which judgment shall be filed in the clerk's office of the county, as of record, and writ of execution shall issue and be recorded by the clerk against the lands of the said delinquents, directed to the sheriff of the county, to make sale and dispose of so much of said lands, as near as may be, as will be sufficient to discharge the said assessment or expenses, and if upon such sale there should be any overplus, the said person or persons so prosecuting, are hereby declared to be accountable for the same to the general proprietors, their agent, or attorney. A. D. 1792.

X. And be it further enacted, That in order the more fully to enable the surveyors and freeholders, appointed as aforesaid, to allot to each person concerned his or her just proportion of such ditch, drain, or watercourse, to clear, make, support and keep open, they be empowered and directed, whenever they deem it necessary, to cause actual surveys to be made of the quantity of meadow or swamp, held by each owner or possessor, that is benefited thereby; the expense thereof to be paid by each owner and possessor in proportion as before directed. Survey of land to be made, when necessary to apportion the expense.

XI. And be it further enacted *by the authority aforesaid*, That if any person or persons shall think themselves aggrieved by any assessments made by virtue of this act, that on payment of such assessment, he, she, or they, may appeal to the next court of common pleas, to be held in and for the county in which such assessment is made, which court is hereby authorized to decide thereon, by making abatement or otherwise, as shall appear equitable and just. Party aggrieved by an assessment, may appeal to the court of common pleas.

XII. And be it further enacted, That the act, entitled, "An Act to enable the owners of meadow ground to drain the same," passed December the twenty third, seventeen hundred and eighty three, be and the same is hereby repealed. Former act repealed.

A SUPPLEMENT *to the act, entitled, "An Act to incorporate the contributors to the society for establishing useful manufactures."*

Passed the 27th of November, 1792.

Whereas doubts have arisen, whether the society for establishing useful manufactures, or the directors of the said society, were authorized in and by the said recited law, incorporating the said society, to pass any by-laws or ordinances to enforce the payment of the subscriptions to the said society; therefore. Preamble.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the said society for establishing useful manufactures, or the directors of the said society, and they or either of them are hereby authorized to pass any by-laws or ordinances to compel the punctual payment of the subscriptions to the said society, or any part thereof, and to annex the penalty of a forfeiture of the shares of such person or persons, and of any monies previously paid by him or them, on his, her or their respective share or shares, as shall neglect to comply with the terms of payment required by such by-laws or ordinances, any thing contained in the said recited act of incorporation to the contrary notwithstanding. The society or board of directors, how to compel payment of subscriptions.

II. Be it further enacted *by the authority aforesaid*, That if any of the said subscribers to the said society, or any member of the same, hath received, or shall receive any of the monies or stock of the said society, and hath refused or neglected, or shall refuse or neglect to account and settle with the said society or their directors for the same, it shall and may be lawful for the said society, or the directors of the same, to stop the shares of such person or persons, so neglecting or refusing to account, until he, she or they, shall make due satisfaction for the property of the society, which has come into his, her, or their hands or possession; and upon a continued neglect or refusal to account, shall and may be lawful for the said society, or their directors, within six months Subscribers refusing to account for monies received, their shares to be stopped by the directors.

A. D. 1793.

after such person or persons have been called upon to account, to declare the shares so stopped, to be forfeited to and vested in the society.

Mistake in former act amended.

III. AND WHEREAS, in and by the sixth section of the said recited law, it is enacted, that the original stock of the said society shall consist of one hundred thousand shares, instead of ten thousand shares, through a mistake in the drawing of the law; for remedy whereof, *Be it further enacted by the authority aforesaid*, That the sixth section of the said law, so far as relates to the number of shares of the said society, shall be and the same is hereby repealed; and that the original stock of the said society shall consist of ten thousand shares, each share being one hundred dollars.

Part of former act repealed.

IV. WHEREAS also in and by the twenty eighth section of the said law, it is among other things enacted, that for the well ordering of the affairs of the said corporation, there shall be a mayor, recorder, twelve aldermen and twelve assistants, who shall be appointed by the council and general assembly in joint meeting, and commissioned by the governor of this State; AND WHEREAS in and by the thirty second section of the said law, it is among other things enacted, that the said mayor, recorder, aldermen and assistants, for the time being, shall severally and respectively have all the powers and authorities of justices of the peace: AND WHEREAS by the petition of the directors of the said society it appears, that it will be more agreeable to the said corporation, that the said assistants should not have the powers of justices of the peace, and that they should be chosen by the people; *Be it therefore enacted by the authority aforesaid*, That so much of the said act, as relates to the appointment of the said twelve assistants, and to the vesting of them with the powers of justices of the peace, shall be, and the same is hereby repealed; and that the said twelve assistants shall only have the powers of common council men, and shall be chosen by the inhabitants of the said town, at their annual town meetings, in the same manner, that the officers and ministers of the said town are chosen, whose appointments are not in and by said act otherwise provided for and prescribed.

The twelve assistants to have only the power of common council men.

For the act, to which this is a supplement, see page 104 of this volume.

An ACT *to incorporate into a township a part of the townships of Elizabeth and Newark, in the county of Essex.*

Passed the 27th of May, 1793.

Preamble.

WHEREAS a number of the inhabitants of the townships of Elizabeth and Newark, in the county of Essex, have, by their petition set forth, that they have long labored under many difficulties, by reason of the length of the said townships; for remedy whereof,

Boundaries of the township of Springfield.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Elizabeth, and the township of Newark, lying within the following line; beginning on the bank of Rahway river, in the line which divides the wards of Springfield and Westfield; thence running in the said line to the top of the mountain, and from thence to New-Providence meeting-house, and thence to Passaic river; thence down the said river to the bridge, commonly known by the name of Cook's bridge: thence down the old road to the top of the mountain; thence on a direct line to Kean's mills; thence on a direct line to a bridge, which crosses the east branch of Rahway river, commonly known by the name of Peirson's bridge, by his mill-dam, and from thence down the said river to the place of beginning; shall be, and is hereby set off from the townships of Elizabeth and Newark, and made a separate township, to be called by the name of, "The township of Springfield."

An ACT

An ACT *to set off part of the township of Elizabeth, in the county of Essex, into a separate township.* A. D. 1794.

Passed the 27th of January, 1794.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Elizabeth, lying within the following lines; beginning at the line of the county of Middlesex, where the north and west branches of Rahway river meet or form a junction; from thence running up the said north branch of Rahway river to the mouth of Normahiggin branch, it being the south-east corner of the township of Springfield; from thence running with the line of Springfield aforesaid, in a course of north, forty nine degrees west, to the top of the mountain; from thence on the same course to the east branch of Green Brook; thence down said branch and Green Brook to the line that divides the counties of Essex and Middlesex; thence along the line of Middlesex to the place of beginning; shall be and is hereby set off from the township of Elizabeth, and made a separate township, to be called by the name of, "The township of Westfield." Boundaries of the township of Westfield.

An ACT *to annex part of the township of Elizabeth to the township of Springfield.*

Passed the 4th of February, 1794.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Elizabeth, lying within the limits or boundaries herein described, that is to say, beginning where the line of the township of Springfield intersects the Passaic river; thence up said river to the line that divides the counties of Essex and Somerset; from thence on the line that runs between the two aforesaid counties, till it comes to the head of the west branch of Green Brook; thence down said brook on said line, till it comes where the east and west branches of Green Brook form a junction; thence up the said east branch of said brook until it intersects the line of the township of Springfield, at the north-west corner of the township of Westfield; thence on the line of the township of Springfield to the place of beginning; shall be, and hereby is annexed to the township of Springfield, and is to be taken and deemed as part and parcel thereof, as fully, to all intents and purposes, as though the same had been set off, and incorporated into the township of Springfield, in and by the act, entitled, "An Act to incorporate into a township, a part of the townships of Elizabeth and Newark, in the county of Essex," passed May the twenty seventh, seventeen hundred and ninety three. Description of the annexed parts.

An ACT *to authorize aliens to purchase and hold real estates within this State.*

Passed the 6th of February, 1794.

WHEREAS the authorizing of aliens to purchase and hold lands, tenements and hereditaments within this State, may be productive of public benefit; therefore, Preamble.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, and until the first day of November, which will be in the year of our Lord, one thousand, seven hundred and ninety nine, it shall and may be lawful for any foreigner or foreigners, alien or aliens, not being the legal subject or subjects of any sovereign State or power, which is or shall be, at the time or times of such purchase, at war with the United States of America, to purchase lands, tenements and hereditaments within this State, and to have and to hold the same, to them, their heirs and assigns for ever, as fully, to all intents and purposes, as any natural born subject or subjects may or could do. PROVIDED ALWAYS, That nothing in this act shall be construed to entitle any foreigner or foreigners to be elected Alien friends authorized to purchase lands till the first of November, 1799.

But such purchase shall not entitle them to hold any office or to vote at elections.

A. D. 1794.

elected into any office of trust or profit, or vote in this State, at any election for choosing representatives in the legislature of this State or the United States, until naturalized agreeably to law.

Antecedent purchases legalized.

II. AND WHEREAS some purchases have been made within this State by aliens and foreigners, before the passing of this act; *Be it therefore further enacted by the authority aforesaid*, That all such purchases shall be held as good and legal, to all intents and purposes, as though the same had been made after the passing of this act; any law, usage or custom to the contrary notwithstanding.

An ACT *to prevent persons, holding shares of propriety, from cutting timber on the unlocated lands in this State.*

Passed the 13th of February, 1794.

Certain proprietaries not to cut timber on unlocated lands.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person or persons, under pretence of being possessed of a share or shares of propriety, and claiming a right as tenants in common, shall at any time hereafter cut, fell, work up, carry away, box, bore, peal, bark or destroy, any tree, sapling or pole, standing or lying on any of the unlocated lands in this State, for which land such proprietor hath not procured a survey and return thereof to be made according to law, every such person or persons, so offending, shall be subject to the same fines and forfeitures, to be recovered and applied in the same manner, as directed by an act, entitled, "An Act more effectually to prevent the waste of timber in this State, and to repeal the former act for that purpose," passed the 13th day of June, 1783. *

Proprietary agents may sell timber so cut.

II. AND BE IT FURTHER ENACTED, That it shall and may be lawful for any person, acting as agent to the general proprietors, or any person or persons under the authority of such agent, to take, seize and carry away, all such wood or timber, as he or they may find cut or felled on any of the said unlocated lands, and to dispose of the same for the use and benefit of the said general proprietors.

* For this act see page 49 of this volume.

An ACT *authorizing the justices of the supreme court to appoint commissioners to take special bail, and to administer oaths and affirmations in causes depending in the said court.*

Passed the 17th of November, 1794.

Justices of the supreme court to appoint persons to take bail in actions in the said court.

I. FOR the greater ease and benefit of persons entering into recognizances of special bail, and in their making oaths and affirmations in actions and suits depending, or to be depending in the supreme court of this State, *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the chief justice and other justices of the supreme court of this State, for the time being, or any two of them, whereof the chief justice, for the time being, to be one, shall or may, by one or more commission or commissions, under the seal of the said supreme court, from time to time empower such and so many person or persons, as they shall think fit and necessary in the several counties of this State, to take and receive all and every such recognizance or recognizances of bail or bails, as any person or persons shall be willing or desirous to acknowledge or make before any of the persons so empowered, in any action or suit depending, or hereafter to be depending in the said supreme court, in such manner and form, and by such recognizances or bail pieces, as the justices of the said supreme court have used to take the same; which said recognizance or recognizances of bail or bail piece, so taken as aforesaid, shall be transmitted to the office of the clerk of the said supreme court, within the time allowed by the said court for putting in special bail in such cause or causes; which clerk, upon oath or affirmation, by him to be administered, of the due taking of the recognizance of bail or bail piece, by some person present at the taking thereof, shall receive, file and docket the same, upon payment of such fees as now are, or hereafter shall be

Bail piece to be sent to, and filed in the office of the clerk of the said court.

allowed

allowed and established for such services; which recognizance of bail or bail piece, so taken and transmitted, shall be of like effect as if the same were taken de bene esse, before any of the justices of the said court; and for the taking of every such recognizance of bail or bail piece, the said commissioners shall receive twenty eight cents, and no more.

A. D. 1794.

Fees for taking bail.

II. And be it enacted *by the authority aforesaid*, That the said supreme court shall make such rules and orders for the justifying such bails, and making the same absolute, as to the said court shall seem meet, so as the cognizor or cognizors of such bail or bails be not compelled to appear in person in the said court to justify him or themselves; but the same may, and is hereby directed to be determined by affidavit or affidavits, duly taken before the said commissioners, who are hereby respectively empowered and required to take the same, and also to examine the sureties, on oath or affirmation, touching the value of their respective estates.

The supreme court to make rules for the justifying of the said bail.

III. And be it enacted *by the authority aforesaid*, That every commissioner, appointed by virtue of this act, shall have full power and authority to administer an oath or affirmation to any person, who shall be willing and desirous to make such oath or affirmation before him, in or concerning any cause or causes depending or to be depending in the said supreme court; and every affidavit, made or to be made before such commissioners, shall, and is hereby declared to be as good and effectual to all intents and purposes, as if the same were made before the chief justice or other justice of the supreme court.

Commissioners to take affidavits in causes depending in the supreme court.

IV. And be it enacted *by the authority aforesaid*, That the act, entitled, "An Act to enable the chief justice and other judges of the supreme court to appoint commissioners in the several counties of this province to take special bail, and to administer oaths and affirmations in causes depending in the supreme court," passed the fourth day of November, in the year of our Lord, one thousand, seven hundred and forty one, shall be, and the same is hereby repealed.

Former act repealed.

An ACT *for supporting idiots and lunatics, and preserving their estates.*

Passed the 21st of November, 1794.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the chancellor for the time being shall have the care, and provide for the safe keeping of all idiots, and of their lands and tenements, goods and chattels; and that they may live and be competently supported and maintained, by and out of their goods and chattels, and the profits of their lands and tenements; and that no waste or destruction of their lands or tenements be done or permitted. And that such lands and tenements shall in no wise be aliened, but shall, upon the death of such idiot, descend and go to his or her heirs, and the residue of the said goods, chattels and profits, shall go to and be distributed, according to law, among his or her next of kin.

The chancellor to have the care of idiots and their estates.

Such estates, on their death, to descend, or be distributed according to law.

II. And be it enacted *by the authority aforesaid*, That the chancellor for the time being shall have the care, and provide for the safe keeping of all lunatics, and of their lands and tenements, goods and chattels; and that they and their houshold, if they have any, may live and be competently supported and maintained, by and out of their goods and chattels, and the profits of their lands and tenements; and that no waste or destruction of their lands or tenements be done or permitted. And such lands and tenements shall in no wise be aliened, but shall, with the residue of the goods, chattels and profits, be restored to such lunatic, if he or she come to his or her right mind; and if he or she die in his or her lunacy, such lands and tenements shall descend and go to his or her heirs, and the residue of the said goods, chattels and profits, shall go to and be distributed, according to law, among his or her next of kin.

The chancellor to have the care of lunatics and their estates.

Such estates, on their death, to descend, or be distributed according to law.

A. D. 1794.

An ACT *respecting amendments and jeofails.*

Passed the 21st of November, 1794.

Mistakes in process and records may be amended both after and before judgment.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, by the misprision of a clerk, no process shall be annulled or discontinued, by mistaking in writing a syllable or a letter, too much or too little; but as soon as such misprision is perceived, by challenge of the party, or in other manner, it shall be instantly amended in due form, without giving advantage to the party challenging the same. And the court, before whom such plea or record is made, or shall be depending, as well by adjournment as by way of error, shall have full power, both after and before judgment given therein, to amend such record or process, as long as the same is before them.

Judgments not to be reversed for rasures or interlineations.

II. AND BE IT ENACTED *by the authority aforesaid*, That for error assigned, or to be assigned, in any record, process, warrant of attorney, writ original or judicial, panel, or return, because there are any rasures, or interlineations, or any addition, subtraction or diminution of words, letters or titles, or parcel of letters, in any such record, process, warrant of attorney, writ, panel, or return, no judgment or record shall be reversed or annulled.

Court may order misprisions of clerks to be amended.

III. AND BE IT ENACTED *by the authority aforesaid*, That the court, in which any record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, is or may be, shall, while the same remains before them, have power to examine such record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, by them and their clerks, and to rectify and amend, in affirmance of the judgment of such record or process, whatever to them, in their discretion, shall seem to be the misprision of the clerks, in such record, process, declaration, count, plea, warrant of attorney, writ, panel, or return; so that, by such misprision of the clerk, no judgment shall be reversed or annulled.

Variance between a record and certificate thereof, amendable.

IV. AND BE IT ENACTED *by the authority aforesaid*, That if any record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, be certified defective, otherwise than according to the writing, which thereof remains in the office, court, or place, from whence the same is certified, the parties, in affirmance of the judgment of such record or process, may allege that the same writing is variant from the said certificate, and that being found and certified, the said variance shall be, by the said court, rectified and amended according to the first writing.

Misprisions of clerks, sheriffs, and other officers, amendable.

V. AND BE IT ENACTED *by the authority aforesaid*, That the court, before whom any misprision or default is or shall be found in any record or process, which now is, or hereafter shall be depending before them, as well by way of error as otherwise, or in the returns of the same, made or to be made by sheriffs, coroners or any other, by misprision of the clerk of such court, or by misprision of the sheriffs, under sheriffs, coroners, or their clerks, or other officers, clerks, or other ministers whatsoever, in writing a letter or syllable too much or too little, shall have power to amend such defaults and misprisions, according to their discretion; and by examination thereof by the said court, to be taken where they shall think necessary; and that all such amendments may be made as well after a judgment given upon verdict, confession, nihil dicit, or non sum informatus, as upon matter of law pleaded.

No person to be prejudiced by ancient terms and forms.

VI. AND BE IT ENACTED *by the authority aforesaid*, That, by the ancient terms and forms of pleaders, no person shall be prejudiced, so that the matter of the action be fully shewed in the writ, declaration and pleadings.

Records not to be altered in any term after judgment.

VII. AND BE IT ENACTED *by the authority aforesaid*, That the record of pleas, real, personal, or mixed, whereof judgment is or shall be given and enroled, or things touching such pleas, shall not be amended, or impaired by new entering of the clerk, or by the record or matter certified, in any term subsequent to that in which such judgment, in any such plea, is or shall be given and enroled.

VIII. AND BE IT ENACTED *by the authority aforesaid*, That if any issue hath been

been or shall be tried, by the oath or affirmation of twelve men, or more, for the party plaintiff or demandant, or for the party tenant or defendant, bailiff in assize, vouchee, prayee in aid, or tenant by receipt, in any action, suit, bill, plaint, or demand, in any court of record, then the court, by whom judgment thereof ought to be given, shall proceed and give judgment in the same, notwithstanding any mispleading, lack of color, insufficient pleading, or jeofail, any miscontinuance, discontinuance, or misconceiving of process, misjoining of the issue, lack of warrant of attorney, of the party against whom the issue shall be tried, or any other default or negligence of any of the parties, their counsellors or attornies; and the judgments thereof so had and given, or to be had and given, shall stand in full strength and force to all intents and purposes, according to the said verdict, without any reversal or undoing of the same by writ of error, or otherwise, in like form as though no such default or negligence had ever been had or committed.

After verdict, judgment not be reversed, for mispleading, discontinuance, &c.

IX. And be it enacted *by the authority aforesaid*, That if any verdict of twelve men or more hath been or shall be given in any action, suit, bill, plaint, or demand, in any court of record, the judgment thereupon shall not be stayed or reversed, by reason of any default in form, or lack of form, touching false english, or variance from the register, or other defaults in form, in any writ, original or judicial, count, declaration, plaint, bill, suit, or demand, or for want of any writ, original or judicial, or by reason of any imperfect or insufficient return of any sheriff, or other officer, or for want of any warrant of attorney, or by reason of any manner of default in process upon or after any aid prayer, or voucher; nor shall any such record or judgment, after verdict, be reversed for any of the defects or causes aforesaid.

After verdict, judgment not to be reversed for want of form, &c.

X. And be it enacted *by the authority aforesaid*, That if any verdict of twelve men or more hath been or shall be given for the plaintiff or demandant, or for the defendant or tenant, bailiff in assize, vouchee, prayee in aid, or tenant by receipt, in any action, suit, bill, plaint, or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for any variance, in form only, between the original writ or bill, and the declaration, plaint, or demand, or for lack of averment of any life or lives of any person or persons, so as, upon examination, the said person be proved to be in life, or by reason that the venire facias, habeas corpora, or distringas, is or shall be awarded to a wrong officer, upon any insufficient suggestion, or by reason that any of the jury, which tried the said issue, is or shall be misnamed, in the Christian name, sirname, or addition, in any of the said writs, or in any return upon any of the said writs, so as, upon examination, it be proved to be the same man, who was meant to be returned, or by reason that there is or shall be no return upon any of the said writs, so as a panel of the names of the jurors be returned and annexed to the said writ or writs, or for that the name of the sheriff, or other officer, having the return thereof, is not set to the return of any such writ, so as, upon examination, it be proved, that the said writ was returned by the sheriff or under sheriff, or any such other officer, or by reason that the plaintiff in any action of ejectment, or in any personal action or suit (being an infant under the age of twenty one years) did or shall appear by attorney therein, and the verdict pass in favor of such plaintiff.

After verdict, judgment not to be reversed for variance in form between the writ and declaration, or want of averment, insufficient suggestions, misnaming of jurors, &c.

XI. And be it enacted *by the authority aforesaid*, That if any verdict of twelve men hath been or shall be given in any action, suit, bill, plaint or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for default in form, or lack of form, or by reason that there are no pledges, or but one pledge, to prosecute, returned upon the original writ, or because the name of the sheriff is not returned upon such original writ, or for default of entering pledges upon any bill or declaration, or for default of alleging the bringing into court any bond, bill, indenture or other deed whatsoever, mentioned in the declaration or other pleading, or for default of alleging the bringing into court letters testamentary, or letters of administration, or by reason of the omission of the words, "with force and arms," or, "against the peace," or for or by reason of the mistaking of the Christian name or sirname of the plaintiff or defendant, demandant or tenant, sum or sums of money, day, month, or year, by the clerk, in any bill, declaration or pleading, where the right Christian name, sirname, sum, day, month, or year, in any writ, plaint, roll, or record preceding, or in the same roll or record, where the mistake is committed, is or are truly and rightly alleged, and to which the party

After verdict, judgment not to be reversed for want of pledges, or of bringing into court any bond, deed, letters testamentary, &c. or for the omission of certain words, or mistake of name, sum, day, &c.

A. D. 1794.

party might have demurred, and shewed the same for cause, nor for want of the averment or words, "and this he is ready to verify," or, "and this he is ready to verify by the record," or for not alleging, "as appears by the record," or for that there is no right venue, so as the cause was tried by a jury of the proper county or place, where the action is laid; nor shall any judgment, after verdict, be reversed for want of entering, that the person, against whom such judgment is given, "be in mercy," or, "be taken," or by reason that the words, "be taken," are entered for, "be in mercy," or the words, "be in mercy," are entered for, "be taken," nor for that, in the judgment, the words, "it is granted," are entered for, "it is considered," nor for that the increase of costs, after a verdict in any action, or upon a nonsuit in replevin, are not entered to be at the request of the party, for whom the judgment is given, nor by reason that the costs, in any judgment whatsoever, are not entered to be by consent of the plaintiff; but that all such omissions, variances, defects, and all other matters of like nature, not being against the right of the matter of the suit, nor whereby the issue or trial is altered, shall be amended by the court, where such judgments are or shall be given, or to which the record is or shall be removed by writ of error.

The court, on demurrer, to give judgment according to the right of the cause, without regarding defects, not specially shewn for cause of demurrer.

XII. And be it enacted *by the authority aforesaid*, That where any demurrer hath been, or shall be joined and entered in any action or suit in any court of record of this State, the court shall proceed and give judgment, according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, defect, or want of form, in any writ, return, plaint, declaration or other pleading, process, or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer, as causes of the same, notwithstanding that such imperfection, omission, or defect might have heretofore been taken to be matter of substance, so as sufficient matter appear in the pleadings, upon which the court may give judgment according to the very right of the cause; and therefore no advantage or exception shall be taken of or for an immaterial traverse, or of or for the default of entering pledges upon any bill or declaration, or of or for the default of alleging the bringing into court any bond, bill, indenture, or other deed whatsoever, mentioned in the declaration or other pleading, or of or for the default of alleging the bringing into court letters testamentary or letters of administration, or of or for the omission of the words, "with force and arms," or, "against the peace," or either of them, or of or for want of the averment or words, "and this he is ready to verify," or, "and this he is ready to verify by the record," or of or for not alleging, "as appears by the record;" but the court shall give judgment according to the very right of the cause as aforesaid, without regarding any such imperfections, omissions, or defects, or any other matter of like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer; and that no judgment shall be reversed, by any writ of error, for any such imperfection, omission, defect, or want of form as aforesaid, except such only as are before excepted; and every court of record of this State shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects, and wants of form as are before mentioned, other than those only which the party demurring shall specially and particularly express and set down, together with his demurrer, as aforesaid, and may, at any time, permit either of the parties to amend any defect in the process or pleadings upon such terms and conditions as the said court shall, in their discretion, direct and prescribe.

Defects in process and pleadings amendable on terms.

This act to extend to judgments on confession.

XIII. And be it enacted *by the authority aforesaid*, That this act shall extend to all judgments, which have been or shall be entered upon confession, nihil dicit, or non sum informatus, in any court of record; and no such judgment shall be reversed, nor any judgment, upon any assessment or writ of inquiry of damages made or executed thereon, be stayed or reversed for or by reason of any imperfection, omission, defect, matter, or thing whatsoever, which would have been aided and cured by this act, in case a verdict of twelve men had been given in the said action or suit, so as there be an original writ or bill duly filed according to law.

Variance in writs of error from the original record to be amended.

XIV. And be it enacted *by the authority aforesaid*, That all writs of error, wherein there shall be any variance from the original record, or other defect, may and

and shall be amended and made agreeable to such record by the respective courts, where such writ or writs of error shall be made returnable. A. D. 1794.

XV. And be it enacted *by the authority aforesaid*, That where any verdict hath been or shall be given in any action, suit, bill, plaint or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for any defect or fault, either in form or substance, in any bill, writ original or judicial, or for any variance in such writ from the declaration or other proceedings.

Judgment, after verdict, not to be reversed for want of form or substance in any writ.

XVI. And be it enacted *by the authority aforesaid*, That this act shall extend to all suits, in any court of record, for the recovery of any debt due to this State, or for any debt, duty, or revenue belonging to the same; and also to all writs of mandamus, and informations, in nature of quo warranto, and proceedings thereon.

This act shall extend to suits for debts due to the State, and to writs of mandamus, and quo warranto.

XVII. And be it enacted *by the authority aforesaid*, That all proceedings whatsoever, in every court of law and equity in this State, shall be in the English tongue and language, and in no other tongue or language, and shall be written or printed in a good, strong, legible hand or character, and in words at length, and not abbreviated, except such abbreviations as are commonly used in the English language. Provided nevertheless, That it shall and may be lawful to express numbers by figures, in like manner as hath been heretofore, or is now commonly used in the said courts respectively, and to express the proper and known names of writs or other process, or technical words, in such language as hath been commonly used, so as the same be written or printed in a common legible hand or character.

All judicial proceedings to be in the English language, except names of writs, and technical terms.

XVIII. And be it enacted *by the authority aforesaid*, That this act shall be taken and construed, in all courts of justice, in the most ample, beneficial and liberal manner, for the ease and benefit of the parties, and to prevent frivolous and vexatious delays.

The construction of this act, to be liberal and beneficial.

XIX. Provided always, *and be it further enacted by the authority aforesaid*, That no part of this act, except that which directs proceedings to be in the English language, shall extend to any indictment or presentment for any criminal matter, or process upon the same; nor to any writ, bill, action or information, upon any popular or penal statute, nor to any outlawry, or process thereupon, or in order thereunto.

This act not to extend to indictments, popular actions, or outlawries.

An ACT *concering justices of the peace, and courts of general quarter sessions.*

Passed the 22d of November, 1794.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the justices of the peace, who have been or shall be appointed and commissioned in and for the several counties of this State, shall, jointly and severally, have full power to keep, and cause to be kept, all laws made or to be made for the conservation of the peace, and for the good government of the citizens and inhabitants of this State, within the said counties respectively, according to the force, form, and effect of the same laws; and to apprehend, imprison and punish all persons offending against those laws or any of them in the said respective counties, in such manner as, according to those laws, shall be right and proper; and to cause to come before them, or any of them, all persons who shall break the peace, or have used, or shall use threats to any of the citizens or inhabitants of this State, concerning his or her body, or the firing of his or her house, barn, or other building, or who are not of good fame where they are found, to enter into recognizance, with sufficient surety, for the peace, or their good behaviour towards the people and inhabitants of the State, and if they enter not into such recognizance, then to cause them to be safely kept in prison until they do the same; and further to perform and execute all such matters, acts, and things as, by law, appertain to their office, and are or shall be enjoined upon them, and committed to their charge and execution, jointly and severally.

The powers and duties of justices of the peace.

A. D. 1794.

Court of sessions, how constituted; its authority and jurisdiction.

II. And be it enacted *by the authority aforesaid*, That the said justices of every county of this State, or any three or more of them, shall constitute a court of general quarter sessions of the peace in and for such county; which court shall be a court of record, and shall have cognizance of all crimes and offences, which, by law, are or shall be of an indictable nature, and which in such county hath been done or perpetrated, or shall hereafter be done or attempted; and for that purpose shall have authority to award precepts, to be directed to the sheriff, for grand and petit jurors, to inspect indictments taken or to be taken before them, to make and continue process thereupon, to hear and determine all such crimes and offences as aforesaid, and to punish the persons, convicted of the same, according to law. Provided always, That indictments for treason, murder, manslaughter, sodomy, rape, polygamy, arson, burglary, robbery, forgery, perjury, and subornation of perjury, and crimes punishable with death, although the same be found in such court of general quarter sessions, shall be tried in the supreme court, or court of oyer and terminer, or general gaol delivery, and not elsewhere; and for that purpose the said court of general quarter sessions shall cause all such indictments to be delivered to the next supreme court, or court of oyer and terminer, or general gaol delivery, to be held in such county.

What indictments, found in the sessions, shall be tried in the supreme court, or court of oyer and terminer, or general gaol delivery.

Writs and process of the court of sessions how to be signed, sealed, and tested.

III. And be it enacted *by the authority aforesaid*, That all precepts, writs, and process, issuing out of the court of general quarter sessions of the peace, shall be signed by the clerk, and sealed with the seal of the said court, and shall be tested the day on which the said court shall have adjourned, and in the name of the presiding justice of such court.

Justices to send recognizances to the next court after taken.

IV. And be it enacted *by the authority aforesaid*, That every justice of the peace, who hath taken, or shall take any recognizance for the keeping of the peace, or good behaviour, shall certify, send, or bring the same recognizance to the next court of general quarter sessions of the peace in and for the county, where he is or hath been justice, that the party so bound may be called; and if the party so bound make default, the said default shall be then and there recorded, and the same recognizance prosecuted to effect in the manner directed by law.

Indictments to be sent to the court of general gaol delivery.

V. And be it enacted, *by the authority aforesaid*, That the courts of general quarter sessions of the peace shall send their indictments to the courts of general gaol delivery in their respective counties.

In what cases, justices shall take in writing the examination of offenders, and information against them.

Such examination and information to be sent to the next court.

Witnesses to be bound by recognizance to the next court, and such recognizance to be sent to the same.

VI. And be it enacted *by the authority aforesaid*, That all and every justice and justices of the peace, before whom any person shall be brought for treason, misprision of treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, larceny, or forgery, or for suspicion thereof, or for any crime punishable with death, or suspicion of such crime, shall, before he or they commit or send such offender to prison, take in writing, the examination of such offender, and information of those, who bring him or her, of the fact and circumstances thereof; which said examination and information shall be signed by such informant, and by the justice or justices before whom the same shall be taken; and also by the examinant, if he shall be willing to sign the same; and the said justice or justices shall deliver or transmit the said examination and information to the next court, in which such offender is or ought to be tried for such offence. And the said justices and every of them are hereby authorized and required to bind, by recognizance, all such as declare any thing material to prove the said treason or other offence as aforesaid against such offender, to appear in the supreme court the term following, or at the next session of oyer and terminer, or general gaol delivery for the county, where the offence was committed, or in such other court, where the said offence is cognizable, then and there to give evidence against the said offender; and shall certify the said recognizance and recognizances taken before him or them to the said court, where such witnesses are bound to appear, on the first day of the term or session of the same court.

Justices, who shall not perform the duties specified in the preceding section, to be fined by the court.

VII. And be it enacted *by the authority aforesaid*, That if any justice of the peace shall refuse or neglect to take such examination or information as aforesaid, or to deliver or transmit the same as aforesaid, or shall refuse or neglect to bind the witnesses to appear as aforesaid, or to certify the recognizance by him taken as

as aforesaid, then the court, wherein such witnesses ought to be bound to appear, and to which such examinations, informations and recognizances ought to have been delivered, transmitted or certified, upon due proof thereof upon examination before them, shall, for every such offence or neglect, set such a fine upon the said justice as the same court shall think fit and reasonable.

What offenders may or may not be admitted to bail by justices of the peace.

VIII. And be it enacted *by the authority aforesaid*, That the court of general quarter sessions of the peace, and the justices of the peace, and each and every of them in and for every county of this State, are hereby authorized, at their discretion, to let to bail or mainprise unto the next court of general quarter sessions of the peace, or of oyer and terminer, or general gaol delivery, to be held in the same county, all persons, who are or may be arrested or imprisoned in their respective counties, for any crime or offence therein done or attempted; except such as are or shall be charged with treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or suspicion thereof, or with any crime punishable with death, or suspicion of such crime, and no person or persons, charged with the offences, or any of them, so excepted as aforesaid, shall be admitted to bail or mainprise by the said court of general quarter sessions, or justices of the peace, or any of them.

Justices to send recognizances of bail to the next court; and to bind by recognizance witnesses to give evidence.

IX. And be it enacted *by the authority aforesaid*, That all and every justice and justices of the peace, who shall let any offender to bail, shall certify, send, or bring such recognizance of bail to the next court of general quarter sessions, or of oyer and terminer, or general gaol delivery, to which the said offender shall be bound to appear. And it shall be the duty of all and every justice or justices of the peace to bind, by recognizance, all such persons as can give testimony against any such offender touching his or her offence, to appear at the next court of general quarter sessions, or of oyer and terminer, or general gaol delivery, as the case may require, to be held within the county where the trial thereof shall be had, then and there to give evidence against such offender; and also to certify, send, or bring such recognizance to the same court. And further, If any justice of the peace shall offend in any thing against the true intent and meaning of this clause, or section, then the court of general quarter sessions of the peace, or of oyer and terminer, or general gaol delivery, of the county, where such offence shall be committed, upon due proof thereof, upon examination before them, shall, for every such offence, set such fine on the said justice of the peace as the same court shall think fit and reasonable.

Justices of the peace offending against this section to be fined.

Justices to bind witnesses and to take their examinations in all offences against the State and to send the same to the proper court.

X. And be it enacted *by the authority aforesaid*, That it shall be the duty of every justice of the peace to bind, by recognizance, to the proper court, all persons, who can bear testimony touching any offence committed against this State, whether the offender be arrested, imprisoned, bailed, or not, and to take the examinations of such witnesses respecting the same; and the said recognizances and examinations to certify, send, or bring to such court as aforesaid; and in case such justice of the peace shall offend herein, he shall be proceeded against and fined in the manner directed in the section immediately preceding.

A warrant issued against an offender by a justice of the peace of one county, may be indorsed by a justice of the peace of any other county, where such offender shall reside or escape.

XI. And be it enacted *by the authority aforesaid*, That in case any person, against whom a warrant shall be issued by any justice or justices of the peace of any county in this State, for any offence there committed or done, shall escape, go into, reside, or be in any other county, out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for, and it is hereby declared to be the duty of any justice or justices of the peace of the county, where such person shall escape, go into, reside, or be, upon proof being made, upon oath or affirmation, of the hand writing of the justice or justices granting such warrant, to indorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons, to whom such warrant was originally directed, to execute such warrant in such other county, out of the jurisdiction of the justice or justices granting such warrant as aforesaid, and to apprehend and carry such offender before the justice or justices, who indorsed such warrant, or some other justice or justices of such other county, where such warrant was indorsed; and in case the offence, for which such offender shall be so apprehended as aforesaid, shall be bailable in law by a justice of the peace, and such offender shall be willing and ready to give bail for his or her appearance at the next court of general

gaol

A. D. 1794.

gaol delivery, or general quarter sessions of the peace, to be held in and for the county, where the offence was committed, such justice or justices of such other county, before whom such offender shall be brought, shall and may take bail of such offender for his or her appearance at the next court of general gaol delivery, or general quarter sessions of the peace, to be held in and for the county, where such offence was committed, in the same manner as the justices of the peace of the proper county might have done; and the justice or justices of such other county, so taking bail as aforesaid, shall deliver the recognizance of bail, and all other proceedings relating to the said offender and offence before him had, to the constable, or other person or persons, so apprehending such offender, as aforesaid, who is and are hereby required to receive the same, and to deliver over such recognizance and other proceedings to the clerk of the court of general gaol delivery, or of the court of general quarter sessions of the county, where such offender is required to appear, by virtue of such recognizance; and such recognizance and other proceedings shall be as good and effectual in law, to all intents and purposes, and of the same force and validity, as if the same had been entered into, taken, or acknowledged before a justice or justices of the peace in and for the proper county, where the offence was committed, and the same proceedings shall be had thereon; and in case such constable, or other person, to whom such recognizance, or other proceeding shall be so delivered as aforesaid, shall refuse or neglect to deliver over the same to the clerk of such court as aforesaid, where the offender is required to appear by virtue of such recognizance, such constable or other person shall forfeit thirty dollars, to be recovered against him, with costs, by action of debt, bill, plaint, or information, in any court of record having cognizance thereof, by any person or persons, who will prosecute or sue for the same. And in case the offence, for which such offender shall be apprehended in any other county, shall not be bailable in law by a justice of the peace, or such offender shall not give bail for his or her appearance at the next court of general gaol delivery, or of general quarter sessions of the peace, to be held in and for the county, where the offence was committed, to the satisfaction of the justice or justices, before whom such offender shall be brought in such other county, then the constable or other person, so apprehending such offender, shall carry and convey such offender before one of the justices of the peace of the proper county, where such offence was committed, there to be dealt with according to law.

No action to be brought against a justice, who shall indorse such warrant.

XII. AND BE IT ENACTED *by the authority aforesaid*, That no action of trespass or false imprisonment, or information, or indictment shall be brought, sued, commenced, exhibited, or prosecuted, by any person or persons whatsoever, against the justice or justices, who shall indorse such warrant, for or by reason of his or their indorsing the same; but such person or persons shall be at liberty to bring or prosecute his, her, or their action or suit, against the justice or justices, who originally granted such warrant, in the same manner as such person or persons might have done in case this clause of this act had not been made.

An ACT *to prevent the burning of woods, marshes and meadows.*

Passed the 24th of November, 1794.

Persons, who shall set fire to or burn woods, marshes or meadows, liable to be fined or imprisoned, and to pay double damages.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person shall wilfully set fire to, or burn, or procure or cause to be burnt his or her own woods, marshes, or meadows, or the woods, marshes, or meadows in his or her tenure or possession, by means whereof any other person shall be damnified in his or her houses, buildings, fences, woods, or other property whatsoever, or shall wilfully set fire to or burn, or procure or cause to be burnt any woods, marshes, or meadows of another, whether the same be enclosed or not; such person, so offending in any of the premises, shall be deemed to be guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labour not exceeding twelve months, or both; and also shall yield and pay double damages to the party injured thereby, to be recovered, by action on the case, with costs of suit, in any court having cognizance thereof.

But this act not to prevent the burning

PROVIDED, That nothing in this act contained shall be construed to prohibit the owners

owners of salt and fresh marshes and meadows, and their tenants, from burning such marshes and meadows in the usual manner, in which the same have been heretofore burnt in the several counties of this State.

A. D. 1794.

of marshes and meadows in the manner heretofore done.

II. And be it enacted *by the authority aforesaid*, That when the woods, in any part of this State, shall be on fire, the justices of the peace, the constables, and the overseers of the highways, residing in the vicinity of said fire, shall, and they are hereby severally authorized and required, forthwith to order such and so many of the inhabitants within their respective jurisdictions, as they shall severally deem necessary, to repair to the place where such fire shall prevail, and there to assist in extinguishing or stopping the progress of the same; and if any person, so ordered to assist in manner aforesaid, shall refuse or neglect to comply with such order, he shall forfeit and pay one dollar for every day he shall so neglect or refuse to obey, to be recovered, with costs, before any justice of the peace of the county, where such notice has been given, and the oath or affirmation of the person, who shall give such order, shall be sufficient evidence whereon to convict such offender; and the forfeiture so recovered shall be applied as a reward to such person or persons, as the officers aforesaid, or the major part of them, shall deem best entitled thereto for superior exertion at the extinguishment, or in stopping the progress of such fire.

Weeds when on fire, how to be extinguished.

III. And be it enacted *by the authority aforesaid*, That the act, entitled, "An Act to prevent unreasonable burning the woods," and the act, entitled, "An Act for restraining the burning of the woods, marshes, and meadows," passed the thirty first day of July, in the year of our Lord, one thousand, seven hundred and forty, and the act, entitled, "A supplementary act to the act, entitled, An Act for restraining the burning of the woods, marshes, and meadows," passed the twentieth day of June, in the year of our Lord, one thousand, seven hundred and sixty five, be, and they hereby are respectively repealed. Provided, That neither such repeal, nor any thing in this act contained shall bar, prevent or affect the recovery of any fine, forfeiture, penalty, or sum or sums of money, which may have been incurred, forfeited, or arisen, or sued or prosecuted for under the two acts last mentioned; but that every indictment, suit, bill, plaint, or action upon the two last recited acts, and every offence against them, or cause of action under them, or either of them, which shall have been found, presented, had, or instituted, or shall have arisen or accrued previously to the passing of this act, shall be proceeded upon in the same manner as if this act had not been made.

Former acts repealed.

But the repeal not to effect the recovery of antecedent forfeitures.

An ACT *for the prevention of frauds and perjuries.*

Passed the 26th of November, 1794.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every deed of gift, and conveyance of goods and chattels, made or to be made, in trust to the use of the person or persons, making the same deed of gift or conveyance, shall be, and hereby is declared to be void and of no effect.

Deeds of gift of goods to the use of the person making them to be void.

II. AND for the avoiding and abolishing of all feigned, covenous, and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments, and executions, as well of lands and tenements, as of goods and chattels, which have been and are devised and contrived of malice, fraud, covin, collusion, or guile, to the end, purpose and intent, to delay, hinder or defraud creditors, and others, of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures and demands, not only to the let or hindrance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, agreements, bargains, contracts and traffic between man and man, without which, no commonwealth or civil society can be maintained or continued; *Be it enacted by the authority aforesaid*, That all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or any of them, or of any lease, rent, common, or other profit or charge out of the same lands, tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise, and all and every bond, suit, judgment and execution, at

Preamble.

All bonds, judgments, conveyances, &c. to defraud creditors and others of their just demands, shall, as to them, be void and of no effect.

A. D. 1794.

any time heretofore had or made, or hereafter to be had or made, to or for any intent or purpose before declared and expressed, shall be deemed and taken, (only as against that person or those persons, his, her, or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures and demands, by such guileful, covenous, or fraudulent devices, and practices, as aforesaid, are, or shall, or may be in any wise disturbed, hindered, or defeated,) to be clearly and utterly void, frustrate, and of no effect; any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

III. AND for as much as not only this State, but divers of the citizens thereof, and bodies politic and corporate, after conveyances obtained or to be obtained, and purchases made or to be made, of lands, tenements, leases, estates and hereditaments, for money, or other good considerations, may have, incur and receive great loss and prejudice, by reason of fraudulent and covenous conveyances, estates, gifts, grants, charges and limitations of uses heretofore made, or hereafter to be made, of, in, or out of the lands, tenements or hereditaments, so purchased, or to be purchased; which said gifts, grants, charges, estates, uses and conveyances, were, or hereafter shall be meant and intended by the parties, who so make the same, to be fraudulent and covenous, of purpose and intent to deceive such as have purchased, or shall purchase the same; or else, by the secret intent of the parties, the same to be to their own proper use, and at their free disposal, coloured nevertheless by a feigned countenance and shew of words and sentences, as though the same were made bona fide, for good causes, and upon just and lawful considerations; for remedy of which incoveniences, and for the avoiding of such fraudulent, feigned and covenous conveyances, gifts, grants, charges, uses and estates, and for the maintenance of upright and just dealing in the purchasing of lands, tenements and hereditaments; *Be it enacted by the authority aforesaid*, That all and every conveyance, grant, charge, lease, estate, incumbrance and limitation of use or uses, of, in, or out of any lands, tenements, or hereditaments whatsoever, at any time heretofore had or made, or hereafter to be had or made, for the intent and purpose to defraud and deceive such person or persons, bodies politic or corporate, as have purchased, or shall hereafter purchase any estate of inheritance, or for life or lives, year or years, of or in the same lands, tenements or hereditaments, or any part or parcel thereof, so before conveyed, granted, leased, charged, incumbered or limited in use, or to defraud and deceive such as have or shall purchase any rent, profit or commodity, in or out of the same or any part thereof, shall be deemed and taken, (only as against the person and persons, bodies politic and corporate, his, her, and their heirs, successors, executors, administrators and assigns, and against all and every other person and persons, lawfully having or claiming by, from or under them, or any of them, who have purchased, or shall hereafter so purchase, for money, or other good consideration, the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity, in or out of the same,) to be utterly void, frustrate, and of no effect; any pretence, colour, feigned consideration, or expressing of any use or uses, to the contrary notwithstanding.

Conveyances, made to defraud or deceive purchasers, shall, as to them, be ineffectual and void.

IV. AND BE IT ENACTED *by the authority aforesaid*, That all and every the parties to such feigned, covenous and fraudulent feoffment, gift, grant, alienation, bargain, lease, charge, conveyance, bonds, suits, judgments, executions, and other things before expressed, or being privy to and knowing of the same, or any of them, who, at any time hereafter, shall wittingly and willingly, put in use, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made, bona fide, and upon good consideration, or shall alien or assign any the lands, tenements, goods, leases, or other things before mentioned, to him, her or them conveyed as aforesaid, or any part thereof, shall incur the penalty and forfeiture of one year's value of the said lands, tenements and hereditaments, leases, rents, commons, or other profits, of or out of the same, and the whole value of the said goods and chattels, and also so much money as is or shall be contained in any such covenous and feigned bond; the one moiety whereof, to be to the State, and the other moiety to the party or parties grieved by such feigned and fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, leases, rents, commons, profits, charges,

Penalty on the parties to, or making use of such fraudulent bonds judgments, conveyances, &c; and how to be recovered and applied.

ges and other things aforesaid; to be recovered in any court of record, by action of debt, bill, plaint or information. A. D. 1794.

V. And be it enacted *by the authority aforesaid*, That if any person or persons have made, or hereafter shall make, any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in, or out of any lands, tenements or hereditaments, with any clause, provision, article or condition of revocation, determination or alteration, at his, her, or their will or pleasure, of such conveyance or assurance, gift, grant, limitation of use or uses, or estates, of, in, or out of the said lands, tenements or hereditaments, or of, in, or out of any part or parcel of them, contained or mentioned in any writing, deed or indenture; and after such conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance so made or had, shall or do bargain, sell, demise, grant, convey or charge the same lands, tenements or hereditaments, or any part or parcel thereof, to any person or persons, bodies politic and corporate, for money, or other good consideration, paid or given, (the said first conveyance, assurance, gift, grant, demise, charge or limitation, not by him, her or them revoked, made void, or altered, according to the power and authority reserved or expressed unto him, her or them, in or by the said secret conveyance, assurance, gift or grant,) then the said former conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance, as touching the said lands, tenements or hereditaments, so after bargained, sold, demised, granted, conveyed or charged, against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators and assigns, and against all and every person or persons, who have or claim, or shall or may lawfully have or claim any thing, by, from or under them, or any of them, shall be deemed, taken, and adjudged to be void, frustrate, and of no effect, by virtue and force of this act.

A prior conveyance, with clause of revocation, shall be void against a posterior conveyance of the same lands, made by the same person, for a good consideration.

VI. Provided always, *and be it further enacted by the authority aforesaid*, That this act, or any thing therein contained, shall not extend to, or be construed to impeach, defeat, make void or frustrate, any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest or limitation of use or uses, of, in, to, or out of any lands, tenements or hereditaments, goods or chattels, at any time heretofore had or made, or hereafter to be had or made, upon or for good consideration, and bona fide, to any person or persons, bodies politic or corporate, not having, at the time of such conveyance or assurance to him, her or them made, any manner of notice or knowledge of such covin, fraud or collusion, as is aforesaid; and also, that no lawful mortgage made, or to be made, bona fide, and without fraud or covin, and upon good consideration, shall be impeached or impaired, by force of this act; but every such mortgage shall stand in like force and effect, as the same should have done if this act had never been made; any thing before in this act to the contrary notwithstanding.

This act not to affect bona fide conveyances to persons not having notice or knowledge of the fraud; nor any bona fide mortgage.

VII. AND WHEREAS sundry common recoveries of lands, tenements and hereditaments, have heretofore been had, and hereafter may be had, against a tenant in tail, or other tenant of the freehold, the reversion or remainder, or the right of the reversion or remainder then being in some other person or persons; *Be it enacted by the authority aforesaid*, That every such common recovery heretofore had, and hereafter to be had, of any lands, tenements or hereditaments, shall, as touching such person or persons, who then had any reversion or remainder, or right of reversion or remainder, and against the heirs of every of them, stand, remain, and be of such like force and effect, and of no other, as the same should have been, if this act had never been made.

Common recoveries, against the tenant of the freehold, not to be affected by this act.

VIII. Provided always, *and be it enacted by the authority aforesaid*, That this act, or any thing herein before contained, shall not extend to make void any estate or conveyance, by reason whereof, any person or persons shall use any voucher in any writ of Formedon, now depending, or hereafter to be depending; but that all and every such voucher and vouchers, in any writ of Formedon, shall stand, and be in like force and effect, as if this act had never been made.

Nor any voucher in writs of Formedon.

IX. AND for the prevention of many fraudulent practices, which are commonly endeavoured to be upheld by perjury and subornation of perjury, *Be it enacted by the authority aforesaid*, That all leases, estates, interests of freehold or terms of years, or any uncertain interests of, in, to, or out of any messuages, lands, tenements

All estates, by living and seisin only, or by parol, to have the effect of estates at will;

A. D. 1794.

ments or hereditaments, made or created, or hereafter to be made or created, by livery and seisin only, or by parol, and not put in writing, and signed by the parties, so making or 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 parol leases or estates, or any former law or usage to the contrary notwithstanding; except, nevertheless,

Except leases for three years.

all leases, not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount to two third parts, at the least, of the full improved value of the thing demised.

No lease or interest in lands to be granted or assigned but by writing.

X. And be it enacted *by the authority aforesaid*, That no leases, estates or interests, or term or terms of year or years, or any uncertain interest of, in, to, or out of any messuages, lands, tenements or hereditaments, shall, at any time hereafter, 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 his, her, or their agent or agents, thereunto lawfully authorized by writing, or by act and operation of law.

All declarations and creations of trusts of lands to be in writing.

XI. And be it enacted *by the authority aforesaid*, That all declarations or creations of trusts or confidences of any lands, tenements or hereditaments, shall be manifested and proved by some writing, signed by the party, who is or shall be by law enabled to declare such trust, or by his or her last will in writing, or else they shall be utterly void and of no effect: but all declarations or creations of uses, trusts or confidences of any fines, or common recoveries of any lands, tenements or hereditaments, manifested and proved, or which hereafter shall be manifested and proved, by any deed already made, or hereafter to be made, by the party, who is or shall be by law enabled to declare such uses or trusts, after the levying or suffering of any such fines or recoveries, are and shall be as good and effectual in the law, as if this clause of this act had never been made.

This act not to effect trusts arising by construction, or transferred or extinguished by operation of law.

XII. Provided always, *and be it further enacted by the authority aforesaid*, That where any conveyance hath been, or shall be made of any lands, tenements or hereditaments, by which a trust or confidence shall or may arise or result by implication or construction of law, or be transferred or extinguished by act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been, if this act had not been made.

Grants and assignments of trusts to be in writing.

XIII. And be it enacted *by the authority aforesaid*, That all grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by his or her last will in writing, or else shall likewise be utterly void and of no effect.

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

XIV. And be it enacted *by the authority aforesaid*, That no action shall be brought, whereby to charge any 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 miscarriages of another person; or to charge any person, upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; or upon any agreement, that is not to be performed within the space of one year from the making thereof, 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 or her lawfully authorized.

No contract for the sale of goods, for the price of 30 dollars, to be binding, unless goods be delivered, earnest given, or note in writing be made.

XV. And be it enacted *by the authority aforesaid*, That no contract for the sale of any goods, wares and merchandize, for the price of thirty dollars or upwards, shall be allowed to be good, except the buyer 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 of 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.

An ACT

An ACT *constituting courts of oyer and terminer and general gaol delivery.* A. D. 1794.

Passed the 27th of November, 1794.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the justices, for the time being, of the supreme court, and the judges, for the time being, of the respective courts of common pleas, in and for the several counties of this State, or any three or more of them, of whom one of the justices of the supreme court shall always be one, shall, by virtue of this act, and without any other commission, constitute the courts of oyer and terminer and general gaol delivery, in and for the said counties respectively.

Judges of the supreme court and of the common pleas to constitute courts of oyer and terminer and gaol delivery.

II. AND BE IT ENACTED *by the authority aforesaid*, That the said courts of oyer and terminer and general gaol delivery shall be held, in each county, at the place of holding the court of common pleas in the same, and at such times as the supreme court shall appoint.

Times and places of holding such courts.

III. AND BE IT ENACTED *by the authority aforesaid*, That each of the said courts of oyer and terminer and general gaol delivery may be held and continued for so long time, at each session, as the business of and before such court shall render necessary.

And their continuance.

IV. AND BE IT ENACTED *by the authority aforesaid*, That the said courts of oyer and terminer and general gaol delivery shall have cognizance of all crimes and offences whatsoever, which, by law, are or shall be of an indictable or presentable nature, and which have been or shall be committed, done, or attempted, within the counties respectively, for which such courts shall be held; and shall have authority to deliver the gaols in such counties of the prisoners therein; doing in the premises what to justice doth or shall appertain, according to the laws this State.

Jurisdiction of such courts.

V. AND BE IT ENACTED *by the authority aforesaid*, That the respective sheriffs of the several counties of this State shall cause to come before the said courts of oyer and terminer and general gaol delivery, at the time and place specified in the precept for that purpose, twenty four good and lawful men to serve as grand jurors, and so many good and lawful men to serve as petit jurors, as the persons, constituting such court or courts, shall direct, to be contained in the precept also issuing for that purpose.

Sheriff to return grand and petit juries to the said courts.

VI. AND BE IT ENACTED *by the authority aforesaid*, That the clerk of the supreme court, for the time being, shall, from time to time, as soon as conveniently may be, after the said courts of oyer and terminer, and general gaol delivery or either of them shall be appointed to be held in the several counties of this State, or any of them, and at least fifteen days before the time of holding the said courts respectively, issue precepts under the seal of the said supreme court, directed to the respective sheriffs of the counties, in which such court or courts shall be held, for the purpose expressed in the preceding section, mentioning the day and place, when and where the said court or courts is or are to be held, and commanding the said sheriffs respectively to do what is hereby required of them; and that the said precepts shall be tested in the name of the chief justice, or, if that office be vacant, in the name of the justice of the supreme court next in precedence.

Clerk of the supreme court to issue precepts for grand and petit jurors.

How to be tested.

VII. AND BE IT ENACTED *by the authority aforesaid*, That the said sheriffs shall cause to be publicly proclaimed throughout their respective counties, that all persons, who will prosecute against the prisoners being in the gaols of their counties, be then and there before such courts to prosecute against them agreeably to law, and shall also give notice to all justices of the peace, coroners, and constables, within their respective counties, that they be then and there in their own persons, with their rolls, records, indictments and other remembrances, to do those things, which to their offices in that behalf shall appertain to be done; and the said respective sheriffs, and their respective under sheriffs, shall then and there attend, in their proper persons, to do those things, which to their offices in that behalf appertain to be done.

Sheriffs to attend such courts, and to give notice to prosecutors and officers to attend.

A. D. 1794.

The court of oyer and terminer may send process into any county.

VIII. And be it enacted *by the authority aforesaid*, That the said court of oyer and terminer shall have authority to direct their writs and processes into all the counties of this State, if necessary, to arrest and bring before them any person, who shall be indicted in such court.

Courts of gaol delivery may try prisoners indicted before the quarter sessions.

IX. And be it enacted *by the authority aforesaid*, That the said courts of general gaol delivery, in the several counties, shall have authority to deliver the gaols of such prisoners, as are or shall be indicted before the courts of general quarter sessions of the peace, in and for the same counties respectively.

Courts of oyer and terminer and gaol delivery may order indictments found before them to be delivered to the quarter sessions for trial.

X. And be it enacted *by the authority aforesaid*,, That when any indictment or presentment, which the court of general quarter sessions of the peace of the county is competent to try and determine, shall be found in the court of oyer and terminer or general gaol delivery, in and for such county, it shall be lawful for such court, if they think proper, to order the said indictment or presentment to be delivered to the clerk of the said court of general quarter sessions, who is hereby directed to file the same, and also to make entry thereof in the minutes at the then or subsequent session; and after such affiling, the said court of general quarter sessions shall have authority to issue process and proceed upon, and to hear and determine, such indictment or presentment, in like manner, as if the same had been originally found in the said court of general quarter sessions.

Indictments, transmitted to the court of gaol delivery, may be remanded to the quarter sessions.

XI. And be it enacted *by the authority aforesaid*, That if any indictment or presentment found in the court of general quarter sessions of the peace, to the trial and determination whereof the said court is competent, be transmitted to the court of general gaol delivery, then such court may, if they think proper, remand such indictment or presentment to the said court of general quarter sessions, there to be proceeded upon in like manner, as if the same had not been sent to the said court of general gaol delivery.

An ACT *to incorporate societies for the promotion of learning.*

Passed the 27th of November, 1794.

Societies for the promotion of learning may elect trustees, who shall be a body politic and corporate.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That each and every association of persons in this State for the promotion of learning, which now are or hereafter may be, are hereby authorized and empowered respectively to meet together, at their usual place of meeting, at any time hereafter by them to be agreed upon, giving at least ten days notice of the time and purpose of meeting, by an advertisement, set up in some conspicuous place in the neighborhood, where the said association may be formed, and, being so met, shall, by plurality of voices of the persons so associated and met, elect any number of their said association, not exceeding seven, to be trustees of the same; which said trustees and their successors are hereby constituted a body politic and corporate, in fact, name and law, to all intents and purposes, forever, by whatever name the said trustees, elected as aforesaid, shall take and assume in the manner herein after directed, and by that name they shall have perpetual succession.

Mode of acquiring a name.

II. And be it enacted *by the authority aforesaid*, That the trustees of any association, elected as aforesaid, upon taking on themselves any name, and certifying the same under their hands and seals, and causing such certificate to be recorded in the clerk's office of the county, in which such association shall be formed, such trustees, and their successors forever, shall be known and distinguished in law, in all cases whatsoever, by the name they shall have so taken and recorded, as fully, to all intents and purposes whatsoever, as though they were herein particularly named and constituted; and by such name they respectively shall, forever thereafter, be authorized, in law, to purchase, take, hold, receive and enjoy, any lands, tenements or hereditaments, in fee simple or otherwise, by the gift, alienation or devise of any person or persons able to grant or devise the same; and also goods, chattels, legacies and donations granted and given to the said association, of which they shall be trustees as aforesaid, of what kind or quality soever, so that the yearly value of the same doth not exceed four thou-

Trustees may purchase and hold goods and lands, whose yearly value shall not exceed 4,000 dollars;

sand

sand dollars: and also, that the said trustees of each respective association, as aforesaid, and their successors, by the name assumed and recorded as aforesaid, shall and may grant, convey, assign and sell, or otherwise dispose of, all or any of their lands, tenements or hereditaments, goods, chattels and personal estate whatsoever as to them shall seem meet: and also, that the said trustees of each respective association as aforesaid, and their successors, by the name to be taken and recorded as aforesaid, shall be able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all courts of judicature whatsoever: and also, that the said trustees of each respective association as aforesaid, and their successors, shall and may make, and forever thereafter have and use a common seal, with such device or devices, as they shall think proper, for sealing all and singular deeds, contracts and other writings, touching and concerning the said corporation, and may, as often as they shall think fit, alter and new make the same, or any other their common seal.

And may sue and be sued, and have a common seal.

III. And be it enacted *by the authority aforesaid*, That for perpetuating a line of succession in the trustees of each respective association as aforesaid, it shall and may be lawful for the members of the said respective associations, from time to time, to meet together, at a place to be appointed by the president of the said trustees, by notice in writing as herein is before directed, and then and there, at such meeting or meetings, to elect other trustees in the place and stead of those, or either, or any of those before elected, in case they shall see cause for removing any of the said trustees; provided, that such removal shall not be in less than one year after their appointment; and also to fill up vacancies of their trustees, occasioned by death, removal or resignation; and provided, that after the first meeting and election as aforesaid, no person shall be entitled to vote for a trustee or trustees, unless he or she shall have been duly admitted a member of the said association, by a majority of the trustees for the time being, and shall have paid or secured to be paid to the said trustees, for the use of the association, at least eight dollars; and provided also, that no member of any such association shall be entitled to more than one vote in the choice of a trustee or trustees as aforesaid, to be delivered by him or herself in person, or by proxy duly appointed.

Line of succession, how to be kept up.

IV. And be it enacted *by the authority aforesaid*, That it shall and may be lawful for the trustees, elected for each respective association as aforesaid, and their successors, from time to time, as they may find it necessary or expedient, to choose a president, being one of the said trustees, and such other officers and assistants as may be requisite for the keeping and preserving of the goods and chattels, monies, books, charters, deeds, writings and accounts of the said corporation; which said president shall keep in his custody the common seal, and shall have power from time to time, and at all times hereafter as occasion may require, to call a meeting of the said trustees, at such convenient place in the neighborhood of the association, as he shall think proper, for the execution of all or any of the powers, hereby given them; and in case of sickness, absence or death of the president, all the powers hereby in him vested, shall vest and remain in the senior trustee on record, until the recovery or return of the president, or until a new president shall be chosen, as aforesaid.

Trustees to elect a president and other officers.

Powers and duties of the president.

V. And be it enacted *by the authority aforesaid*, That the said trustees of each respective association, as aforesaid, and their successors, shall have full power and authority to make all such necessary and useful orders and regulations (not inconsistent with the laws of the State) as to them may seem meet and proper, for promoting the cause of learning in the seminary under their superintendance, as well with respect to discipline, as to the different branches of education to be used therein. Provided nevertheless, That there be a majority of the whole number of the said trustees, present and agreeing, in order to make valid any such order, regulation, vote or proceeding.

Trustees to make orders and regulations.

VI. And be it enacted *by the authority aforesaid*, That all the proceedings of the trustees of each and every association, as aforesaid, shall, from time to time, be fairly entered in a book or books to be provided and kept for that purpose; which book or books, together with the common seal, and all monies, charters, deeds, accounts and writings whatsoever, appertaining to the association, shall, upon the decease, resignation

Proceedings of the trustees to be fairly entered in a book.

A. D. 1794.

resignation or removal of the former president, or other person having the custody of them, or any of them, be delivered to, or go over unto the next successor in office, to be kept and preserved for the use and benefit of the said association.

An ACT *concerning the action of account.*

Passed the 1st of December, 1794.

Executors may have a writ of account.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from henceforth, executors shall have a writ of account, and the same action and process in the same writ, as the testator might have had, if he had lived.

Account may be brought against the executors of guardians.

II. AND BE IT ENACTED *by the authority aforesaid*, That actions of account shall and may be brought and maintained against the executors or administrators of every guardian, bailiff and receiver.

One joint tenant, or tenant in common may bring action of account against the other.

III. AND BE IT ENACTED *by the authority aforesaid*, That actions of account shall and may be brought and maintained by one joint tenant or tenant in common, his or her executors or administrators, against the other, as bailiff, for receiving more than comes to his or her just share or proportion, and against the executor or administrator of such joint tenant, or tenant in common.

Proceedings in actions of account.

IV. AND BE IT ENACTED *by the authority aforesaid*, That where any person is or shall be bound or liable to account as guardian, bailiff, receiver, or otherwise, to another, and will not give account willingly, and the party, to whom such account ought to be made, shall sue out a writ of account, if the person, against whom such writ is issued, being summoned, do not appear at the return of the writ, or if it be returned, that the defendant hath nothing, then the defendant shall be attached, by his or her body, to come and make his or her account; and when such accountant shall appear in court, and submit or be adjudged to account, auditors shall be assigned by the court to take his or her account; and if such accountant shall be found in arrears, and cannot pay the arrears, and the costs of suit forthwith, then a fieri facias de bonis et terris, or a capias ad satisfaciendum shall be awarded. And if such accountant shall neglect or refuse to account before the auditors, he or she shall be committed to gaol, there to be kept under safe custody until he or she shall satisfy the plaintiff of his or her demand, with costs. And further, if it shall be found, that there is a surplusage due, on such account, from the plaintiff to the defendant, then the defendant shall have judgment to recover such surplusage, with costs of suit, against the plaintiff, unless where the suit is brought by executors or administrators, in right of their testator or intestate; in which case, the defendant shall not recover costs against them; and the defendant shall or may have such execution for the same, as he or she might have had, if he or she had recovered such surplusage by action of debt. And moreover, if any sheriff or gaoler shall suffer any such prisoner to go out of prison, without the assent of the plaintiff, he shall be answerable to the plaintiff for the debt, or damages done to him or her by such accountant, according as it may be found by the country, and the party, at whose suit such prisoner was committed, shall have his or her recovery, by action of debt, or by bill or plaint, in any court of record.

Sheriff, who shall suffer prisoner to escape, to be answerable for the debt, or damages.

Auditors may examine witnesses and parties on oath.

V. AND BE IT ENACTED *by the authority aforesaid*, That the auditors appointed by the court, where any action of account shall be depending, shall be and hereby are empowered to administer an oath, and to examine the parties, on oath, touching the matters in question; and for their pains and trouble in auditing and taking such account, shall have such allowance as the court shall adjudge to be reasonable, to be paid by the party in whose favor the balance shall be found, and to be allowed to him or her in the costs to be taxed against the opposite party, where costs are recoverable.

Compensation of auditors.

An ACT

An ACT *to enable infants, who are seized or possessed of estates in trust, or by way of mortgage, to make conveyances of the same.*

A. D. 1794.

Passed the 1st of December, 1794.

Preamble.

WHEREAS many inconveniences do and may arise by reason that persons, under the age of twenty one years, having estates in lands, tenements and hereditaments, only in trust for others, or by way of mortgage, cannot, though by the direction of the cestui que trust, or mortgagor, convey any sure estate in any such lands, tenements or hereditaments to any other person or persons; for remedy whereof,

Infant-trustee may, by direction of the court of chancery, convey lands.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful to and for any such person or persons, under the age of twenty one years, by the direction of the court of chancery, signified by an order made upon hearing all parties concerned, on the petition of the person or persons, for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor or mortgagors, or guardian or guardians of such infant or infants, or person or persons entitled to the monies secured by or upon any lands, tenements or hereditaments, whereof any infant or infants are or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements or hereditaments, in such manner as the said court of chancery shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance, so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said infant or infants were, at the time of making such conveyance or assurance, of the full age of twenty one years.

Infant-trustee may be compelled to make such conveyance.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That all and every such infant or infants, being only trustee or trustees, mortgagee or mortgagees, as aforesaid, shall and may be compelled by such order, so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust estates or mortgages.

An ACT *for regulating references and determining controversies by arbitration.*

Passed the 2d of December, 1794.

Preamble.

WHEREAS it hath been found by experience, that references, made by rule of court, have contributed much to the advancement of justice, and the ease of the people, especially where long and intricate accounts, which are most proper for deliberate examination, are the subject of discussion; in order, therefore, to promote trade, to facilitate the means of accommodation, to expedite the determination of controversies, and to render the awards of arbitrators the more effectual;

Persons may agree that their submission of the suit, shall be made a rule of court.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for all persons, who are desirous of ending, by arbitration, any controversy, suit, quarrel, or matter in contention, for which there is no other remedy but by personal action, or suit in equity, to agree, that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any of the courts of record of this State, which the parties shall choose, and to insert such their agreement in their submission, or the condition of the bond, or promise, whereby they oblige themselves respectively to submit to the award or umpirage of any person or persons; which agreement, being so made and inserted in their submission, or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof, made by the witnesses thereunto, or any one of them, in the court of which the same is agreed to be made a rule, and reading and filing the said affidavit in court, be entered of record in such court, and a rule shall thereupon be made

A. D. 1794.

made by the said court, that the parties shall submit to, and finally be concluded by, the arbitration or umpirage, which shall be made concerning them by the arbitrators or umpire, pursuant to such submission; and in case of disobedience to such arbitration or umpirage, the party refusing or neglecting to perform and execute the same, or any part thereof, shall be subject to all the penalties of contemning a rule of court, when he is a suitor or defendant in such court, and the court on motion, shall issue process accordingly, which process shall not be stopped or delayed in its execution, by any order, rule, command, or process of any other court, either of law or equity, unless it shall be made appear on oath or affirmation to such court, that the arbitrators or umpire misbehaved themselves, and that such award, arbitration or umpirage, was procured by corruption, or other undue means.

In case of disobedience, the party to be in contempt.

Process not to be delayed, unless the arbitrators have misbehaved, or the award has been procured by corruption, or undue means.

II. And be it enacted *by the authority aforesaid*, That any arbitration or umpirage, procured by corruption, or undue means, shall be judged and esteemed void and of none effect, and accordingly be set aside by any court of law or equity, so as complaint of such corruption or undue practice be made in the court, where the rule is made for submission to such arbitration or umpirage, before the last day of the next term after such arbitration or umpirage has been made, and published to the parties.

Arbitration procured by corruption or undue means, shall be [illegible] and void.

III. And be it enacted *by the authority aforesaid*, That whenever a cause shall be referred, by rule of court, to referees, the report or award of such referees, or of the major part of them, if confirmed by the court, shall be final, and conclude the parties; and if any sum be thereby found for the plaintiff or plaintiffs, judgment shall be entered and execution issued for the same, with costs, if, by law, the plaintiff or plaintiffs would have recovered costs, had a verdict passed in the same cause for the sum so reported to be due; but if the referees, or the major part of them, report, that there is not any thing due to the plaintiff or plaintiffs, and the report be confirmed, then judgment shall be entered against the plaintiff or plaintiffs, that he, she, or they take nothing by his, her, or their writ, bill, or plaint, and the defendant or defendants shall, in such case, have judgment for and recover his, her, or their costs against the plaintiff or plaintiffs, if, by law, the defendant or defendants would have been entitled to costs, had a verdict passed in the same cause for him, her, or them; and if the referees, or the major part of them, report any sum to be due to the defendant or defendants, and the report be confirmed, then judgment shall be entered, and execution issued against the plaintiff or plaintiffs, for the sum so reported to be due to such defendant or defendants, with costs, if, by law, the defendant or defendants would have been entitled to costs had a verdict in the same cause passed against him, her, or them.

Report of referees, under a rule of court, shall conclude the parties; on which judgment shall be entered and execution issued.

IV. And be it enacted *by the authority aforesaid*, That, in every cause referred by rule of court, each referee shall, before he proceeds to the business of the reference, take an oath, or affirmation, faithfully and fairly to hear and examine the cause in question, and make a just and true report, according to the best of his skill and understanding; which oath and affirmation any judge of any court of record, or any justice of the peace of this State, is hereby authorized and required to administer.

Referees to take an oath before they act as such.

By whom to be administered.

V. And be it enacted *by the authority aforesaid*, That, in every cause referred by rule of court, process of subpœna may issue out of such court to convene witnesses before the referees, and that the said witnesses shall be examined on oath or affirmation; which oath or affirmation the referees in the said cause are hereby authorized to administer; and that there shall be allowed to every such referee one dollar for every day necessarily spent in the business of the reference, besides a reasonable allowance for his expenses, which, in the first instance, shall be paid by the prevailing party, and shall afterwards be allowed to such party in the taxation of costs, where costs are recoverable.

Subpœnas to issue for witnesses, to whom the referees are to administer the usual oath.

Compensation of referees, what, and by whom paid.

VI. And be it enacted *by the authority aforesaid*, That, in cases of arbitration, every arbitrator shall, before he proceeds to the business submitted to him, take an oath or affirmation of the like nature with that herein before prescribed to be taken by referees, and to be administered in like manner.

Arbitrators to take an oath before they act as such.

An ACT

An ACT *for the better regulation of proceedings upon writs of mandamus.*

A. D. 1794.

Passed the 2d of December, 1794.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That where any writ of mandamus shall issue out of the supreme court, directed and delivered to any person or persons, who, by law, is or are required to make a return to such writ, such person or persons shall make his or their return to the first writ of mandamus.

Return to be made to the first writ of mandamus.

II. AND BE IT ENACTED *by the authority aforesaid*, That from and after the passing of this act, as often as any writ of mandamus shall issue out of the said supreme court, and a return shall be made thereunto, it shall and may be lawful to and for the person or persons, suing or prosecuting such writ of mandamus, to plead to or traverse all or any the material facts contained within the said return; to which the person or persons, making such return, shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein, for the determination thereof, as might have been had, if the person or persons, suing such writ, had brought his or their action on the case for a false return; and if any issue shall be joined on such proceedings, the person or persons, suing such writ, shall and may try the same in such place, as an issue joined in such action on the case should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by nil dicit, or for want of a replication, or other pleading, he or they shall recover his or their damages and costs, in such manner as he or they might have done in such action on the case as aforesaid; and such damages and costs shall and may be levied by fieri facias, or capias ad satisfaciendum, as in other cases; and a peremptory writ of mandamus shall be granted, without delay, for him or them for whom judgment shall be given, as might have been, if such return had been adjudged insufficient, and in case judgment shall be given for the person or persons making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

The proceedings on a writ of mandamus, when it is returned.

III. PROVIDED ALWAYS, *and be it further enacted by the authority aforesaid*, That if any damages shall be recovered, by virtue of this act, against any such person or persons, making such return to such writ as aforesaid, he or they shall not be liable to be sued in any other action or suit, for the making such return.

If damages be recovered against the person, who makes the return, he shall not be liable to any other suit.

IV. AND BE IT ENACTED *by the authority aforesaid*, That it shall and may be lawful to and for the said supreme court to allow to such person or persons respectively, to whom any writ of mandamus shall be directed, or to the person or persons, who shall sue or prosecute the same, such convenient time respectively to make a return, plead, reply, rejoin or demur, as to the said court shall seem just and reasonable.

Court may allow convenient time to make return and plead.

An ACT *concerning divorce and alimony.*

Passed the 2d of December, 1794.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the court of chancery shall have jurisdiction of all causes of divorce by this act directed and allowed; provided the parties be inhabitants of this State.

Court of chancery to have cognizance of causes of divorce.

II. AND BE IT ENACTED *by the authority aforesaid*, That the like process and course of practice and procedure shall be had and pursued in causes of divorce, as are usually had and pursued in other causes on the equity side of the said court, except, that the answer of defendants shall not be under oath.

Mode of proceeding to be the same as on the equity side of the court.

III. AND BE IT ENACTED *by the authority aforesaid*, That divorces from the bond of matrimony shall be decreed, in case the parties are within the degrees prohibited

In what cases divorces from the bond

A. D. 1794.

of matrimony shall be decreed.

prohibited by law, and in case of adultery in either of the parties, and also for wilful, continued and obstinate desertion, for the term of seven years; but the decree or sentence of divorce, in such cases, shall not render illegitimate the issue theretofore born.

Polygamy shall be a cause of such divorce.

IV. AND BE IT ENACTED *by the authority aforesaid*, That divorces from the bond of matrimony shall also be decreed, where either of the parties had another wife or husband living at the time of such second or other marriage; and that all marriages, where either of the parties shall have a former wife or husband living, at the time of such marriage, shall be invalid from the beginning and absolutely void, and the issue thereof shall be deemed to be illegitimate, and subject to all the legal disabilities of such issue.

If both parties be guilty of adultery, or if it be by collusion, no divorce shall be decreed.

V. AND BE IT ENACTED *by the authority aforesaid*, That if it appear to the court, that the adultery complained of is occasioned by collusion of the parties, and done with intention to procure a divorce, or that both parties have been guilty of adultery, then no divorce shall be decreed.

Extreme cruelty to be a cause of divorce from bed and board.

VI. AND BE IT ENACTED *by the authority aforesaid*, That divorce from bed and board shall be decreed for extreme cruelty in either of the parties; but if it appear, that the cruelty complained of is occasioned by the collusion of the parties, and done with intent to obtain such divorce, then no divorce shall be decreed.

In what divorces, chancery shall take order for the maintenance of the wife and children.

VII. AND BE IT ENACTED *by the authority aforesaid*, That when a divorce shall be decreed, on account of the parties being within the prohibited degrees, or for the cause of adultery, or extreme cruelty, the chancery shall and may, in every such divorce, take such order touching the care and maintenance of the children of that marriage, and also touching the maintenance and alimony of the wife, or any allowance to be made to her, and, if any, the security to be given for the same, as, from the circumstances of the parties, and nature of the case, may be fit, equitable and just.

Penalty on persons cohabiting after being divorced for being within the prohibited degrees.

VIII. AND BE IT ENACTED *by the authority aforesaid*, That if any persons, who shall be divorced on account of their being within the prohibited degrees, shall, after such divorce, cohabit together, such persons, so offending, shall be liable to all the pains and penalties provided by the then existing laws against incest.

Penalty on persons cohabiting after a divorce for prior marriages, or for adultery.

IX. AND BE IT ENACTED *by the authority aforesaid*, That 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, so offending, shall be liable to all the pains and penalties provided by the laws, then existing against adultery.

An ACT *for the more easy redemption and foreclosure of mortgages.*

Passed the 3d of December, 1794.

Preamble.

WHEREAS mortgagees frequently bring actions of ejectment for the recovery of lands and estates to them mortgaged, and bring actions on bonds given by mortgagors to pay the money secured by such mortgages, and for performing the covenants therein contained, and likewise commence suits in equity to foreclose their mortgagors from redeeming their estates; and the courts of law, where such ejectments are brought, have not power to compel such mortgagees to accept the principal monies and interests due on such mortgages, and costs, or to stay such mortgagees from proceeding to judgment and execution in such actions; but such mortgagors must have recourse to a court of equity for that purpose, in which case likewise such court does not give relief until the hearing of the cause: for remedy thereof, and to obviate all objections relating to the same,

In actions at law on mortgages, and no suit thereon in equity, a tender of the sum

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That from henceforth where any action shall be brought on any bond for payment of the money secured by such mortgage, or performance of the covenants therein contained, or where any action of ejectment shall

shall be brought by any mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns, for the recovery of the possession of any mortgaged lands, tenements or hereditaments, and no suit shall be then depending in the court of equity, for or touching the foreclosing or redeeming of such mortgaged lands, tenements or hereditaments; if the person or persons, having right to redeem such mortgaged lands, tenements or hereditaments, and who shall appear and become defendant or defendants in such action, shall at any time, pending such action, pay unto such mortgagee or mortgagees, or, in case of his, her, or their refusal, shall bring into court, where such action shall be depending, all the principal monies and interest due on such mortgage, and also all such costs as have been expended in any suit or suits at law or in equity, upon such mortgage, (such money for principal, interest and costs to be ascertained and computed by the court, where such action is or shall be depending, or by the proper officer, by such court to be appointed for that purpose,) the monies, so paid by such mortgagee or mortgagees, or brought into such court, shall be deemed and taken to be in full satisfaction and discharge of such mortgage; and the court shall and may discharge every such mortgagor or defendant of and from the same accordingly; and shall and may, by rule or rules of the same court, compel such mortgagee or mortgagees, at the costs and charges of such mortgagor or mortgagors, to assign, surrender, or reconvey such mortgaged lands, tenements and hereditaments, and such estate and interest as such mortgagee or mortgagees have or hath therein, and deliver up all deeds, evidences, and writings in his, her, or their custody, relating to the title of such mortgaged lands, tenements and hereditaments unto such mortgagor or mortgagors, who shall have paid or brought such monies into the court, his, her, or their heirs, executors or administrators, or to such other person or persons, as he, she, or they shall for that purpose, nominate or appoint.

due, with costs, in court, shall be full satisfaction and discharge; and thereupon the mortgagee shall be compelled to reconvey and surrender the premises.

II. And be it enacted *by the authority aforesaid*, That from henceforth where any bill or bills, suit or suits, shall be filed, commenced, or brought in the court of equity of this State by any person or persons having or claiming any estate, right or interest, in any lands, tenements or hereditaments, under or by virtue of any mortgage or mortgages thereof, to compel the defendant or defendants in such suit or suits, (having or claiming a right to redeem the same,) to pay the plaintiff or plaintiffs in such suit or suits, the principal money and interest due on any such mortgage or mortgages, together with any sum or sums of money due on any incumbrance or specialty, charged, or chargeable on the equity of redemption thereof, and in default of payment thereof, to foreclose such defendant or defendants of his, her, or their right or equity of redeeming such mortgaged lands, tenements or hereditaments; such court of equity, where such suit or suits shall be depending, upon application made to such court by the defendant or defendants in such suit, having a right to redeem such mortgaged lands, tenements or hereditaments, and upon his, her, or their admitting the right and title of the plaintiff or plaintiffs in such suit, may and shall, at any time or times before such suit or cause shall be brought to hearing, make such order or decree therein, as such court might or could have made therein, in case such suit or cause had then been regularly brought to hearing before such court; and all parties to such suit or suits shall be bound by such order or decree so made, to all intents and purposes, as if such order or decree had been made, by such court, at or subsequent to the hearing of such cause or suit.

On bills filed to foreclose the equity of redemption, the court may, at the request of the defendant, proceed to a decree before a regular hearing.

III. Provided always, *and be it further enacted by the authority aforesaid*, That this act, or any thing herein contained, shall not extend to any case, where the person or persons, against whom the redemption is or shall be prayed, shall, by writing under his, her, or their hands, or the hand of his, her or their attorney, agent or solicitor, to be delivered, before the money shall be brought into such court at law, to the attorney or solicitor for the other side, insist, either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums than what appear on the face of the mortgage, or shall be admitted on the other side; nor to any case where the right of redemption to the mortgaged lands and premises in question in any cause or suit shall be controverted or questioned by or between different defendants in the same cause or suit; nor shall be any prejudice to any subsequent mortgagee or mortgagees, or subsequent incumbrancer; any thing in this act to the contrary thereof in any wise notwithstanding.

This act not to affect a subsequent mortgage, nor to extend to cases, where the equity of redemption is controverted, or the money due is not adjusted.

A. D. 1795.

An ACT *to prevent, in certain cases, the abatement of suits and reversal of judgments.*

Passed the 17th of February, 1795.

Actions not to abate, after interlocutory judgment, by the death of the plaintiff or defendant.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That in all actions depending, or to be commenced, in any court of record of this State, if any plaintiff happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted, or maintained by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted, or maintained, against the executors or administrators of such defendant; and the plaintiff, or, if he or she be dead after such interlocutory judgment, his or her executors or administrators, shall and may have a scire facias against the defendant, if living, after such interlocutory judgment; or if he or she died after, then against his or her executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him, her or them; and if such defendant, his or her executors or administrators, shall appear at the return of such writ, and not shew or allege any matter sufficient to arrest the final judgment, or being returned, warned, or upon two writs of scire facias it be returned, that the defendant, his or her executors or administrators, had nothing whereby he, she or they might be summoned, or could not be found in the county, shall make default, that thereupon an assessment of damages shall be had, or a writ of inquiry of damages shall be awarded, which assessment being duly made, or writ of inquiry being duly executed and returned, judgment final shall be given for the said plaintiff, his or her executors or administrators, prosecuting such writ or writs of scire facias against such defendant, his or her executors or administrators, respectively.

Suit not to abate by the death of one of the plaintiffs or defendant, if the cause of action survive.

II. AND BE IT ENACTED *by the authority aforesaid*, That if in any action or suit there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed, at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

Action not to abate, after issue joined, by the death of either party, if sustainable by or against the executors or administrators.

III. AND BE IT ENACTED *by the authority aforesaid*, That in all actions depending, or to be commenced in any court of record of this State, if any plaintiff die after issue joined, and before final judgment, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after issue joined, and before final judgment, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant; but the death of such plaintiff or defendant being suggested upon the record, and the names of the executors or administrators of such deceased plaintiff or defendant being entered upon the record, the action shall proceed to final judgment at the suit of the plaintiff; or if he or she die after issue joined, at the suit of his or her executors or administrators against the defendant; or if he or she die after issue joined, against his or her executors or administrators, respectively.

Suits in chancery not to abate by the death of one of the plaintiffs or defendants, if the cause of suit survive.

IV. AND BE IT ENACTED *by the authority aforesaid*, That if in any suit or action now depending, or hereafter to be brought in the court of chancery, there are, or shall be two or more plaintiffs or defendants, and one or more of them die, if the cause of such suit or action survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, such suit or action shall not be thereby abated; but such death being suggested, and shewn by affidavit, or otherwise, to the satisfaction of the court, such suit or action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

V. AND BE IT ENACTED *by the authority aforesaid*, That in every suit or action in the court of chancery, in which any bill is or shall be filed, and in which there are

A. D. 1795.

are or shall be two or more plaintiffs or defendants, and any of them die, and the cause of action doth not survive, but other persons shall become parties in interest, in right or by the death of such deceased party, such suit shall, by reason of such death, be abated only with respect to such deceased party, and the surviving plaintiff or plaintiffs may proceed against the surviving defendant or defendants, without reviving the suit against the representatives of the deceased party, or any other, who may become interested by the death of such party; but in such case such representatives, or such person or persons, as shall become interested by the death of such party, shall not be bound by any order or decree in such cause, to which they are not made parties, and if the plaintiff or plaintiffs choose to make the representatives of the deceased party, or others, who may become interested by the death of such decedent, parties to such suit, no bill of revivor, or subpœna ad revivendum, shall be necessary; but the court shall and may, by rule or order, as often as there shall be occasion for it, direct the suit to stand revived, which rule or order shall be served on the clerk; and unless the representatives of such deceased party, or others, who may become interested by the death of such party, shall, within such time after such service as aforesaid, as the court shall limit and appoint, appear and put in their answer, or signify their disclaimer of the suit, and the matters in controversy therein, the plaintiff or plaintiffs may cause their appearance to be entered, and in such case the answer of the deceased party, if any there be, shall be deemed and taken as and for the answer of such representatives, or other person or persons interested by the death of such party. And further, that if any plaintiff or plaintiffs, in any such suit now depending or hereafter to be brought, wherein the cause of action doth not survive as aforesaid, happen to die, pending such suit, the lawful representative or representatives of such deceased plaintiff or plaintiffs, or any other person or persons, interested by the death of such plaintiff or plaintiffs, shall and may, upon affidavit thereof by him, her or them, or any other person or persons, and on motion made in court, be, by the rule or order of the court, inserted as a complainant or complainants in the said suit, and be permitted to make such amendment in the bill or bills of complaint, as his, her or their title or interest therein may require; to which amendment or amendments, the defendant or defendants shall be compellable, by rule or order of the said court, to answer, proceed to issue and examination of witnesses, and production of proofs, and all other proceedings shall be had thereon as in ordinary cases; and in case such person or persons shall not, within such time after the death of such plaintiff or plaintiffs, as the court shall limit and appoint, cause himself, herself or themselves to be entered as plaintiff or plaintiffs, in the room of such deceased plaintiff or plaintiffs, that then, and in every such case, the surviving plaintiff or plaintiffs may insert the representative or representatives of such deceased plaintiff or plaintiffs, or other person or persons interested by his, her or their death, as defendant or defendants in such suit, and proceed in the manner herein before directed in cases, where the lawful representative or representatives of a deceased defendant or defendants may be made party or parties.

If in a suit in chancery by or against several persons, the cause of action shall not survive, then the suit to abate only as to the person deceased.

How the plaintiff may make the representatives of such deceased person, parties to the suit.

How the representatives of a deceased plaintiff may be made parties in such suit.

VI. AND BE IT ENACTED *by the authority aforesaid*, That in all actions, real, personal or mixed, the death of either party, between the verdict and the judgment, shall not be alleged for error, so as such judgment be entered within two terms after such verdict.

The death of either party, between verdict and judgment, not to be error.

VII. AND WHEREAS suits, commenced by original writs, have been protracted and delayed, by reason of the necessity of having fifteen days, at the least, between the days of the teste and the days of the return of the writs used in personal actions, and in actions of ejectment for lands and tenements; for remedy whereof, *Be it enacted by the authority aforesaid*, That in all actions of debt, and all other personal actions whatsoever, and in all actions of ejectment for lands and tenements now depending, or which at any time hereafter shall be depending, by original writ, in any court of record, after any issue joined therein, to be tried by a jury, and also after any judgment had or obtained, or to be had or obtained, in any such court, in any such action as aforesaid, there shall not need to be fifteen days between the teste-day, and the day of the return of any writ or writs of venire facias, habeas corpora juratorum, or distringas juratores, or writs of fieri facias, or of capias ad satisfaciendum, and that the want of fifteen days between the teste-day and day of return of any such writ, shall not be, nor shall be assigned, taken or adjudged to be any matter or cause of error.

The want of fifteen days between the teste and return of certain writs, not to be error.

VIII. AND

A. D. 1795.

Part of a former act repealed.

VIII. And be it enacted *by the authority aforesaid*, That the sixth section of the act, entitled, "An Act to direct the mode of examination of witnesses in the court of chancery, and for other purposes therein mentioned," passed the twenty second day of November, in the year of our Lord, one thousand, seven hundred and ninety, be, and the same is hereby repealed; but such repeal shall not affect any rule, order or proceeding heretofore made or had in any suit, in virtue and pursuance of such section.

An ACT *concerning tenures.*

Passed the 18th of February, 1795.

Freeholders may alien their lands.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall, for ever hereafter, be lawful for every freeholder to give, sell, or alien the lands or tenements whereof he or she is, or at any time hereafter shall be, seized in fee simple, or any part thereof, at his or her pleasure, so always that the purchaser shall hold the lands or tenements so given, sold, or aliened, of the chief lord, if there be any, of the same fee, by the same services and customs, by which the person or persons making such gift, sale, or alienation, before held the same lands or tenements; and if such freeholder give, sell, or alien a part only of such lands or tenements to any, the feoffee or alienee shall immediately hold such part of the chief lord, and shall be forthwith charged with the services for so much as pertains, or ought to pertain, to the said chief lord, for the same parcel, according to the quantity of the land or tenement so given, sold, or aliened; and so in this case, the same part of the service shall remain to the lord to be taken by the hands of the feoffee or alienee, for which he or she ought to be attendant and answerable to the same chief lord, according to the quantity of the land or tenement given, sold or aliened, for the parcel of the service so due.

If a freeholder alien part only of his lands, the alience shall hold such part of the chief lord of the fee.

All wardships, liveries, &c. taken away and discharged.

II. And be it enacted *by the authority aforesaid*, That all wardships, liveries, primer seisins, and ousterlemains, values, and forfeitures of marriage, by reason of any tenure by knights service, and all mean rates, and all other gifts, grants and charges incident or arising for, or by reason of wardships, liveries, primer seisins, or ousterlemains, shall be, and hereby are declared to be taken away and discharged, from the twelfth day of March, in the year of our Lord, one thousand, six hundred and sixty four; and that all fines for alienations, seisures, and pardons for alienations, tenure by homage, and all charges incident or arising for, or by reason of wardship, livery, primer seisin, ousterlemain, or tenure by knights service, escuage, and also relief and aid pur file marrier, and pur fair fitz chivalier, and all other charges incident thereunto, shall be, and hereby are likewise declared to be taken away and discharged, from the said twelfth day of March, in the year of our Lord, one thousand, six hundred and sixty four; and that all tenures by knights service, and by knights service in capite, and by socage in capite, and the fruits and consequents thereof happened, or which shall or may hereafter happen, or arise thereupon or thereby, shall be, and hereby are declared to be taken away, discharged, and for ever abolished.

Fines for alienation, seizures, &c. taken away and discharged.

Tenures by knight service, abolished.

All tenures of any estate of inheritance, before the 4th of July, 1776, turned into free and common socage.

III. And be it enacted *by the authority aforesaid*, That all tenures of any honors, manors, lands, tenements, or hereditaments, or of any estate of inheritance at the common law, held either of the king, or of any other person or persons, bodies politic or corporate, at any time before the fourth day of July, in the year of our Lord, one thousand, seven hundred and seventy six, are hereby declared to be turned into free and common socage, to all intents and purposes, and shall be construed, adjudged and deemed to be free and common socage from the time of the creation thereof, and for ever thereafter; and that the same honors, manors, lands, tenements and hereditaments, shall for ever hereafter stand and be discharged of all tenure by homage, escuage, voyages royal, and charges for the same, wardship incident to tenure by knights service, and values and forfeitures of marriage, and all other charges incident to tenure by knights service, and of and from relief, aid pur file marrier, and aid pur fair fitz chivalier.

IV. And be it enacted *by the authority aforesaid*, That all conveyances and devises

devises of any manors, lands, tenements or hereditaments, at any time heretofore made, shall be expounded to be of such effect, as if the same manors, lands, tenements or hereditaments, had been then held, and continued to be holden, in free and common socage only.

A. D. 1795.

Antecedent conveyances and devises of lands, to operate in free and common socage.

V. PROVIDED ALWAYS, *and be it further enacted by the authority aforesaid*, That this act, or any thing herein contained, shall not take away, nor be construed to take away or discharge, any rents certain, or other services incident or belonging to tenure in common socage, due, or to grow due to this State, or any mean lord, or other private person, or the fealty or distresses incident thereunto.

This act not to take away rents certain or incident to common socage.

VI. AND BE IT ENACTED *by the authority aforesaid*, That the tenure upon all gifts, grants, or conveyances heretofore made, or hereafter to be made, of any manors, lands, tenements or hereditaments, of any estate of inheritance, by any letters patent under the great seal of this State, or in any other manner by this State, or the legislature thereof, or by the commissioners or agents of forfeited estates, or other lawful and competent authority under this State, or the legislature thereof, shall be and remain allodial, and not feudal; and shall for ever hereafter be taken and adjudged to be, and continue in free and pure allodium only, and shall be for ever discharged of all wardship, value and forfeiture of marriage, livery, primer seisin, ousterlemain, relief, aid pur file marrier, aid pur fair fitz chivalier, rents, renders, fealty, and all other services whatsoever.

Tenure of lands, which have been, or shall be granted by this State, to be allodial, and not feudal.

An ACT *concerning costs.*

Passed the 18th of February, 1795.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person or persons shall commence or sue, in any court of record within this State, any action, bill, or plaint of debt, covenant, trespass upon the case, detinue, account, or upon any statute, for any offence or wrong personal, immediately supposed to be done to the plaintiff or plaintiffs, trespass, ejectment, or any other action whatsoever, real, personal, or mixed; and the plaintiff or plaintiffs, demandant or demandants, shall, by verdict or otherwise, recover damages in any such action, bill, or plaint, that then the plaintiff or plaintiffs, demandant or demandants, in every such action, bill, or plaint, shall have judgment to recover his, her, or their costs, against every such defendant or defendants, to be assessed and taxed by the court, or any judge or justice thereof, in which any such action, bill, or plaint, shall be commenced, sued, or taken; and shall be levied and recovered, together with the debt or damages aforesaid, against the body or bodies, or goods and chattels, lands and tenements, of the defendant or defendants: PROVIDED, That such costs, so assessed and taxed, shall not exceed the fees, which, by law, are, or may be, stated and allowed.

A plaintiff, who shall recover damages in an action, shall recover costs.

II. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons shall commence or sue, in any court of record within this State, any action, bill, or plaint whatsoever, as aforesaid, wherein the plaintiff or plaintiffs, demandant or demandants, might have costs, in case judgment should be given for him, her, or them; and the plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint, after appearance of the defendant or defendants, be non-prossed, or nonsuited, or that any verdict happen to pass by any lawful trial against the plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint, that then the defendant or defendants, in every such action, bill, or plaint, shall have judgment to recover his costs against every such plaintiff or plaintiffs, (except against executors or administrators prosecuting in the right of their testators or intestates,) demandant or demandants, to be assessed and taxed in manner aforesaid, by the court, or any judge or justice of the court, where any such action, bill, or plaint shall be commenced, sued, or taken; and also, that such defendant or defendants shall have such process and execution for the recovery of his, her, or their costs, against the said plaintiff or plaintiffs, demandant or demandants, as the same plaintiff or plaintiffs, demandant or demand-

The defendant, if he prevail, shall have costs in all cases, where the plaintiff would have been entitled to them.

A. D. 1795.

ants, should or might have had against the defendant or defendants, if judgment had been given for the said plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint.

Avowants in replevin to recover costs.

III. And be it enacted *by the authority aforesaid*, That every avowant, and other person or persons, that make avowry, justification or cognizance, as bailiff or servant to any person or persons, in any replevin or second deliverance, if the same avowry, cognizance or justification, be found for them, or the plaintiff or plaintiffs in the same be nonsuit, or otherwise barred, that then they shall recover their damages and costs against the said plaintiff or plaintiffs, as the same plaintiff or plaintiffs should have done, if he, she, or they had recovered in the same replevin or second deliverance, in case the same had been found against the defendant or defendants.

In trespass, assault and battery, if the jury find damages under six dollars, the plaintiff shall have no more costs than damages, without a certificate from the judge.

IV. And be it enacted *by the authority aforesaid*, That in all actions of trespass, and of assault and battery, commenced or prosecuted in the supreme court, wherein the judge, at the trial of the cause, shall not find and certify, under his hand, upon the back of the record, that an assault and battery was sufficiently proved by the plaintiff against the defendant, or that the freehold or title of the land, mentioned in the plaintiff's declaration, was in question, the plaintiff in such action, in case the jury shall find the damages to be under the value of six dollars, shall not recover or obtain more costs of suit than the damages so found shall amount to; and if any more costs, in any such action, shall be awarded, the judgment shall be void, and the defendant shall, by this act, be acquitted of and from the same, and may have his action against the plaintiff for such vexatious suit, and recover his damages and costs of such suit, in any of the courts of record in this State having cognizance thereof.

If the trespass shall be certified to be wilful and malicious, the plaintiff shall have full costs.

V. And be it enacted *by the authority aforesaid*, That in all actions of trespass, to be commenced and prosecuted in the supreme court, wherein at the trial of the cause it shall appear, and be certified by the judge, under his hand, upon the back of the record, that the trespass, upon which any defendant shall be found guilty, was wilful and malicious, the plaintiff shall recover, not only his damages, but his full costs of suit; any thing in this act contained to the contrary notwithstanding.

If, in an action of slander in the supreme court, the jury assess the damages under six dollars, the plaintiff shall have no more costs than damages.

VI. And be it enacted *by the authority aforesaid*, That in all actions upon the case for slanderous words, to be sued or prosecuted by any person or persons in the supreme court, if the jury, upon the trial of the issue in such action, or the jury, that shall enquire of the damages, do find or assess the damages under six dollars, then the plaintiff or plaintiffs, in such actions, shall have and recover only so much costs as the damages so given or assessed amount unto, without any further increase of the same.

Costs given on writs of scire facias and prohibitions.

VII. And be it enacted *by the authority aforesaid*, That in all suits upon any writ or writs of scire facias, and suits upon prohibitions, the plaintiff obtaining judgment, or any award of execution, after plea pleaded, or demurrer joined therein, shall likewise recover his costs of suit; and if the plaintiff shall become nonsuit, or suffer a discontinuance, or a verdict shall pass against him, the defendant shall recover his costs, and have execution for the same in the manner aforesaid.

Plaintiff to pay costs if he discontinue, be nonsuit, or a verdict against him.

In what cases some of the defendants when acquitted, shall have costs.

VIII. And be it enacted *by the authority aforesaid*, That where several persons are or shall be made defendants to any action, bill, or plaint of trespass, assault, false imprisonment, trespass on the case, replevin, or ejectment, and any one or more of them shall be, upon the trial thereof, acquitted by verdict, every person, so acquitted, shall have and recover his or her costs of suit, in like manner as if a verdict had been given against the plaintiff or plaintiffs, and acquitted all the defendants; unless the judge or judges, before whom such cause shall be tried, shall, immediately after the trial thereof, in open court, certify upon the record, or in the minutes of the court, under his or their hands, that there was a reasonable cause for the making such person or persons a defendant or defendants to such action, bill, or plaint.

IX. And

A. D. 1795.

IX. And be it enacted *by the authority aforesaid*, That if any person or persons shall commence or prosecute, in any court of record, any action, plaint, or suit, wherein, upon any demurrer, either by plaintiff or defendant, demandant or tenant, judgment shall be given by the court against such plaintiff or demandant; or if at any time after judgment given for the defendant or tenant in any such action, plaint, or suit, the plaintiff or demandant shall sue any writ or writs of error, to annul the said judgment, and the said judgment shall afterwards be affirmed to be good, or the said writ of error shall be discontinued, or the plaintiff shall be nonsuit therein, the defendant or tenant in every such action, plaint, suit, or writ of error, shall have judgment to recover his costs against every such plaintiff or plaintiffs, demandant or demandants, and have execution for the same in like manner as aforesaid.

If, on demurrer, judgment be given against the plaintiff, or on error, it be affirmed, he shall pay costs.

X. And be it enacted *by the authority aforesaid*, That if any defendant or defendants, tenant or tenants, or any other person or persons, who shall be bound by any judgment obtained in any court of record, shall sue, either before or after execution had, any writ of error, to reverse any such judgment, then if the same judgment be affirmed good in the said writ of error and not erroneous, or if the said writ be discontinued in default of the party, or if any person or persons, who shall sue any writ of error, be nonsuited in the same, the said person or persons, against whom the said writ of error is or shall be so sued, shall recover his, her, or their costs, against the person or persons suing the same, to be taxed by the court, or any judge or justice of the court, before whom the said writ of error is returnable, and have execution for the same in manner aforesaid.

Costs given on a writ of error, if it be discontinued, or judgment be affirmed, or the plaintiff be nonsuited.

XI. And be it enacted *by the authority aforesaid*, That if any person or persons shall sue or prosecute any writ or writs of error, for reversal of any judgment whatsoever, given after any verdict in any court of record of this State, and the judgment shall afterwards be affirmed, then such person or persons shall pay unto the defendant or defendants in the said writ or writs of error, his, her, or their double costs, to be assessed and taxed by the court, or any judge or justice of the court, where such writ shall be depending, and be recovered by execution in like manner as aforesaid.

On affirmance of judgment in error, after verdict, defendant in error shall recover double costs.

XII. And be it enacted *by the authority aforesaid*, That upon the quashing any writ of error for variance from the original record, or other defect, the defendant or defendants, in such writ of error, shall recover against the plaintiff or plaintiffs, issuing out such writ, his, her, or their costs, as he, she, or they should have had, if the judgment had been affirmed, and to be recovered in the same manner.

On quashing a writ of error, defendant shall recover costs.

XIII. And be it enacted *by the authority aforesaid*, That no writ, commonly called capias pro fine, in any suit or action of trespass, ejectment, assault and false imprisonment, in any court of record, shall be sued out, or prosecuted against any defendant or defendants, or any further process thereupon; but the same fines are, and shall hereby be remitted and for ever discharged.

Capias pro fine abolished in certain cases.

XIV. And be it enacted *by the authority aforesaid*, That upon the complainant's dismissing his own bill in equity, or the defendant's dismissing the same, for want of prosecution, the complainant in the suit shall pay to the defendant or defendants, his, her, or their full costs, to be taxed by a master.

In equity, complainant shall pay costs, when his bill is dismissed.

XV. And be it enacted *by the authority aforesaid*, That in all suits commenced, or to be commenced upon any obligation or specialty, or contract, express or implied, made or had, or to be made or had, to the State of New-Jersey, or to the governor thereof, or to any person or persons, to or for the use of the State of New-Jersey, then, and in every such case, the State of New-Jersey, or other plaintiff or plaintiffs, shall have and recover the debt and costs, and damages, as any other common person may do in suits for his or her debts.

Defendants to pay costs in suits for debts due to the State.

XVI. And be it enacted *by the authority aforesaid*, That where any suit or action is or shall be commenced, sued, or prosecuted, by and in the name of any person or persons, for any debt, sum, or sums of money, due, owing, or belonging to this State, and the plaintiff or plaintiffs shall be nonsuited therein; or if a verdict

Defendants shall not recover costs in suits brought for debts due to the State.

A. D. 1795.

verdict shall pass against such plaintiff or plaintiffs, the defendant or defendants shall not recover any costs against such plaintiff or plaintiffs.

This act not to extend to popular actions, indictments, presentments, or inquisitions.

XVII. PROVIDED ALWAYS, *and be it further enacted by the authority aforesaid*, That nothing in this act contained shall extend to any popular action, nor to any action to be prosecuted by any person in behalf of himself and this State, upon any penal statute, nor to any indictment, presentment, or inquisition.

An ACT *for the maintenance of bastard children.*

Passed the 26th of February, 1795.

Two justices may take order for maintenance of bastard children;

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That any two justices of the peace of any county, within which any bastard shall be born, upon examination of the cause and circumstance, shall and may, at their discretion, take order for the better relief of every township, in which such bastard shall be born, in part or in all; and also, shall and may, at like discretion, take order for the keeping of every such bastard child, by charging the mother, or reputed father, with the payment of money weekly, or other sustenance for the relief of such child, as they shall think meet and convenient; and if, after the same order by them subscribed, under their hands, the mother, or reputed father, upon notice thereof, shall not, for his or her part, observe and perform the said order, that then every such party, so making default, in not performing the said order, shall be committed to the house of correction, or, for want thereof, to the common gaol of such county, there to remain without bail or mainprise, except he or she shall put in sufficient surety to perform the said order, or else personally to appear at the next court of general quarter sessions, or of general sessions of the peace, to be holden in and for the county, where such order shall be taken, and also, to abide such order as the said justices of the peace, or the major part of them, in their said sessions, shall take in that behalf, if they then and there shall take any; and if, at the said sessions, the said justices shall take no other order, then to abide and perform the order before made as aforesaid.

and if mother or reputed father disobey it, may commit him or her unless surety be given.

Examination, on oath, of the woman to be taken in writing before one or more justices;

II. AND BE IT ENACTED *by the authority aforesaid*, That if any woman shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any township, or shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable to any township, and shall, in either of such cases, in an examination to be taken in writing, upon oath, before any one or more justice or justices of the peace of any county, wherein such township shall lie, charge any person with having gotten her with child, it shall and may be lawful to and for such justice or justices, upon application made to him or them by the overseers of the poor of such township, or persons acting as such, or by any one of them, to issue his or their warrant or warrants for the immediate apprehension of such person so charged as aforesaid, and for bringing him before such justice or justices, or before any other of the justices of the peace of such county; and the justice or justices, before whom such person shall be brought, is and are hereby authorized and required to commit the person, so charged as aforesaid, to the house of correction, or common gaol of such county, unless he shall give security to indemnify such township, or shall enter into recognizance, with sufficient surety, with condition to appear at the next court of general quarter sessions, or of general sessions of the peace, to be holden for such county, and abide and perform such order or orders as shall be made in pursuance of this act.

who may issue warrant against the reputed father and commit him, unless he give security to indemnify the township, or to appear at the next court of sessions.

In what cases, the reputed father shall be discharged.

III. PROVIDED NEVERTHELESS, *and be it further enacted by the authority aforesaid*, That if the woman, so charging any person as aforesaid, shall happen to die, or be married, before she shall be delivered, or if she shall miscarry of such child, or shall appear not to have been with child at the time of her examination, then, and in any of the above cases, such person shall, at the next court of general quarter sessions, or of general sessions of the peace, to be holden for such county, be discharged from his recognizance, or immediately released out of custody, by warrant, under the hand and seal, or hands and seals, of any one or more justice or justices of the peace of such county.

IV. PROVIDED

A. D. 1795.

IV. PROVIDED ALSO, *and be it further enacted by the authority aforesaid*, That, upon application made by any person, who shall be committed to any gaol or house of correction by virtue of this act, or by any person in his behalf, to any one or more justice or justices of such county, such justice or justices is and are hereby authorized and required to summon the overseer or overseers of the poor of the township to appear before him or them, at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged, and if no order shall appear to have been made, in pursuance of this act, within six weeks after such woman shall have been delivered, such justice or justices shall and may discharge him from his imprisonment in such gaol or house of correction, to which he shall have been committed.

If no order of maintenance be made in six weeks after her delivery, the reputed father may be discharged.

V. AND WHEREAS the putative father and lewd mother of bastard children often run out of the township, and sometimes out of the county, and leave the said bastard children a charge upon the township, where they are born, or legally settled, although such putative father or mother have estate sufficient to support such children, and discharge the township; *Be it therefore enacted by the authority aforesaid*, That it shall and may be lawful for the overseers of the poor of such township, where any bastard child shall be born or settled, to apply to any two justices of the peace of the county, where the estate, real or personal, or any part thereof, of such putative father or lewd mother may be, and, by warrant or warrants, under the hands and seals of the said two justices, who are hereby authorized and required to issue the same, to seize and take the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such putative father or lewd mother, so absconding as aforesaid, for and towards the sustenance, bringing up and education of such bastard child, so left as aforesaid; and as soon as the said seizure shall be allowed of and confirmed by the justices, in their general quarter sessions, or general sessions of the peace, it shall and may be lawful for the overseers of the poor of such township, from time to time, and as often as the case may require, to sell and dispose of so much of the said goods and chattels, at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said sessions, and to apply the money arising therefrom towards the sustenance, bringing up and education of such bastard child, so left as aforesaid: AND FURTHER, That the said overseers of the poor shall be accountable to the justices of the peace, in their said general quarter sessions, or general sessions, for all such sum or sums of money, as shall or may arise by every such sale or sales, or be by them received for the rents and profits of such lands or tenements.

The goods of the father and mother of an illegitimate child to be sold, and the rents of their land to be received, to be applied to the maintenance and education of such child.

Overseers to be accountable to the quarter sessions for the monies, which they receive.

VI. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons shall be sued for any matter or thing, which he or they shall do in execution of this act, he or they may plead the general issue, and give the special matter in evidence; and if a verdict shall pass for the defendant or defendants, or if the plaintiff shall be nonsuited, or discontinue his suit, the defendant or defendants shall recover treble costs, and shall have the like remedy for the same, as any defendant hath in other cases by law.

If any person be sued for execution of this act, he may plead the general issue, &c. and, if acquitted, shall recover treble costs.

VII. AND BE IT ENACTED *by the authority aforesaid*, That the term, "township," made use of in this act, shall be descriptive of, equivalent to, and be understood to comprehend city, town-corporate, borough, township, precinct, and place, respectively.

The term "township," to comprehend city, precinct, &c.

An ACT *concerning executors, and the administration and distribution of intestates' estates.*

Passed the 2d of March, 1795.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That executors and administrators shall and may have an action for a trespass done to their testator or intestate, as of the goods and chattels of the same testator or intestate, carried away in his or her life time, against the trespassers, and recover their damages, in like manner as the person, whose executors or administrators they be, should have had, if he or she were living.

Executors and administrators may have actions for taking away goods of their testator or intestate.

A. D. 1795.

Executors and administrators liable to actions for goods taken or converted by their testator or intestate.

II. And be it enacted *by the authority aforesaid*, That where any testator or intestate shall, in his or her life time, have taken or carried away, or converted to his or her use, the goods or chattels of any person or persons, such person or persons, his or her executors or administrators shall have and maintain the same action against the executors or administrators of such testator or intestate, as he, she, or they might have had or maintained against such testator or intestate, and shall have the like remedy and process for the damages recovered in such action, as are now had and allowed in other actions against executors or administrators.

Executors and administrators of executors or administrators liable for waste.

III. And be it enacted *by the authority aforesaid*, That all and every the executors and administrators of any person or persons, who, as executor or executors, either of right, or in his, her, or their own wrong, or as administrator or administrators, hath or have wasted or converted, or hereafter shall waste or convert any goods, chattels, estate, or assets of any person deceased, to his, her, or their own use, shall be liable and chargeable, in the same manner as his, her, or their testator or intestate would have been, if living.

Executors of executors to have actions for debts &c. of the first testator, and be amenable to others.

IV. And be it enacted *by the authority aforesaid*, That executors of executors shall have actions of debt, account, and of goods carried away of the first testator, and execution of judgments obtained by, or recognizances made to the first testator, in any court of record, in the same manner as the first testator should have had, if he were in life, as well of actions of the time past as of the time to come; and that the same executors of executors shall answer to others, of as much as they have recovered of the goods of the first testator, as the first executors should do if they were in life.

Administrator de bonis non may have a scire facias.

V. And be it enacted *by the authority aforesaid*, That where any judgment hath been, or shall be had by or in the name of any executor or administrator; in such case an administrator de bonis non may sue forth a scire facias, and take execution upon such judgment.

All the executors shall be considered as one person, in suits brought against them, and such of them as are summoned or taken shall answer to the plaintiff.

VI. And be it enacted *by the authority aforesaid*, That in actions against divers executors, all the same executors shall be considered as one person, representing the person of the testator; and such of the executors, as the sheriff shall return, "summoned," on the summons, or "cepi corpus," or "corpora," on the capias ad respondendum, shall answer to the plaintiff or plaintiffs; and in case judgment shall pass for the plaintiff or plaintiffs, then such plaintiff or plaintiffs shall have his, her, or their judgment and execution against such of the executors, as the sheriff shall have returned in manner aforesaid, and against all others named in the writ, of the goods and chattels of the testator, as well as if they had all been summoned, or taken, or had appeared.

To whom the administration of estates shall be committed.

VII. And be it enacted *by the authority aforesaid*, That if any person die intestate, or if the executors named in any testament renounce the executorship, or refuse, or neglect, for the space of forty days after the death of the testator, to prove such testament, then administration of the goods, chattels, and credits of such intestate, or of such testator, with the testament annexed, shall be committed or granted to the widow, or the next of kin of such intestate or testator, or to some of them, if they or any of them will accept the same; and if none of them will accept thereof, then to such other proper person or persons, as will accept the same.

Administrators shall recover and be amenable as executors.

VIII. And be it enacted *by the authority aforesaid*, That all administrators, of whatever kind or description they may be, shall have actions to demand and recover, as executors, the debts due to the person deceased, and shall answer to others, to whom such deceased person was holden and bound, in the same manner as executors shall answer, and shall be accountable as executors be, in case of testament, as well of the time past as of the time to come.

IX. AND WHEREAS it is sometimes practised to the defrauding of creditors, that such persons as are to have the administration of the goods of others dying intestate committed to them, if they require it, will not accept the same, but suffer or procure the administration to be granted to some other of mean estate and indigent circumstances, from whom themselves, or others, by their means, do take deeds of gifts, and authorities by letters of attorney, whereby they obtain the estate

estate of the intestate into their hands, and yet stand not subject to pay any debts owing by the same intestate, and so the creditors, for want of knowledge of the place of habitation of the administrator, cannot arrest or sue him or her; and if they happen to find him or her out, yet, for want of ability in him or her to satisfy, of his or her own goods, the value of that which he or she hath conveyed away or wasted of the intestate's goods, or released of his or her debts, the creditors cannot have or recover their just debts and demands; therefore, *Be it enacted by the authority aforesaid*, That all and every person and persons, who shall obtain, receive, and have any goods or debts of any person dying intestate, or a release, or other discharge of any debt or duty, that belonged to the intestate, upon any fraud as is aforesaid, or without such valuable consideration, as shall amount to the value of the same goods or debts, or near thereabouts, (except it be in, or towards satisfaction of some just debt, of the value of the same goods or debts to him or her owing by the intestate, at the time of his or her decease,) shall be charged and chargeable as executor of his or her own wrong, and so far only as all such goods and debts, coming to his or her hands, or whereof he or she is released or discharged by such administrator, will satisfy; deducting, nevertheless, to and for himself, allowance of all just debts, upon good consideration, and without fraud, owing to him or her by the intestate, at the time of his or her decease, and all other payments made by him or her, which lawful executors or administrators may and ought to have and pay by the laws of this State.

What persons, though fraud, shall be charged as executors in their own wrong.

But such persons to be allowed just debts and lawful payments.

X. And be it enacted *by the authority aforesaid*, That the executor and executors named by the testator, or person deceased, or such other person or persons, to whom administration hath been or shall be committed, where any person hath died or shall die intestate, or by way of intestate, calling, or taking to him, her, or them, at least two reputable disinterested freeholders; and in their presence, and by their discretion, shall make, or cause to be made, a true and perfect inventory of all the goods, chattels, and credits, as well moveable as not moveable, whatsoever, that were of the person so deceased, and the same shall, by the said executor or executors, administrator or administrators, be presented and delivered to the surrogate, before whom the testament of such person so dying was proved, or administration committed, upon the oath or affirmation of such executor or executors, administrator or administrators, to be taken before the said surrogate, that the same inventory is just and true, and also upon the oath or affirmation, to be taken as aforesaid, of the said persons or appraisers, or one of them, in whose presence the said inventory was made, and by whom the goods, chattels, and credits therein specified were appraised, that the same were appraised according to their just and true respective rates and values after the best of his or their (as the case may be) judgment and understanding; and in case but one appraiser is sworn, or affirmed, the following words shall be added, that the other appraiser, or appraisers, was or were present at the same time, and consented in all things to the doing thereof; on which inventory a copy of the said oaths, or affirmations shall be by the said surrogate indorsed; which said inventory, so taken, appraised, and sworn or affirmed to as aforesaid, shall be deposited in the registry of the prerogative court, there to remain affiled.

Inventories, by whom, and how to be taken, and where to be deposited, and filed.

XI. And be it enacted *by the authority aforesaid*, That the surrogates of the respective counties of this State, and every of them, for the time being, shall and may, upon their respective granting and committing of administration of the goods of persons dying intestate, take of the respective person or persons, to whom such administration shall be committed, except where administration shall be granted to a husband, of the goods, chattels, and credits of his wife, sufficient bonds, with two or more able sureties, to the ordinary or surrogate-general of the State, in such penalty as the said surrogate shall think reasonable, respect being had to the value of the estate, with condition in form and manner following, to wit:

Persons, to whom administration shall be granted, to execute bonds, with sureties.

The condition of this obligation is such, That if the above bound A. B. administrator of all and singular the goods, chattels, and credits of C. D. deceased, do make or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession or knowledge of the said A. B. or into the hands or possession of any other person or persons for the said A. B. and the same so made do exhibit, or cause to be exhibited into the registry of the prerogative court, in the secretary's office

Condition of administration-bond.

A. D. 1795.

office of this State, at or before the expiration of six calendar months, from the date of the above written obligation, and the same goods, chattels, and credits, and all other goods, chattels, and credits of the said deceased, at the time of death, which at any time after shall come to the hands or possession of the said A. B. or into the hands or possession of any other person or persons for the said A. B. do well and truly administer according to law; and further, do make or cause to be made a just and true account of administration, within twelve calendar months from the date of the above written obligation; and all the rest and residue of the said goods, chattels, and credits, which shall be found remaining upon the account of the said administration, the same being first examined and allowed of by the judges of the orphan's court of the county, or other competent authority, shall deliver and pay unto such person or persons respectively, as is, are, or shall by law be entitled to receive the same. And if it shall hereafter appear, that any last will and testament was made by the said deceased, and the executor or executors therein named, or any other person or persons, do exhibit the same into the said prerogative court, making request to have it allowed and approved; if the said A. B. being thereunto required, do render and deliver the said letters of administration, (approbation of such testament being first had and made,) to the said court; then the above obligation to be void and of none effect, or else to remain in full force and virtue.

Other administrators of whatever description, to give like bonds.

And it is hereby declared, That the like bonds, with conditions suited to the nature of the respective cases, shall be given by administrators durante minore ætate, durante absentia, pendente lite, cum testamento annexo, or by whatever other name or description they may be known and distinguished.

Administration bonds how to be proceeded upon in case of forfeiture.

XII. AND BE IT ENACTED *by the authority aforesaid*, That all administration-bonds, given in pursuance of this act, shall be good to all intents and purposes, and pleadable in any court of justice. And in case any such bonds shall become forfeited, it shall and may be lawful for the ordinary or surrogate-general to cause the same to be prosecuted in any court of record, at the request of any party grieved by such forfeiture; and the monies recovered upon such bond shall be applied towards making good the damages sustained by the not performing the said condition, in such manner as the judge of the prerogative court shall, by his sentence or decree, direct. AND FURTHER, That it shall and may be lawful to and for the judges of the orphan's court of the respective counties of this State, after such administrators shall have legally accounted for and touching the goods, chattels, and credits of the person so deceased, to order a just and equal distribution of what shall remain clear, after debts, funeral charges, and just expenses of every sort first allowed and deducted, amongst the wife and children, or children's children, if any such there be, or otherwise to the next of kindred to the intestate, in equal degree, or legally representing their stocks, each according to his or her respective right, pursuant to the laws in such cases, and the rules and limitations herein after set down; and the same distribution to decree and settle; and the persons entitled to such distribution shall have their remedy at law, in case of non payment, for the recovery of the same, against the executor or executors, administrator or administrators so accounting; saving to every one, supposing him, her, or themselves aggrieved, his, her, and their right of appeal.

Orphans court to direct a distribution of the estate, among the next of kin to the intestate.

How, and to whom such distribution shall be made.

XIII. AND BE IT FURTHER ENACTED, That the whole surplusage of the goods, chattels, and personal estate of every person dying intestate, shall be distributed in manner following; that is to say, one third part of the said surplusage to the widow of the intestate, and all the residue, by equal portions, to and among the children of such intestate, and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children, who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate, in his life time, by portion or portions equal to the share, which shall, by such distribution, be allotted to the other children, to whom such distribution is to be made; and in case any child shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate, in his life time, by portion not equal to the share, which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate shall be distributed to such child or children, as shall have any land by settlement from the intestate, or were advanced in the life time of the intestate, as shall make the estate of all the said children to be

equal,

A. D. 1795.

as near as can be estimated. And in case there be no children, nor any legal representatives of them, then one moiety of the said estate shall be allotted to the widow of the said intestate, and the residue of the said estate shall be distributed equally to every of the next of kindred of the intestate, who are in equal degree, and those who represent them; PROVIDED, That no representation shall be admitted among collaterals after brothers and sisters children. And in case there be no widow, then all the said estate to be distributed equally to and among the children; and in case there be no child, then to the next of kindred, in equal degree, of or unto the intestate, and their legal representatives as aforesaid, and in no other manner whatsoever.

If no child, then the widow to have a moiety.

If no widow, then the children to have the whole estate.

XIV. AND BE IT ENACTED *by the authority aforesaid*, That if, after the death of a father, any of his children shall die intestate, without wife or children, in the life time of the mother, every brother and sister, and the representatives of them, shall have an equal share with her; any thing in this act, or any law to the contrary notwithstanding.

When the estate of a child shall be divided among the mother, brothers, and sisters.

XV. AND BE IT ENACTED *by the authority aforesaid*, That neither this act, nor any thing herein contained, respecting the distribution of intestates' estates, shall be construed to extend to the estates of femes covert, who shall die intestate; but that their husbands may demand and have administration of their rights, credits, and other personal estates, and recover and enjoy the same, as fully as they might have done before the passing of this act.

This act not to extend to the estates of feme covert, dying intestates.

XVI. And, to the end that a due regard be had to creditors, *Be it enacted by the authority aforesaid*, That no distribution of the goods, chattels and credits of any person dying intestate shall be made until one year be fully expired after granting administration thereof.

One year to elapse before distribution.

XVII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That every person, to whom any distribution or share of the goods, chattels, and personal estate of any intestate shall be allotted, shall give bond, with sufficient sureties, in double the sum at least of such distributive share, to the administrators, with condition, that if any debt or debts, truly owing by the intestate, shall be afterwards sued for and recovered, or otherwise duly made to appear, and which there shall be no other assets to pay, that then, and in every such case, he or she shall respectviely refund and pay back to the administrators, his or her rateable part of such debt or debts, and of the costs of suit and charges by reason of such debt or debts, out of the part and share so allotted to him or her; thereby to enable the said administrators to satisfy such debt or debts.

Persons, who shall receive a distributive share, to give bond to refund in case of debts.

XVIII. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons shall neglect or refuse to obey any citation, or to perform any sentence or decreee of the ordinary or judge of the prerogative court of this State, it shall and may be lawful to and for such ordinary and such court to cause such person or persons, by process directed to any sheriff of any county of this State, to be taken and imprisoned, until he, she, or they shall obey the said citation, or perform the said sentence or decree; and every sheriff is hereby directed to cause all such process, to him at any time directed, to be duly executed, and to confine the person or persons, against whom such process shall be issued, as in execution, until he, she, or they shall be delivered by due course of law; and if any sheriff shall neglect his duty therein, he shall be answerable to the party grieved, in such manner as he would be answerable upon process of the like nature issuing out of the supreme court.

Judge of the prerogative court may issue process to the sheriff to enforce his sentence or decree.

XIX. AND BE IT ENACTED *by the authority aforesaid*, That in all cases, where any administration shall be granted, with a will or testament annexed, the will of the deceased in such testament expressed shall be observed and performed.

Will to be observed, where administration is granted, with it annexed.

XX. AND BE IT ENACTED *by the authority aforesaid*, That no administrator or executor shall be cited before any court or competent authority to render an account of the personal estate of his intestate or testator, otherwise than by an inventory or inventories thereof, unless it be at the instance or prosecution of some person or persons in behalf of a minor, or having a demand out of such personal estate, as a creditor, legatee, or next of kin, nor be compellable to account before

No executor or administrator shall be cited to render an account unless in behalf of a minor or a party interested.

A. D. 1795.

the said court or authority, otherwise than as aforesaid. PROVIDED, That nothing in this clause, or in any part of this act, shall be construed to affect the act, entitled, "An Act to ascertain the power and authority of the ordinary and his surrogates; to regulate the jurisdiction of the prerogative court, and to establish an orphan's court in the several counties of the State," passed the sixteenth day of December, in the year of our Lord, one thousand, seven hundred and eighty four.

This act not to affect a former act.

An ACT *concerning marriages.*

Passed the 4th of March, 1795.

Within what degrees marriages are prohibited.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That no man or woman shall intermarry within the degrees hereafter named, that is to say,

No man shall marry his

Grandmother,
Grandfather's wife,
Wife's grandmother,
Father's sister,
Mother's sister,
Son's wife,
Sister,
Son's daughter,
Daughter's daughter,
Son's son's wife,
Daughter's son's wife,
Mother,
Stepmother,
Wife's mother,
Daughter,
Wife's daughter,
Wife's son's daughter,
Wife's daughter's daughter,
Brother's daughter,
Sister's daughter.

No woman shall marry her

Grandfather,
Grandmother's husband,
Husband's grandfather,
Father's brother,
Mother's brother,
Father,
Stepfather,
Husband's father,
Son,
Husband's son,
Daughter's husband,
Brother,
Son's son,
Daughter's son,
Son's daughter's husband,
Daughter's daughter's husband,
Husband's son's son,
Husband's daughter's son,
Brother's son,
Sister's son.

Who may solemnize marriages.

II. AND BE IT ENACTED *by the authority aforesaid,* That every justice of the peace of this State, and every stated and ordained minister of the gospel, shall be, and hereby is authorized and empowered to solemnize marriages between such persons as may lawfully enter into the matrimonial relations.

Males under 21, and females under 18, not to be married without the consent of parents or guardians, certified under their hands.

III. AND BE IT FURTHER ENACTED, That no justice of the peace, minister of the gospel, or other person having or pretending to have authority to join persons together in the holy bands of matrimony, shall marry any male under the age of twenty one years, or female under the age of eighteen years, unless the parent or parents, guardian or guardians, or person or persons under whose care and government such minor or minors shall be, be present, and give their consent thereto, or until the minor applying to be married, whether male or female, shall have produced a certificate in writing, under the hand of the parent or parents, guardian or guardians, or if such minor, so applying to be married, have no parent or guardian, then under the hand of the person or persons, under whose care and government he or she may at that time be; which certificate shall be proved to be genuine by the oath or affirmation of at least one person, of full age and discretion, who was present at the signing of the same, and affixed his or her name as a witness thereto; which oath or affirmation any justice of the peace, or minister of the gospel, authorized to solemnize marriages as aforesaid, is hereby authorized to take, and shall enter upon the back of the certificate.

IV. AND

A. D. 1795.

IV. And be it further enacted, That every justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join persons in marriage, who shall marry any minor or minors, by virtue of a certificate had and proved as above directed, shall register the same, or cause it to be registered in a book by him to be kept for the purpose of registering of marriages, and, within three months after, transmit the original certificate to the clerk of the county, in which the marriage was solemnized, to be by him filed in his office.

Marriages, by virtue of certificates, to be registered, and filed.

V. And be it enacted *by the authority aforesaid*, That if any justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join persons together in the holy bands of matrimony, shall marry any minor or minors, without the consent of the parent or parents, guardian or guardians, or person or persons, having the care and government of such minor or minors, had and obtained, according to the direction of this act, and contrary to the true intent and meaning thereof, every such justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join persons together in the holy bands of matrimony, shall, for every such offence, forfeit three hundred dollars, to be recovered, with costs of suit, by action of debt or information, in any court of record of this State, by the parent, guardian, or person having charge of such minor, as shall be so joined in marriage as aforesaid, the one half of the said forfeiture to be paid to the treasurer of the State, for the use of the State, and the other half to be for the use of the parent, guardian, or other person, having charge of such minor, who shall prosecute the same to effect.

Justices and ministers, who shall marry any minor, without such certificate, shall forfeit 300 dollars.

VI. And be it further enacted, That every justice of the peace, and minister of the gospel, shall make and keep a particular record of all marriages solemnized before him, and transmit a certificate of every particular marriage (containing both Christian names and sirnames) within six months after the solemnization thereof, to the clerk of the court of common pleas for the county, in which the marriage was solemnized.

Justices and ministers to record marriages, and make return of them to the clerk of the common pleas.

VII. And be it further enacted, That if any justice of the peace, or minister of the gospel, shall neglect, omit, or refuse to make return to the clerk of the county as aforesaid, of all the marriages by him pronounced, he shall, for every such offence, forfeit the sum of fifty dollars, to be recovered, with costs, by the clerk of the said court of common pleas, or any other person, who shall prosecute for the same, by action of debt or information, in any court having cognizance thereof.

Penalty on justices and ministers, who shall not make such return in due time.

VIII. And be it further enacted, That the respective clerks of the courts of common pleas, in and for the several counties of this State, shall register and record all such returns of marriages at large in a book to be kept for that purpose, and no other, within the space of one calendar month after receiving the same, for which service the said clerks respectively shall be allowed and receive, for each and every entry aforesaid, the sum of twelve cents, to be paid by the persons married to such justice of the peace, or minister, who shall perform the ceremony, and by such justice or minister, with the certificate thereof, be transmitted to the clerk; and if any such clerk shall refuse, neglect, or omit to register and record, within the said time, any such return so to him made or any part thereof, he shall forfeit the sum of one hundred dollars, to be recovered, with costs, by any person, who shall prosecute for the same, by action of debt or information, in any court having cognizance thereof.

Clerk of common pleas to record such return in one month, upon the penalty of 100 dollars.

IX. And be it further enacted, That it shall and may be lawful for every religious society in this State to join together in marriage such persons as are of the said society, according to the rules and customs of the society, to which they belong; provided, that the clerk or keeper of the minutes, proceedings, or other book of the religious society, wherein such marriages shall be had and solemnized, shall make a true and faithful register of all marriages solemnized, in the society, in the book by him kept.

Religious societies may marry, and record such marriages.

X. And be it further enacted, That such book of marriages, so kept by the respective clerks of the courts of common pleas, and by the clerks of such religious

Books of marriages to be admitted as evidence.

A. D. 1795.

religious societies, as are authorized to solemnize marriages by the preceding section of this act, shall be admitted as evidence in all courts of law and equity in this State.

A false return and false register of marriages, how to be punished.

XI. AND BE IT FURTHER ENACTED, That if any justice of the peace, or minister of the gospel, shall wilfully and knowingly make a false return of such marriages, or any of them, to the said clerk of the court of common pleas, or if the said clerk of such court shall wilfully and knowingly make a false entry, register and record of any return of marriages, so to him made, in the said book by him before directed to be kept; or if any clerk or keeper of the minutes, and proceedings of such religious societies, as are authorized to solemnize marriages by this act, shall wilfully and knowingly make a false entry, register and record of such marriages, or any of them, then every such person, so offending, shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, at the discretion of the court.

Former act repealed.

XII. AND BE IT ENACTED *by the authority aforesaid*, That the act, entitled, "An act to prevent clandestine marriages," passed the twenty seventh day of March, in the year of our Lord, one thousand, seven hundred and nineteen, be, and the same is hereby repealed.

A SUPPLEMENT *to the act, entitled, "An Act concerning divorce and alimony."*

Passed the 4th of March, 1795.

Mode of proceeding on a bill for a divorce, when the defendant shall have moved out of the jurisdiction of the court.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That in all divorce causes brought, or to be brought into the court of chancery of this State, if the party, against whom complaint is or shall be made, hath, or shall, after the cause of complaint hath arisen, remove without the jurisdiction of the said court, so that the process thereof cannot be served, or, if served, the party cannot be compelled to appear, and answer or plead, it shall and may be lawful for the chancellor, on bill filed, and due proof that the defendant hath removed as aforesaid, to order a hearing on the facts charged in the said bill, and thereupon to pass a decree, in the same manner as if the defendant had appeared, and were present in court. PROVIDED NEVERTHELESS, That a copy of said order for hearing be published in one of the public papers in this State, and in one of the public papers of the State of New-York and Pennsylvania, or served on the party, against whom complaint is or shall be made, for the space of two months at least before the day appointed for the said hearing.

See the original act in page 143 of this volume.

An ACT *for preventing delays by essoins and protections, and for abolishing trials by wager of law.*

Passed the 5th of March, 1795.

No essoin or protection to be allowed.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no essoin or protection shall hereafter be allowed in any suit whatsoever.

Trials by wager of law abolished.

II. AND BE IT ENACTED *by the authority aforesaid*, That trials by wager of law shall be, and hereby are abolished in all cases, except in the case of non-summons, and that no person shall hereafter be permitted to wage his or her law in any case, except that of non-summons in real actions.

An ACT

An ACT *for the recovery of damages in writs of assize and real actions.* A. D. 1795.

Passed the 5th of March, 1795.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That in all assizes, if judgment be given for the plaintiff, he or she shall recover his or her damages; and in all assizes of novel disseisin and writs of entry, the demandants, if they recover the tenements demanded, shall also recover their damages against the disseisors; and if the disseisors alien the land, and have not whereof the damages may be levied, they, to whose hands such tenements shall come, shall be charged with the damages, so that every one shall answer for his or her time; AND FURTHER, That in all writs and actions possessory, whereby lands or tenements are demanded, damages shall be recovered as aforesaid.

Plaintiff to recover damages in assize, writs of entry, and possessory actions.

An ACT *to empower the governor to offer a reward for the apprehension of certain offenders.*

Passed the 5th of March, 1795.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful to and for the governor, or commander in chief for the time being, by and with the advice and consent of the privy council, to issue his proclamation, for apprehending and securing any person, charged, on the oath or affirmation of one or more credible witness or witnesses, with having committed murder, burglary, robbery, or other dangerous outrage and violence upon the person or property of any person within this State, and in such proclamation to offer such reward as the said governor, or commander in chief, and privy council, may think proper, according to the nature and aggravation of the crime, not exceeding three hundred dollars for any one offender; which reward shall be paid, on conviction of the party charged, to the person or persons entitled thereto, by the treasurer of the State, out of any public money in his hands, on a warrant or certificate signed by the governor, or commander in chief, in council, for that purpose.

Governor to issue proclamation and offer a reward for apprehending persons charged with certain crimes.

II. AND BE IT ENACTED *by the authority aforesaid*, That it shall and may be lawful for the governor, or commander in chief, by and with the advice and consent of the privy council, to issue his proclamation, offering a reward as aforesaid, for apprehending and securing any person or persons charged, on oath or affirmation as aforesaid, with aiding, abetting, comforting, harboring, or concealing any person or persons, who hath or have committed any of the crimes above specified and described, knowing him, her, or them to be guilty thereof; which reward, on conviction of the person so charged, shall be paid in the same manner as is above directed.

Also their aiders and abettors.

III. AND BE IT ENACTED *by the authority aforesaid*, That when any murder, burglary, robbery, or other offence, as aforesaid, hath been, or shall be committed, by any person or persons unknown, it shall and may be lawful for the governor, or commander in chief for the time being, by and with the advice and consent of the privy council, on the oath or affirmation of one or more credible witness or witnesses, setting forth the fact, and that the same was perpetrated by a person or persons unknown, to issue his proclamation, offering a reward as aforesaid, for apprehending and securing the person or persons, who may have committed the same, and any person or persons, who may have aided, abetted, comforted, harbored, or concealed him, her, or them, knowing him, her, or them, to be in such wise guilty; which reward shall in every case be paid, on conviction of the party offending, in manner aforesaid.

A reward to be offered for apprehending unknown offenders.

IV. AND BE IT ENACTED *by the authority aforesaid*, That the act, entitled, "An Act to revive and amend an act more effectually to apprehend and bring to justice persons charged with certain atrocious offences against the peace of this State," passed the thirtieth day of May, in the year of our Lord, one thousand, seven hundred and eighty one, shall be, and the same is hereby repealed.

Former act repealed.

A. D. 1795.

An ACT *regulating proceedings and trials in criminal cases.*

Passed the 6th of March, 1795.

In treason, the prisoner shall have a copy of the indictment, and list of the jurors and witnesses three days before trial; and in certain other offences shall have such copy and a list of the jurors two days before trial.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That any person, who shall be accused and indicted of treason, shall have a copy of the indictment, and a list of the jury, and witnesses to be produced on the trial for proving the said indictment, mentioning the names and places of abode of such jurors and witnesses, delivered unto him at least three entire days before the trial; and in murder, and other offences punishable with death, and also in misprision of treason, manslaughter, sodomy, rape, arson, burglary, robbery, and forgery, shall have such copy of the indictment and list of the jury two entire days at least before the trial.

Court to assign counsel to the defendant.

II. AND BE IT ENACTED *by the authority aforesaid,* That the court, before whom any person shall be tried upon indictment, is hereby authorized and required to assign to such person, if not of ability to procure counsel, such counsel, not exceeding two, as he or she shall desire, to whom such counsel shall have free access at all seasonable hours.

No evidence to be given of any act of treason not charged.

III. AND BE IT ENACTED *by the authority aforesaid,* That no evidence shall be admitted or given against any person of any overt act of treason, that is not expressly laid in the indictment.

If a person plead not guilty, he shall be considered as putting himself upon the country.

IV. AND BE IT ENACTED *by the authority aforesaid,* That, as well in treason and murder, as in all other offences, which are or may be committed against this State, when any person, on being arraigned, or called to answer the matter charged in the indictment against him or her, shall plead not guilty, every such person, so pleading, shall be deemed and taken to put himself or herself upon the inquest or country for trial, without any question being asked how he or she will be tried.

Mode of proceeding, where the party indicted stands mute, or refuses to plead.

V. AND BE IT ENACTED *by the authority aforesaid,* That if any person be indicted for any offence whatever against this State, and shall, on being arraigned or called to answer the matter charged in such indictment, stand mute, a jury shall forthwith be empannelled to try and say, whether the person, so standing mute, standeth mute obstinately and on purpose, or by the providence and act of God; and if they return their verdict, that such person standeth mute by the providence and act of God, the court shall thereupon cause him or her to be remanded to prison, and shall not proceed against him or her, until he or she shall have recovered therefrom; but if the jury shall return their verdict, that the person, so standing mute, standeth mute obstinately and on purpose, then the court shall cause to be entered upon the indictment against such person the plea of not guilty, and also shall cause the like plea of not guilty to be entered, where any person, indicted as aforesaid, shall refuse to plead or answer to such indictment; and in all such cases shall proceed upon his or her trial in like manner in all respects, as if he or she had voluntarily pleaded the same plea thereto; except that such person, so standing mute obstinately and on purpose, or refusing to plead, or answer as aforesaid, shall not be admitted to make any challenges to the jurors.

What offenders may peremptorily challenge twenty jurors.

VI. AND BE IT ENACTED *by the authority aforesaid,* That every person, who shall be indicted for treason, murder, or other crime, punishable with death, or for misprision of treason, manslaughter, sodomy, rape, arson, burglary, robbery, or forgery, and shall voluntarily and duly plead the plea of not guilty to such indictment, shall be admitted peremptorily to challenge twenty of the jury, and no more; and if any person, indicted as aforesaid, after having voluntarily and duly pleaded as aforesaid, shall peremptorily challenge a greater number of the jury than twenty, the court shall disallow of all such challenges, over and above the said number of twenty; and the jury shall be charged, and the trial shall proceed in like manner, in all respects, and the like judgment shall be given, as would or ought to be had and given, if the person so indicted as aforesaid, and having pleaded as aforesaid, had not peremptorily challenged a greater number of the jury, than in and by this act he or she is admitted to challenge.

VII. AND

A. D. 1795.

VII. And be it enacted *by the authority aforesaid*, That neither the attorney general, nor any other person prosecuting for and in behalf of this State, shall be admitted in any case to challenge any juror, without assigning a cause certain, to be tried and approved by the court; and further, the privilege of peremptory challenges shall not be allowed to offenders in any cases, but such as are specified in the section immediately preceding.

The State not to challenge a juror without cause.

No offenders, except in the above cases, to be allowed peremptory challenges.

VIII. And be it enacted *by the authority aforesaid*, That the law relative to the peine forte et dure, shall be, and hereby is abolished.

Peine forte et dure abolished.

IX. And be it further enacted *by the authority aforesaid*, That no indictor of any person, for any crime or offence whatsoever, shall be put upon the inquest for the trial of such person, if he be challenged for the same cause, by him or her so indicted.

No indictor to be on the inquest for the trial.

X. And be it enacted *by the authority aforesaid*, That, from henceforth, the words, with force and arms, or any such like words, shall not of necessity be put or comprised in any inquisition or indictment of treason, murder, manslaughter, rape, robbery, trespass, or any other offence; and that no person, being hereafter indicted of any offence, shall have or take any advantage, by writ of error, plea, or otherwise, to annul or avoid any such inquisition or indictment, for that the words, with force and arms, or any such like words, shall not be put or comprised in the said inquisition or indictment, but that the same inquisition or indictment without the words, with force and arms, or any such like words, shall, from henceforth, be taken and adjudged to be as good and effectual in the law, as if the same inquisition or indictment had the said words, with force and arms, or any such like words, inserted and comprised therein.

The words, with force and arms, not necessary in indictments or inquisitions.

XI. And be it enacted *by the authority aforesaid*, That no indictment, nor any process or return thereupon, shall be quashed, on the motion of the offender, or his or her counsel, for miswriting, misspelling, false or improper English, unless exception concerning the same be taken and made in the court, where such trial shall be, by the offender, or his or her counsel, before any evidence given in open court upon such indictment; nor shall any such miswriting, misspelling, false, or improper English, after conviction on such indictment, be any cause to stay or arrest judgment thereupon; but nevertheless, any judgment given upon such indictment shall and may be liable to be reversed upon a writ of error, in the same manner as if this act had not been made.

Indictments and process shall not be quashed for miswriting, misspelling, or false, or improper English, unless exception be taken before evidence given.

XII. And be it enacted *by the authority aforesaid*, That all acts of treason against this State, which shall be committed or done upon the land, out of this State, or upon the sea, shall and may be enquired of, heard, and determined in the supreme court of this State, by good and lawful men of the same county, where the said court shall sit, in like manner and form, to all intents and purposes, as if the said treason had been committed or done within the same county.

Treason committed out of the State, or on the sea, where and how to be tried.

XIII. And be it enacted *by the authority aforesaid*, That writs of error in all criminal cases, not punishable with death, shall be considered as writs of right, and issue of course; and in criminal cases, punishable with death, writs of error shall be considered as writs of grace, and shall not issue but by order of the chancellor for the time being, made upon motion or petition, notice whereof shall always be given to the attorney general, or the prosecutor for the State.

In what cases, writs of error shall be considered as of right, or of grace.

An ACT *concerning landlords and tenants.*

Passed the 10th of March, 1795.

I. Whereas no action of debt lies against a tenant for life or lives, for any arrears of rent, during the continuance of such estate for life or lives; *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for any person or persons, having any rent in arrear or due upon a lease for life or lives, to bring an action or actions

Action of debt may be brought for arrears of rent on a lease for life.

A. D. 1795.

actions of debt for such arrears of rent, in the same manner as he, she, or they might have done in case such rent was reserved and due upon a lease for years.

II. AND WHEREAS, where any lessor or landlord, having only an estate for life in the lands, tenements, or hereditaments demised, happens to die before, or on the day, on which any rent is reserved or made payable, such rent, or any part thereof, is not, by law, recoverable by the executors or administrators of such lessor or landlord, nor is the person in reversion entitled thereto any other than for the use and occupation of such lands, tenements or hereditaments, from the death of the tenant for life, of which advantage hath been often taken by the under-tenants, who thereby avoid paying any thing for the same; for remedy whereof, *Be it enacted by the authority aforesaid*, That where any tenant for life shall happen to die before, or on the day, on which any rent was reserved or made payable, upon any demise or lease of any lands, tenements or hereditaments, which determined on the death of any tenant for life, that the executors, or administrators of such tenant for life shall and may, in an action on the case, recover of and from such under-tenant or under-tenants of such lands, tenements, or hereditaments, if such tenant for life die on the day, on which the same was made payable, the whole, or if before such day, then a proportion of such rent, according to the time such tenant for life lived of the last year, or quarter of a year, or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof respectively.

If tenant for life die on or before the day that the rent become due, his executors or administrators may recover the same, or a proportional part of it.

III. AND to obviate some difficulties, that many times occur in the recovery of rents, where the demises are not by deed, *Be it enacted by the authority aforesaid*, That it shall and may be lawful to and for the landlord or landlords, his, her, or their heirs or assigns, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements, or hereditaments, held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held or enjoyed; and if in evidence on the trial of such action, any parol demise, or any agreement, (not being by deed) whereon a certain rent was reserved, shall appear, the plaintiff in such action shall not therefore be nonsuited, but may make use thereof as an evidence of the quantum of the damages to be recovered.

Where demises are not by deed, landlords may recover a reasonable satisfaction for their lands.

IV. AND BE IT ENACTED *by the authority aforesaid*, That no goods or chattels whatsoever, lying or being, or which shall lie or be in or upon any messuage, lands, or tenements, which are or shall be leased for term of life or lives, year or years, at will or otherwise, shall be liable to be taken, by virtue of any execution, on any pretence whatever, unless the party, at whose suit the said execution is sued out, shall, before the removal of such goods from off the said premises, by virtue of such execution, pay to the landlord of the said premises, or his bailiff, all and every sum or sums of money as are or shall be due for rent for the said premises, at the time of the taking such goods or chattels by virtue of such execution; provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party, at whose suit such execution is sued out, paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment, as he might have done before the making of this act; and the sheriff, or other officer is hereby empowered and required to levy and pay to the plaintiff, as well the money so paid for rent, as the execution money.

Goods not liable to execution, unless party pay arrears of rent to landlord, not exceeding one year's rent.

V. AND BE IT ENACTED *by the authority aforesaid*, That in case any tenant or tenants for any term of life or lives, year or years, or other person or persons, who are or shall come into possession of any lands, tenements, or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall wilfully hold over any lands, tenements, or hereditaments, after the determination of such term or terms, and after demand made and notice in writing given for delivering the possession thereof, by his, her, or their landlord or landlords, lessor or lessors, or the person or persons, to whom the remainder or reversion of such lands, tenements, or hereditaments shall belong, his, her, or their agent or agents, thereunto lawfully authorized; then, and in such case, such person or persons, so holding over, shall, for and during the time he, she, or they shall so hold over, or keep the person or persons entitled out of possession of the said lands, tenements, or hereditaments, as aforesaid, pay to the person or persons, so kept out of

A tenant or other person, who shall hold over lands after the determination of the time, to pay double the yearly value of the lands.

of possession, his, her, or their executors, administrators, or assigns, at the rate of double the yearly value of the lands, tenements, or hereditaments so detained, for so long time as the same are detained; to be recovered in any court of record in this State, by action of debt, whereunto the defendant or defendants shall be obliged to give special bail, and against the recovering of which said penalty there shall be no relief in equity. A. D. 1795.

A tenant, if he give notice of his intention to quit the premises, and refuse to give possession according to such notice, shall pay double rent.

VI. AND WHEREAS great inconveniences have happened and may happen to landlords, whose tenants have power to determine their leases, by giving notice that they intend to quit the premises by them holden, and yet refusing or neglecting to deliver up the possession to the landlord; *Be it further enacted by the authority aforesaid*, That in case any tenant or tenants shall give notice of his, her, or their intention to quit the premises by him, her, or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, that then the said tenant or tenants, his, her, or their executors or administrators, shall, from thence forward, pay to the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, double the rent or sum, which he, she, or they should otherwise have paid, to be levied, sued for, and recovered at the same times, and in the same manner, as the single rent or sum, before the giving such notice, could be levied, sued for and recovered; and such double rent or sum shall continue to be paid during all the time such tenant or tenants shall continue in possession as aforesaid.

Where one half year's rent is in arrear, the landlord having right to re-enter, may recover the land by ejectment.

VII. AND WHEREAS great inconveniences do and may happen to lessors or landlords in cases of re-entry for non-payment of rent, by reason of the many niceties that attend re-entries at common law, and for as much as when a legal re-entry is made, the landlord or lessor must be at the expense, charge, and delay of recovering in ejectment, before he can obtain the actual possession of the demised premises, and it often happens that, after such a re-entry made, the lessee, or his assignee, upon one or more bill or bills filed in a court of equity, not only holds out the lessor or landlord by an injunction, from recovering the possession, but likewise pending the said suit, do run much more in arrear, without giving any security for the rents due, when the said re-entry was made, or which shall or do afterwards incur; for remedy whereof, *Be it enacted by the authority aforesaid*, That in all cases between landlord and tenant, as often as it shall happen, that one half year's rent shall be in arrear, and the landlord or lessor, to whom the same is due, hath right, by law, to re-enter for the non-payment thereof, such landlord or lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premises, or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then to affix the same upon the door of any demised messuage, or in case such ejectment shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements, or hereditaments, comprised in such declaration in ejectment, and such affixing shall be deemed legal service thereof; which service, or affixing such declaration in ejectment, shall stand in the place and stead of a demand and re-entry; and in case of judgment against the casual ejector, or nonsuit for not confessing lease, entry, and ouster, it shall be made to appear to the court, where the said suit is depending by affidavit, or be proved upon the trial, in case the defendant appears, that half a year's rent was due before the declaration was served, and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due, and that the lessor or lessors in ejectment had power to re-enter, then, and in every such case, the lessor or lessors in ejectment shall have judgment and execution, in the same manner, as if the rent in arrear had been legally demanded and re-entry made; and in case the lessee or lessees, his, her, or their assignee or assignees, or other person or persons, claiming or deriving title under the said lease, shall suffer judgment on such ejectment, and execution to be executed thereon, without paying the rent and arrears, together with full costs, and without filing any bill or bills for relief in equity, within six calendar months after such execution executed, then, and in such case, the said lessee or lessees, his, her, or their assignee or assignees, and all other persons, claiming and deriving title under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, other than by writ of error for reversal of such judgment, in case the same shall be erroneous, and the said landlord or lessor, shall, from thenceforth, hold the same demised premises discharged from such lease; and if, on such ejectment,

A. D. 1795.

verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited therein, except for the defendant or defendants not confessing lease, entry, and ouster, then, and in every such case, the defendant or defendants shall have and recover his, her, or their full costs: PROVIDED ALWAYS, That nothing herein contained shall extend to bar the right of any mortgagee or mortgagees of such lease, or any part thereof, who shall not be in possession, so as such mortgagee or mortgagees shall and do, within six calendar months after such judgment obtained and execution executed, pay all rent in arrear, and all costs and damages sustained by such lessor, or person or persons entitled to the remainder or reversion as aforesaid, and perform all the covenants and agreements, which on the part and behalf of the first lessee or lessees are and ought to be performed.

But this act shall not affect any mortgagee, who is not in possession, if he pay the rent, with costs, in six months.

VIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That in case the said lessee or lessees, his, her, or their assignee or assignees, or other person or persons, claiming any right, title, or interest in law or equity, of, in, or to the said lease, shall within the time aforesaid, file one or more bill or bills for relief, in any court of equity, such person or persons shall not have or continue any injunction against the proceedings at law on such ejectment, unless he, she, or they do or shall, within twenty days next after a full and perfect answer shall be filed, by the lessor or lessors of the plaintiff in such ejectment, bring into court and lodge with the proper officer, such sum and sums of money as the lessor or lessors of the plaintiff in the said ejectment shall, in his, her, or their answer, swear to be due and in arrear, over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessor or landlord on good security, subject to the decree of the court; and in case such bill or bills shall be filed within the time aforesaid, and after the execution is executed, the lessor or lessors of the plaintiff shall be accountable only for so much and no more as he, she, or they shall really and bona fide, without fraud, deceit, or wilful neglect, make of the demised premises, from the time of his, her, or their entering into the actual possession thereof; and if what shall be so made by the lessor or lessors of the plaintiff happen to be less than the rent reserved on the said lease, then the said lessee or lessees, his, her, or their assignee or assignees, before he, she, or they shall be restored to his, her, or their possession or possessions, shall pay such lessor or lessors, landlord or landlords, what the money, so by them respectively made, fell short of the reserved rent, for the time such lessor or lessors of the plaintiff, or landlord or landlords, held the said lands.

The lessee, if he file a bill in equity, shall not have an injunction to stay proceedings at law, unless he bring into court the rent due, and costs.

In what case, the lessor shall be accountable for actual profits only.

IX. PROVIDED ALWAYS, *and be it further enacted by the authority aforesaid*, That if the tenant or tenants, his, her, or their assignee or assignees, do or shall, at any time before the trial in such ejectment, pay or tender to the lessor or landlord, his or her executors or administrators, or his, her, or their attorney in that cause, or pay into the court, where the same cause is or shall be depending, all the rent and arrears, together with the costs; then, and in such case, all further proceedings on the said ejectment shall cease and be discontinued; and if such lessee or lessees, his, her, or their executors, administrators, or assigns, shall, upon such bill filed as aforesaid, be relieved in equity, he, she, or they shall have, hold and enjoy the demised lands, according to the lease thereof made, without any new lease to be thereof made to him, her, or them.

If lessee pay rent and costs, ejectment shall be discontinued.

X. AND WHEREAS landlords are often great sufferers by tenants running away in arrear, and not only suffering the demised premises to be uncultivated, without any distress thereon, whereby their landlords or lessors might be satisfied for the rent in arrear, but also refusing to deliver up the possession of the demised premises, whereby the landlords are put to the expense and delay of recovering in ejectment; *Be it further enacted by the authority aforesaid*, That if any tenant, holding any lands, tenements, or hereditaments, who shall be in arrear for one year's rent, shall desert the demised premises, and leave the same uncultivated or unoccupied, so as no sufficient distress can be had to countervail the arrears of rent, it shall and may be lawful to and for two or more justices of the peace, of the county, in which the demised premises lie, and who have no interest in the same, at the request of the landlord or landlords, lessor or lessors, or his, her, or their bailiff or agent, to go upon and view the same, and to affix, or cause to be affixed, on the most notorious part of the premises, notice in writing what day (at the distance of fourteen days at least) they will return to take a second view thereof,

If tenant desert the premises, two or more justices of the peace may put the landlord into possession.

thereof, and if, upon such second view, the tenant, or some person in his or her behalf, shall not appear and pay the rent in arrear, or there shall not be sufficient distress upon the premises, then the said justices may put the said landlord or landlords, lessor or lessors, into the possession of the said demised premises, and the lease thereof to such tenant, as to any demise therein contained, shall, from thenceforth, become void; PROVIDED ALWAYS, That such proceedings of the said justices shall be examinable in a summary way by the judges of the supreme court, who are hereby empowered to order restitution to be made to such tenant, together with his or her expenses and costs, to be paid by the landlord or landlords, lessor or lessors, if they shall see cause for the same; and in case they shall affirm the act of the said justices, to award costs to be paid by such tenant, and the costs, as well in the instance of restitution as of affirmance aforesaid, shall be levied and recovered against the body or bodies, or goods and chattels, lands and tenements, of such landlord or tenant, as the case may be.

A. D. 1795.

Proceedings of such justices shall be examinable by the supreme court.

XI. AND WHEREAS persons do and may hold considerable estates by leases for lives or years, and lease out the same in parcels to several under tenants; and whereas many of those leases cannot by law be renewed without a surrender of all the under leases derived out of the same, so that it is in the power of such under tenants to prevent or delay the renewal of the principal lease, by refusing to surrender their under leases, notwithstanding they have covenanted so to do, to the great prejudice of their immediate landlords, the first lessors; for preventing such inconveniences, and for making the renewal of leases more easy for the future, *Be it enacted by the authority aforesaid*, That in case any lease shall be duly surrendered in order to be renewed, and a new lease made and executed by the chief landlord or landlords, the same new lease shall, without a surrender of all or any the under leases, be as good and valid, to all intents and purposes, as if all the under leases, derived thereout, had been likewise surrendered at or before the taking of such new lease, and all and every person or persons, in whom any estate for life or lives, or for years, shall, from time to time, be vested, by virtue of such new lease, and his, her and their executors and administrators, shall be entitled to the rents, covenants and duties, and have like remedy for recovery thereof, and the under lessees shall hold and enjoy the messuages, lands and tenements, in the respective under leases comprised, as if the original leases, out of which the respective under leases are derived, had been still kept on foot and continued; and the chief landlord or landlords shall have and be entitled to such and the same remedy, by distress or entry in and upon the messuages, lands, tenements and hereditaments, comprised in any such under lease, for the rents and duties reserved by such new lease, so far as the same exceed not the rents and duties reserved in the lease out of which such under lease was derived, as he, she, or they would have had, in case such former lease had been still continued, or as he, she, or they would have had, in case the respective under leases had been renewed under such new principal lease.

Surrender of a chief lease, for the purpose of renewal, and a new lease made, shall be good, without a surrender of the under leases.

XII. AND WHEREAS the possession of estates in lands, tenements and hereditaments is rendered very precarious, by the frequent and fraudulent practice of tenants, in attorning to strangers, who claim title to the estates of their respective landlord or landlords, lessor or lessors, who by that means are turned out of possession of their respective estates, and put to the difficulty and expense of recovering the possession thereof by actions or suits at law; for remedy whereof, *Be it enacted by the authority aforesaid*, That all and every such attornment or attornments of any tenant or tenants of any messuages, lands, tenements, or hereditaments, shall be absolutely null and void, to all intents and purposes whatsoever, and the possession of their respective landlord or landlords, lessor or lessors, shall not be deemed or construed to be in any wise changed, altered, or affected, by any such attornment or attornments. PROVIDED ALWAYS, That nothing herein contained shall extend to vacate or affect any attornment made pursuant to, or in consequence of some judgment at law, or decree or order of a court of equity, or made with the privity and consent of the landlord or landlords, lessor or lessors, or to any mortgagee, after the mortgage has become forfeited.

Attornment of tenant to be void;

Unless made in pursuance of a judgment or decree, or with consent of landlord, or to mortgagee, after mortgage forfeited.

XIII. AND WHEREAS great inconveniences have frequently happened to landlords by their tenants secreting declarations in ejectment, which have been delivered to them, or by refusing to appear to such ejectments, or to suffer their landlords to take upon them the defence thereof; therefore, *Be it enacted by the authority*

A. D. 1795.

Tenant must give notice to his landlord of a declaration in ejectment delivered to him, on penalty of 3 years rent.

authority aforesaid, That every tenant, to whom any declaration in ejectment shall be delivered for any lands, tenements, or hereditaments, shall forthwith give notice thereof to his or her landlord or landlords, or his, her, or their bailiff, receiver, agent, or lawful attorney, under the penalty of forfeiting the value of three years improved or rack rent of the premises so demised or holden in the possession of such tenant, to the person of whom he or she holds, to be recovered by action of debt, to be brought in any court of record within this State.

Landlord shall be admitted a defendant in ejectment.

XIV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall and may be lawful for the court, where such ejectment shall be brought, to suffer the landlord or landlords, to make himself, herself, or themselves defendant or defendants, by joining with the tenant or tenants, to whom such declaration in ejectment shall be delivered, in case he, she, or they shall appear; but in case such tenant or tenants shall refuse or neglect to appear, judgment shall be signed against the casual ejector, for want of such appearance; but if the landlord or landlords of the whole or any part of the lands, tenements, or hereditaments, for which such ejectment was brought, shall desire to appear by himself, herself, or themselves, and consent to enter into the like rule, that by the course of the court the tenant in possession, in case he or she had appeared, ought to have done, then the court, where such ejectment shall be brought, shall and may permit such landlord or landlords so to do, and order a stay of execution upon such judgment against the casual ejector, until they shall make further order therein.

An ACT *for preventing the injury of illegal confinement, and better securing the liberty of the people.*

Passed the 11th of March, 1795.

Writs of habeas corpus, how to be served and returned.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That whensoever any person or persons shall bring any habeas corpus directed to any sheriff, gaoler, or other person or persons whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or other person or persons, or left at the gaol or prison with any of the under officers, under keepers, or deputy of the said officers or keepers, that the said officer or officers, his or their under officers, under keepers, or deputies, or other person or persons, shall, within three days after the service thereof as aforesaid, (unless the commitment aforesaid were for treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or larceny, or for rescues, or voluntary escapes in such cases, or any of them, plainly and specially expressed in the warrant of commitment,) upon payment or tender, of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and indorsed upon the said writ, not exceeding twelve cents a mile, and upon security given, by his own bond, to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge, to which he shall be brought, according to the true intent of this act, and that he will not make any escape by the way, make return of such writ; and bring or cause to be brought the body of the party so committed or restrained unto or before the chancellor of this State for the time being, or the justices of the supreme court, or unto or before such of them, before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment; unless the commitment of the said party be in a place beyond the distance of twenty miles from the place or places, where such chancellor, court, or justice is or shall be residing; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days; and if beyond the distance of one hundred miles, then within the space of twenty days, after such delivery as aforesaid, and not longer.

Writs of habeas corpus, how to be marked and by whom to be signed.

II. AND to the intent, that no sheriff, gaoler, or other officer, may pretend ignorance of the import of any such writ, *Be it enacted by the authority aforesaid*, That all such writs shall be marked in this manner, "By the statute," and be signed by the person, who awards the same.

III. AND

A. D. 1795.

III. And be it enacted *by the authority aforesaid*, That if any person or persons shall be or stand committed, or detained, as aforesaid, for any crime, unless for treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or larceny, or for rescues or voluntary escapes in any such case, plainly and specially expressed in the warrant of commitment, in the vacation time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained, (other than persons convict, or in execution by legal process) or any one on his or their behalf, to apply or complain to the chancellor, or any one of the justices of the supreme court; and the said chancellor, or justices, or any of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise, upon oath or affirmation made, that such copy or copies were denied to be given by such person or persons, in whose custody the prisoner or prisoners is or are detained, are hereby authorized and required, upon request made in writing by such person or persons, or any person on his, her, or their behalf, attested and subscribed by two witnesses, who were present at the delivery of the same, to award and grant an habeas corpus under the seal of such court, whereof he shall then be one of the judges, to be directed to the officer or officers, or person or persons, in whose custody the party so committed or detained shall be, returnable immediately before the said chancellor, or justice of the said supreme court; and upon service thereof as aforesaid, the officer or officers, his or their under officer or under officers, under keeper or under keepers, or their deputy, or person or persons, in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner or prisoners before the said chancellor, or justices of the said supreme court, or one of them, before whom the said writ is made returnable, and in case of his absence, before any other of them, with the return of such writ, and the true causes of the commitment and detainer; and thereupon, within two days after the party shall be brought before him or them, the said chancellor, or such justice of the supreme court, before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to his or their discretion, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the supreme court the term following, or at the next sessions of oyer and terminer, or general gaol delivery of and for such county, or place where the commitment was, or where the offence was committed, or in such other court, where the said offence is properly cognizable, as the case shall require, and shall then certify the said writ, with the return thereof, and the said recognizance or recognizances, into the said court, where such appearance is to be made; unless it shall appear to the said chancellor, or justice or justices, that the party so committed is detained upon a legal process, order, or warrant, out of some court, which hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices, or some justice or justices of the peace, for such matters or offences, for which, by law, the prisoner is not bailable.

How and by whom writs of habeas corpus are to be granted in vacation.

Duty of the sheriff or other officer on service of the habeas corpus.

In what cases prisoners may be discharged on recognizance.

IV. Provided always, *and be it further enacted by the authority aforesaid*, That if any person shall have wilfully neglected, for the space of two whole terms after his or her imprisonment, to pray an habeas corpus for his or her enlargement, such person, so wilfully neglecting, shall not have any habeas corpus to be granted in vacation time in pursuance of this act.

If a prisoner shall not apply for two terms for a writ of habeas corpus, it shall not be granted in vacation.

V. And be it enacted *by the authority aforesaid*, That if any officer or officers, his or their under officer or under officers, under keeper or under keepers, or deputy or other person or persons, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner, or any person in his behalf, shall refuse to deliver, or, within the space of six hours after demand, shall not deliver to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they is and are hereby required to deliver accordingly, all and every of the head gaolers and keepers of such prisons, and such other person or persons, in whose custody the prisoner shall be detained, shall, for the first offence, forfeit to the prisoner or party grieved the sum of three hundred dollars, and for the second offence the sum of six hundred dollars, and shall, if an officer, be, and is hereby made incapable to hold or execute his said office;

Penalty on officers and others, who, in such cases, shall neglect or refuse to do their duty.

A. D. 1765.

Penalty how and by whom recoverable.

the said penalties to be recovered by the prisoner or party grieved, his or her executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information, in any court of record, wherein no privilege, injunction, or stay of prosecution by non vult ulterius prosequi, or otherwise, shall be admitted or allowed, or any more than one imparlance; and any recovery or judgment, at the suit of any party grieved, shall be a sufficient conviction for the first offence; and any after recovery or judgment, at the suit of a party grieved, for any offence, after the first judgment, shall be a sufficient conviction to bring the officers, or person or persons, within the said penalty for the second offence.

Persons, liberated on habeas corpus, are not to be recommitted for the same offence, unless by a court having cognizance of the cause, on forfeiture of 1400 dollars.

VI. AND for the prevention of unjust vexation by reiterated commitments for the same offence, *Be it enacted by the authority aforesaid*, That no person, who shall be delivered or set at large upon any habeas corpus, shall, at any time thereafter, be again imprisoned or committed for the same offence, by any person or persons whatsoever, other than by the legal order and process of such court, wherein he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly, contrary to this act, recommit or reimprison, or knowingly procure or cause to be recommitted or reimprisoned, for the same offence or pretended offence, any person delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he, she, or they shall forfeit to the prisoner or party grieved the sum of fourteen hundred dollars, to be recovered as aforesaid, any colourable pretence or variation in the warrant or warrants of commitment notwithstanding.

Within what time, persons committed for certain offences, are to be indicted and tried.

VII. AND BE IT ENACTED *by the authority aforesaid*, That if any person shall be committed for treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or larceny, or for rescues, or voluntary escapes in any such case, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of oyer and terminer, or general gaol delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of oyer and terminer, or general gaol delivery, after such commitment, it shall and may be lawful to and for the justices of the supreme court, and justices of oyer and terminer, or general gaol delivery, and they are hereby required, upon motion to them made in open court, the last day of the term, sessions, or gaol delivery, either by the prisoner or any one in his behalf, to set at liberty such prisoner upon bail; unless it appear to the justices, upon oath or affirmation made, that the witnesses against the prisoner could not be produced the same term, sessions, or general gaol delivery; and if any person committed as aforesaid, upon his prayer or petition in open court, the first week of the term, or first day of the sessions of oyer and terminer, or general gaol delivery, to be brought to his trial, shall not be indicted and tried the second term, sessions of oyer and terminer, or general gaol delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

This act not to discharge a prisoner from civil suits.

VIII. PROVIDED ALWAYS, *and be it further enacted by the authority aforesaid*, That nothing in this act shall extend to discharge out of prison any person charged in debt, or other action, or with process in any civil cause; but after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to the law for such other suit.

Criminals not to be removed from the custody of one officer to that of another, but by habeas corpus, on the penalty of 500 dollars, except in certain cases.

Persons acting contrary to this act, what to forfeit.

IX. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons, citizens of this State, shall be committed to any prison, or in custody of any officer or officers whatsoever, for any criminal, or supposed criminal matter, that the said person shall not be removed from the said prison or custody, into the custody of any other officer or officers, unless it be by habeas corpus, or some other legal writ or process, or where the prisoner is delivered to the constable, or other inferior officer, to carry such prisoner to some common gaol, or where any person is sent, by order of any court, or judge, or justice of the peace, to any common work house, or house of correction, or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial, or discharge, in due course of law, or in case of sudden fire or infection, or other necessity; and if any person or persons shall, after such commitment aforesaid, make out or sign, or countersign, any warrant or warrants for

for such removal aforesaid, contrary to this act, as well he or she, who makes, or signs, or countersigns such warrant or warrants, as the officer or officers, who obey or execute the same, shall, for every offence, forfeit to the prisoner or party grieved, the sum of five hundred dollars, to be recovered in manner aforesaid. A. D. 1794.

X. AND BE IT ENACTED *by the authority aforesaid*, That it shall and may be lawful to and for any prisoner or prisoners, as aforesaid, to move for and obtain his or their habeas corpus, as well out of the court of chancery as out of the supreme court; and if the chancellor, or any justice of the supreme court for the time being, in the vacation time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath or affirmation made, that such copy or copies were denied as aforesaid, shall deny any writ of habeas corpus by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of fourteen hundred dollars, to be recovered in manner aforesaid.

Prisoner may have a habeas corpus from the chancery or supreme court.

Chancellor or justice of the supreme court refusing to issue habeas corpus, what to forfeit.

XI. AND for preventing illegal imprisonments of the citizens of this State in prisons out of the State, *Be it enacted by the authority aforesaid*, That no citizen of this State, who now is or hereafter shall be an inhabitant of or resident within this State, shall or may be sent prisoner to any place whatsoever out of this State, for any crime or offence committed within this State, and that every such imprisonment is hereby declared to be illegal; and that if any of the said citizens now is or hereafter shall be so imprisoned, he or she so imprisoned shall and may, for every such imprisonment, maintain, by virtue of this act, an action or actions of false imprisonment in any court of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner, or transported, contrary to the true intent and meaning of this act, and against all or any person or persons, who shall frame, contrive, write, seal, sign or countersign, any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding, or assisting in the same, or any of them; and the plaintiff in every such action shall have judgment to recover double costs, besides damages, which damages, so to be given, shall not be less than fifteen hundred dollars; in which action no delay, stay, or stop of proceeding, by rule, order, or command, nor injunction or privilege whatsoever, nor any more than one imparlance, shall be allowed, excepting such rule of the court, wherein the action shall depend, made in open court, as shall be deemed, in justice, necessary, for special cause to be expressed in the said rule. And the person or persons, who shall knowingly frame, contrive, write, seal, sign, or countersign, any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison, or transport any person or persons, contrary to this act, or be any wise advising, aiding or assisting therein, being lawfully convicted thereof, shall from thenceforth be disabled to bear any office of trust or profit under this State, and shall be fined or imprisoned at hard labor, or both, at the discretion of the court, before whom the conviction shall be had. PROVIDED, That nothing in this act shall extend to give benefit to any person, who shall, by contract in writing, agree with any merchant, or owner of any plantation, or other person whatsoever, to go, be transported, or sent to any place out of this State, or to any part beyond the seas, and receive earnest upon such agreement, although such person shall afterwards renounce such contract. PROVIDED ALSO, That if any citizen of this State, or person or persons at any time resident in the same, shall have committed, or be charged with having committed any treason, felony, or misdemeanor in any other of the United States, where he or she ought to be tried for such offence, such citizen, person, or persons may be sent to such State having jurisdiction of such offence, there to receive such trial, in such manner, as the same might have been had or used before the making of this act.

A citizen of this State shall not be sent out of it for any offence, where he shall have committed in it; and if he be, he shall recover not less than fifteen hundred dollars, damages, with double costs.

The person writing, sealing or signing such warrant for removal, shall be disabled to hold any office.

Persons, who contract to go out of the State, are not within this act.

A citizen of this State, who shall have committed an offence in another State, to be sent there for trial.

XII. AND BE IT ENACTED *by the authority aforesaid*, That no person or persons shall be sued or impleaded for any offence against this act, unless the party offending be sued or impleaded for the same within two years at farthest after such time, wherein the offence shall be committed, in case the party grieved shall not be then in prison; and if he or she shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.

Within what time this act shall be pursued.

XIII. AND

A. D. 1795.

In suits under this act, the defendant may plead the general issue, and give the special matter in evidence.

XIII. AND BE IT ENACTED *by the authority aforesaid*, That if any information, suit, or action shall be brought or exhibited against any person or persons for any offence committed, or to be committed against this act, it shall be lawful for such defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give the special matter in evidence; and if such special matter, in case it were duly pleaded, had been good and sufficient in law to have discharged the said defendant or defendants against the said information, suit, or action, the same, so given in evidence, shall be as available to him or them to all intents and purposes, as if he or they had sufficiently pleaded, set forth, or alleged the said matter in bar or discharge of such information, suit, or action.

Prisoners not to be removed by habeas corpus, after sessions of oyer and terminer and general gaol delivery have been proclaimed for the county.

XIV. AND to the intent, that no person may avoid his trial at the sessions of oyer and terminer, or general gaol delivery, by procuring his removal at such time before the commencement of the court, as he cannot be brought back to receive his trial at the same court; *Be it enacted by the authority aforesaid*, That after the sessions of oyer and terminer, or general gaol delivery shall be proclaimed for that county, where the prisoner is detained, such prisoner shall not be removed from the common gaol upon any habeas corpus granted in pursuance of this act; but, upon any such habeas corpus, shall be brought before the justice or justices of the said court of oyer and terminer, or general gaol delivery, in open court, who shall thereupon do what to justice appertains. PROVIDED NEVERTHELESS, That after the sessions of oyer and terminer, or general gaol delivery are ended, any person detained may have his or her habeas corpus, according to the direction of this act.

In whose cases informations shall not be exhibited or sustained.

XV. AND BE IT ENACTED *by the authority aforesaid*, That no information, for a matter merely criminal, for which an indictment will lie, and in which no civil right is involved, nor forfeiture or penalty given by law to any private person or common informer, is prosecuted for, shall, from and after the passing of this act, be exhibited or sustained in any court of this State.

A former act respecting informations repealed.

XVI. AND BE IT ENACTED *by the authority aforesaid*, That the act, entitled, "An Act for preventing malicious prosecutions by informations," passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred, thirteen--fourteen, shall be, and the same is hereby repealed.

An ACT *for the relief of certain persons, having paid monies to the commissioners and agents of forfeited estates.*

Passed the 13th of March, 1795.

In what cases continental money paid shall be credited as specie.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all payments made to commissioners or agents of forfeited estates in continental, or other currency, receivable by such commissioners or agents, while the same was a legal tender, by any debtor, in virtue of the act or acts for confiscating the estates of certain fugitives and offenders, shall be taken and allowed by all courts and juries in this State, in favor of such debtor or debtors, to the full nominal value of the said payments respectively, notwithstanding it should appear that the whole debt and interest due from such debtor or debtors was not thereby discharged.

An ACT *concerning distresses.*

Passed the 16th of March, 1795.

Distress to be reasonable, or if not the party to pay damages.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all distresses made or taken, or to be made or taken, for any cause whatsoever, shall be reasonable and not too great; and if any person shall take great and unreasonable distress or distresses, he or she shall answer the damages to the party aggrieved.

II. AND

A. D. 1763.

II. AND BE IT ENACTED *by the authority aforesaid*, That no person shall take any distress wrongfully, or cause any distress to be driven or conveyed out of the county, where it shall be taken; and every person, who shall do so of his or her own authority, and without judgment, shall answer the damages to the party aggrieved.

No distress to be taken wrongfully, or driven out of the county.

III. AND BE IT ENACTED *by the authority aforesaid*, That no person shall be distrained for any cause whatsoever, by his or her beasts of the plough, or sheep, or by the impliments of his or her trade, while other distress or chattels, whereof the debt or demand may be levied, or sufficient for the same, may be found; except the distraining and impounding beasts found on the ground of any person damage feasant.

Articles not liable to be distrained.

IV. AND BE IT ENACTED *by the authority aforesaid*, That beasts, when they are distrained for any cause whatsoever, shall be put in open pound, [illegible] ship or precinct where they shall be taken; and they, to whom such beasts belong, may give them their feeding, without disturbance, so long as they shall be impounded as aforesaid.

Beasts distrained to be put in open pound in the township.

V. AND BE IT ENACTED *by the authority aforesaid*, That no goods or chattels, distrained or taken by way of distress, for any cause whatsoever, at one time, shall be impounded in several places, whereby the owner or owners of such distress shall be constrained to sue several replevins for the delivery of the said distress, so taken at one time, upon pain, that every person offending therein shall, for every such offence, forfeit to the party grieved forty dollars, and treble damages, to be recovered, by action of debt, in any court of record, where the same shall be cognizable.

Goods distrained not to be impounded in different places.

VI. WHEREAS the most useful and ready way for recovery of arrears of rent is by distress, yet such distresses not being to be sold, but only detained as pledges for enforcing the payment of such rent, the persons distraining have little benefit thereby; for remedy whereof, *Be it enacted by the authority aforesaid*, That where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained shall not, within ten days next after such distress taken, and notice thereof, with the cause of such taking, left at the chief mansion-house, or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the sheriff according to law, that then, in such case, after such distress and notice as aforesaid, and expiration of the said ten days, the person distraining shall and may, with the sheriff or under sheriff of the county, or with the constable of the township, precinct or place, where such distress shall be taken, (who are hereby required to be aiding and assisting therein) cause the goods and chattels so distrained to be appraised by two sworn appraisers, (whom such sheriff, under sheriff, or constable are hereby empowered to summon for that service, and to swear well and truly to appraise the same according to the best of their understanding) and after such appraisement, shall and may lawfully sell, at public vendue, the goods and chattels so distrained, (giving five days public notice, by advertising the articles to be sold, and time and place of sale, in at least three of the most public places in the township, where such distress shall be made) for the best price that can be gotten for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement, and sale, leaving the overplus, if any, in the hands of such sheriff, under sheriff, or constable, for the owner's use.

Goods distrained for rent to be appraised and sold, at the expiration of ten days, with a limitation [illegible]

VII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That it shall and may be lawful for any person or persons, having rent in arrear and due upon any such demise, lease, or contract as aforesaid, to seize and secure any sheaves, cocks, or stacks of wheat, rye, buckwheat, barley, oats, indian corn, or other corn or grain, or wheat, rye, buckwheat, barley, oats, indian corn, or other corn or grain loose or in the straw, or flax, hemp, or hay, lying or being in any barn, crib, or granery, or upon any hovel, stack, rick, or barrack, or elsewhere, upon any part of the land charged with such rent, and to lock up or detain the same in the place, where the same shall be found, for and in the nature of a distress, until the same shall be replevied, upon such security to be given as aforesaid;

Specific articles [illegible] be distrained, appraised, [illegible]

A. D. 1795.

said; and in default of replevying the same as aforesaid, within the time aforesaid, to sell the same, after the appraisement thereof, in manner as above directed.

Further specification of articles made liable for the payment of rent; but the goods and chattels of others, though in possession of the tenant, are not to be distrained.

VIII. And be it enacted *by the authority aforesaid*, That it shall and may be lawful for all and every lessor or landlord, lessors or landlords, or his, her, or their steward, bailiff, receiver, or other person or persons empowered by him, her, or them, to take and seize, as a distress for arrears of rent, any of the goods and chattels of his, her, or their tenant or tenants, and not of any other person, although in possession of such tenant or tenants, which may be found on the demised premises, except such goods and chattels as are by law privileged from distress; and also any hogs, horses, cattle, or stock, of his, her, or their respective tenant or tenants, and not of any other person, although in possession of such tenant or tenants, feeding or depasturing on the demised premises, or upon any common appendant, or appurtenant, or any ways belonging to all or any part of the premises demised or holden; and also to take or seize all or any wheat, rye, buckwheat, barley, oats, indian corn, or other corn or grain, and grass, hops, roots, pulse, fruits, vegetables, or other produce whatsoever, growing or being on the premises, or any part thereof, so demised or holden, as a distress for arrears of rent, and the same to cut, dig, pull, gather, make, cure, carry, and lay up in some proper and convenient place on the premises, and for want thereof, in some other place to be procured by such lessor or landlord, lessors or landlords, (due notice of such place being given to such tenant or lessee, or left at his or her place of abode) and to appraise, sell, and dispose of the same in the time and manner herein before directed. Provided always, That it shall not be lawful for any lessor or landlord, at one time, to distrain for more than one year's rent in arrear, and that such distress must be made within six months after the same shall become due.

Landlord to distrain only for one year's rent, and within six months.

Distresses may be impounded, or otherwise secured, and sold on the premises.

IX. And be it enacted *by the authority aforesaid*, That it shall and may be lawful for any person or persons, lawfully taking any distress for any kind of rent, to impound or otherwise secure the distress so made, of what nature or kind soever it may be, in such place or on such part of the premises, as shall be most convenient for the purpose, and to appraise, sell, and dispose of the same upon the premises, in like manner as any person taking a distress for rent may do off the premises, by virtue of this act; and it shall and may be lawful to and for any person or persons whatsoever, to come and go to and from such place or part of the premises, where any distress for rent shall be impounded or secured as aforesaid, in order to view, appraise, and buy, and also to carry off or remove the same, on account of the purchaser thereof.

Treble damages to be recovered for pound breach or rescous of goods distrained.

X. And be it enacted *by the authority aforesaid*, That if any pound-breach or rescous shall be made of any goods, chattels, or other things distrained for rent, and impounded, or otherwise secured, by virtue of this act, the person or persons aggrieved thereby shall, in a special action upon the case for the wrong thereby sustained, recover his, her, or their treble damages and costs of suit against the offender or offenders, or any of them, in any such rescous or pound-breach, or against the owner of the goods distrained, in case the same be afterwards found to have come to his or her use or possession.

If goods be distrained and sold, where no rent is due, the owner shall recover double the value of them, with costs.

XI. Provided always, *and be it further enacted by the authority aforesaid*, That in case any such distress and sale as aforesaid shall be made, by virtue or colour of this present act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him or them, in whose name or names, or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattels distrained and sold as aforesaid, his or her executors or administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, or any of them, his, her, or their executors or administrators, recover double of the value of the goods or chattels so distrained and sold, together with full costs of suit.

Distress for rent shall not be unlawful, for any irregularity of the distrainer; but the party grieved may

XII. And be it enacted *by the authority aforesaid*, That where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party or parties distraining, or by his, her, or their agent or agents, the distress itself shall not be therefor deemed to be unlawful,

ful, nor the party or parties making it be deemed a trespasser or trespassers ab initio; but the party or parties aggrieved by such unlawful act or irregularity shall and may recover full satisfaction for the special damage, which he, she, or they shall have sustained thereby, and no more, in an action of trespass, or on the case, at the election of the plaintiff or plaintiffs. PROVIDED, That where the plaintiff or plaintiffs shall recover in such action, he, she, or they shall be paid his, her, or their full costs of suit, and have the like remedies for the same as in other cases of costs: AND PROVIDED ALSO, That no tenant or tenants, lessee or lessees, shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends hath been made by the party or parties distraining, his, her, or their agent or agents, before such action brought.

recover special damages, with costs; unless tender of amends be made before action brought.

XIII. AND BE IT ENACTED *by the authority aforesaid*, That in all actions of trespass, or upon the case, to be brought against any person or persons entitled to rents or services of any kind, his, her, or their bailiff or receiver, or other person or persons, relating to any entry by virtue of this act, or otherwise, upon the premises chargeable with such rents, or to any distress or seizure, sale or disposal of any goods or chattels thereupon, it shall and may be lawful to and for the defendant or defendants in such actions to plead the general issue, and give the special matter in evidence; and in case the plaintiff or plaintiffs shall become nonsuit, discontinue his, her, or their action, or have judgment against him, her, or them, the defendant or defendants shall recover double costs of suit.

If against a person entitled to rent, an action be brought for any thing done by virtue of this act, he may plead the general issue, and give the special matter in evidence.

XIV. AND BE IT ENACTED *by the authority aforesaid*, That if any tenant or tenants, lessee or lessees, for life or lives, term of year or years, at will, sufferance, or otherwise, of any messuage, lands, tenements, or hereditaments, shall convey away or carry off or from such premises, his, her, or their goods or chattels, leaving the rent or any part thereof unpaid, it shall and may be lawful to and for every landlord or lessor, landlords or lessors, or any person or persons by him, her, or them for that purpose lawfully empowered, within the space of thirty days next after such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels, wherever the same shall be found, as a distress for the said arrears of rent, and the same to sell, or otherwise dispose of, in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord, lessors or landlords, in and upon such premises, for such arrears of rent. PROVIDED ALWAYS, That no landlord or lessor, or other person entitled to such arrears of rent, shall take or seize any such goods or chattels, as a distress for the same, which shall be sold bona fide, or for a valuable consideration, before such seizure made, to any person not privy to such fraud as aforesaid.

If tenant remove the goods, landlord may seize them anywhere within thirty days after such removal.

But not to extend to goods bona fide sold before seizure.

XV. AND to deter tenants from such conveying away their goods and chattels, leaving the rent unpaid, and others from wilfully aiding or assisting therein, or concealing the same; *Be it further enacted by the authority aforesaid*, That if any such tenant or lessee shall remove and convey away his or her goods or chattels as aforesaid, or if any person or persons shall wilfully and knowingly aid or assist any such tenant or lessee in such conveying away or carrying off any part of his or her goods or chattels, or in concealing the same, all and every person or persons, so offending, shall forfeit and pay to the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, from whose estate such goods and chattels were so carried off as aforesaid, double the value of the goods or chattels by him, her, or them respectively carried off or concealed as aforesaid, to be recovered by action of debt in any court of record.

Tenants, who remove goods, leaving the rent unpaid, and persons, who assist them, to forfeit double the value of the said goods.

XVI. AND BE IT ENACTED *by the authority aforesaid*, That where any goods or chattels, conveyed or carried away as aforesaid, by any tenant or tenants, lessee or lessees, his, her, or their servant or servants, agent or agents, or other person or persons aiding or assisting therein, shall be put, placed or kept in any house, barn, stable, outhouse, yard, close, or place locked up, fastened, or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful to and for the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, or his, her, or their steward, bailiff, receiver, or other person or persons empowered to take and seize, as a distress for rent, such goods and chattels, first calling to his, her, or their assistance the constable, or one of the constables or other peace officer of the

Landlord, with a constable, may break doors, and enter suspected places to take goods, which have been removed to prevent their being distrained for rent.

A. D. 1795.

the township, precinct, or place, where the same shall be suspected to be concealed, who are hereby required to aid and assist therein, and in case of a dwelling house, (oath being also first made, before some justice of the peace, of a reasonable ground to suspect, that such goods and chattels are therein) in the day time, to break open and enter into such house, barn, stable, outhouse, yard, close, or place, and to take and seize such goods and chattels, for the said arrears of rent, as he, she, or they might have done by virtue of this act, if such goods and chattels had been put in any open field or place.

Distress for rent in arrear may be made after the determination of a lease for life, or years, or at will.

XVII. AND WHEREAS tenants per auter vie, and lessees for years or at will, frequently hold over the tenements to them demised, after the determination of such leases; AND WHEREAS, after the determination of such or any other leases, no distress can by law be made for any arrears of rent, that grew due on such respective leases before the determination thereof; for remedy whereof, *Be it enacted by the authority aforesaid*, That it shall and may be lawful to and for any person or persons, having any rent in arrear and due upon a lease for term of life or lives, year or years, or at will, ended or determined, to distrain for such arrears, after the determination of the said respective leases, in the same manner as they might have done if such lease or leases had not been ended or determined. PROVIDED, That such distress be made within the space of six calendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant, from whom such arrears became due.

If a person be entitled to rent for the life of another, he may sue or distrain for the same, after his death.

XVIII. AND BE IT ENACTED *by the authority aforesaid*, That if any person, who now hath, or hereafter shall have, any rents or fee-farms, for term of life or lives, of any other person or persons, and the said rent or fee-farm now be, or hereafter shall be due and behind, and unpaid in the life of such person or persons, for whose life or lives the estate of the said rent or fee-farm did depend or continue, and after the said person or persons do die, then he or she, unto whom the said rent or fee-farm was due, his or her executors or administrators, shall and may have an action of debt against the tenant in demesne, who ought to have paid the same when it was first due, his or her executors or administrators; and also may distrain for the same arrearages upon the lands and tenements, out of which the said rents or fee-farms were issuing and payable, in the like manner and form, as he or she ought or might have done, if the person or persons, by whose death the aforesaid estate in the said rents and fee-farms was determined and expired, were in full life, and the avowry for the taking of the same distress to make in manner and form aforesaid, and make appraisement and sale of such distress, in manner aforesaid.

If a husband be entitled to rent, in right of his wife, he may sue or distrain for it after her death.

XIX. AND BE IT ENACTED *by the authority aforesaid*, That if any man, who now hath or hereafter shall have, in the right of his wife, any estate in fee-simple, fee-tail, or for term of life, of or in any rents or fee-farms, and the same rents or fee-farms now be, or hereafter shall be due, behind, and unpaid, in the life time of the said wife, then the said husband, after the death of his said wife, his executors or administrators, shall have an action of debt for the said arrearages, against the tenant of the demesne, who ought to have paid the same, his or her executors or administrators; and also, that the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form, as he might have done, if his wife had been then living, and for the same distress make avowry upon his matter aforesaid, and make appraisement and sale of such distress in the manner aforesaid.

XX. AND WHEREAS, by the common law, the executors or administrators of tenants in fee-simple, tenants in fee-tail, and tenants for term of life, of rent-service, rent-charge, rent-seek, and fee-farms, have no remedy to recover such arrearages of the said rents or fee-farms, as were due unto their testators or intestates in their lives, nor may the heirs of such testator, nor any person, having the reversion of his or her estate after his or her decease, distrain, or have any lawful action to levy any such arrears of rents or fee-farms; for remedy whereof, *Be it enacted by the authority aforesaid*, That the executors or administrators of any such person or persons, unto whom any such rent or fee-farm is or shall be due, and not paid at the time of his, her, or their death, shall

A. D. 1795.

shall and may have an action of debt, for all such arrearages, against the tenant or tenants, who ought to have paid the said rent, or fee-farm, so being behind in the life of the testator or intestate, or against the executors or administrators of such tenant or tenants: that it shall be lawful for every such executor or administrator of any such person or persons, unto whom such rent or fee-farm is or shall be due, and not paid at the time of his, her or their death, as aforesaid, to distrain for the arrearages of all such rents and fee-farms, upon the lands, tenements, and hereditments, which were, are, or shall be charged with the payment of such rents or fee-farms, and chargeable to the distress of the testator or intestate, so long as the said lands, tenements, or hereditaments continue, remain, and be in the seisin or possession of the said tenant in demesne, who ought immediately to have paid the said rent or fee-farm, so being behind, to the said testator or intestate, in his or her life time, or in the seisin or possession of any other person or persons, claiming the said lands, tenements and hereditaments only by or from the said tenant, by purchase, gift or descent, in like manner and form as the said testator or intestate might or ought to have done in his or her life time; and the said executors or administrators shall, for the same distress, lawfully make avowry upon their matter aforesaid, and make appraisement and sale of such distress in the manner aforesaid.

Executors or administrators of persons entitled to rent-service, rent-charge, rent-seck, or fee-farm, may sue or distrain for the same.

XXI. And be it enacted *by the authority aforesaid*, That in all cases where the value of the goods and chattels, distrained as aforesaid, shall not be found to be of the full value of the arrears distrained for, the party, to whom such arrears are or shall be due, his or her executors, administrators, or legal representatives, may, from time to time, distrain for the residue of the said arrears: Provided, That such distress shall be made within the time limited by this act.

If one distress be not sufficient, another may be made.

XXII. And be it enacted *by the authority aforesaid*, That in all cases, where any justice of the peace is or shall be required or empowered, by any law of this State, to issue a warrant of distress for the levying of any penalty inflicted, or any sum of money directed to be paid by such law, and no mode pointed out for the disposal of such distress, it shall be lawful for the justice, granting such warrant, therein to order and direct the goods and chattels, so to be distrained, to be sold and disposed of within a certain time to be limited in such warrant, so as such time be not less than four days, nor more than ten days, unless the penalty or sum of money, for which such distress shall be made, together with the reasonable charges, (to be taxed by such justice) of taking and keeping such distress, be sooner paid; and the officer, making such distress, shall and may deduct the reasonable charges of taking, keeping and selling such distress, (to be taxed as aforesaid) out of the money arising by such sale, and the overplus, if any, after such charges, and also the said penalty or sum of money shall be satisfied and paid, shall be returned, on demand, to the owner of the goods so distrained; and the officer executing such warrant shall shew the same to the person, whose goods are distrained, and shall suffer a copy thereof to be taken. Provided always, That this clause shall not be construed to affect any law, wherein the sale of any distress, made on account of any penalty, fine, or sum of money directed to be paid, and the manner and time of such sale, are by such law particularly provided for and ascertained.

If a justice of the peace issue a warrant of distress by virtue of any law, he may order the goods distrained to be sold within a limited time.

Provided such law shall not otherwise direct.

XXIII. Provided always, *and it is hereby further enacted*, That nothing in this act contained shall be so construed as to affect the recovery of rent upon any contract made between landlord and tenant, or any lease entered into before the passing of this act.

This act not to affect former contracts between landlords and tenants.

An ACT *for rendering the proceedings upon informations in the nature of a quo warranto, more speedy and effectual.*

Passed the 17th of March, 1795.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That in case any person or persons shall usurp, intrude into, or unlawfully hold or execute any office or franchise within this State, it shall and may be lawful to and for the attorney-general, with the leave

How an information, in nature of a quo warranto, may be exhibited against an intruder into office.

A. D. 1795.

leave of the supreme court, to exhibit one or more information or informations in the nature of a quo warranto, at the relation of any person or persons, desiring to sue or prosecute the same, who shall be mentioned in such information or informations to be the relator or relators against such person or persons, for usurping, intruding into, or unlawfully holding and executing any such office or franchise, and to proceed therein in such manner as is usual in cases of informations in the nature of a quo warranto; and if it shall appear to the said supreme court, that the several rights of divers persons to the same office or franchise may properly be determined on one information, it shall and may be lawful for the said court to give leave to exhibit one such information against several persons, in order to try their respective rights to such office or franchise; and such person or persons, against whom such information or informations in nature of a quo warranto shall be sued or prosecuted, shall appear and plead as of the same term, in which the said information or informations shall be filed, unless the said court shall give further time to such person or persons, against whom such information or informations shall be exhibited, to plead, and such person or persons, as shall sue or prosecute such information or informations in nature of a quo warranto, shall proceed thereupon with the most convenient speed that may be.

Several rights of different persons may, with leave of the court, be determined on one information.

If he be found guilty, judgment of ouster to be awarded against him, and he to pay costs.

If judgment be for him, he shall recover costs against the relator.

II. And be it enacted *by the authority aforesaid*, That in case any person or persons, against whom any information or informations in the nature of a quo warranto shall, in any of the said cases, be exhibited in the said supreme court, shall be found or adjudged guilty of an usurpation or intrusion into, or unlawfully holding and executing any such office or franchise, it shall and may be lawful to and for the said court, as well to give judgment of ouster against such person or persons of and from such office or franchise, as to fine such person or persons respectively for his or their usurping, intruding into, or unlawfully holding and executing any such office or franchise; and also it shall and may be lawful to and for the said supreme court to give judgment, that the relator or relators, in such information named, shall recover his or their costs of such prosecution; and if judgment shall be given for the defendant or defendants in such information, he or they, for whom such judgment shall be given, shall recover his or their costs therein expended against such relator or relators; such costs to be levied by fieri facias, or capias ad satisfaciendum, as in other cases.

The court to allow the parties a reasonable time to plead, reply, or demur.

III. And be it enacted *by the authority aforesaid*, That it shall and may be lawful to and for the said supreme court to allow to such person or persons respectively, against whom any information in the nature of a quo warranto in any of the cases aforesaid shall be sued or prosecuted, or to the person or persons, who shall sue or prosecute the same, such convenient time respectively to plead, reply, rejoin, or demur, as to the said court shall seem just and reasonable,

---

An ACT *to prevent the holding of appointments and commissions, in certain cases, under this State and the United States at the same time.*

Passed the 17th of March, 1795.

If a person holding an office under this State be elected to congress, and accept, his office shall be vacated.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every person holding a civil commission, or an appointment to an office within this State, and under the authority thereof, and shall hereafter be elected a member to represent this State in the senate or house of representatives in the congress of the United States, and shall accept of the appointment, or take his seat agreeably thereto, the commission or appointment of such person, under the authority of this State, within the same, shall be, and the same is hereby declared to be vacated and void.

If a member of the State legislature be elected to congress, and accept, his seat in the former shall be vacated.

II. And be it further enacted *by the authority aforesaid*, That if any member of the council and general assembly of this State shall be elected to represent this State in the senate or house of representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the government of the United States, his seat in the legislature of this State is hereby declared to be vacated, and an election to fill such vacant seat shall be held, as if said member had removed out of this State.

An ACT

An ACT *for the prevention of waste.*

A. D. 1795.

Passed the 17th of March, 1795.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no guardian shall make or suffer any waste, sale or destruction of the inheritance of his ward, or of those things, that he hath or may have in his custody; but shall safely keep the same inheritance to the use of the said heir, and keep and sustain the houses, gardens and other things pertaining to the same lands, by and with the issues and profits thereof, and shall deliver the same to his ward, when he comes to his full age, in as good order and condition at least as such guardian received the same, and shall answer to such heir for the residue of such issues and profits of the same inheritance by a lawful account, saving to the guardian his reasonable charges and expenses; and if any guardian shall make or suffer any waste, sale or destruction, of the inheritance of his ward, he shall lose the same custody, and shall recompense the ward thrice as much as the damages shall be assessed at by the jury.

A guardian not to suffer or make waste of the inheritance of his ward.

If guardian suffer or make waste, the ward shall recover treble damages.

II. AND BE IT ENACTED *by the authority aforesaid*, That no tenant for life or years, or for any other term, shall, during the term, make or suffer any waste, sale or destruction of houses, gardens, orchards, lands or woods, or any thing belonging to the tenements demised, without special license in writing, making mention that he may do it.

Tenant shall not commit or suffer waste.

III. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That any person may have a writ of waste out of chancery against him or her, who holdeth by curtesy, or otherwise, for term of life, or for term of years, or other term, or a woman in dower, as well as against guardians; and whoever shall be convicted of waste shall lose the thing or place wasted, and shall recompense thrice as much as the damages shall be assessed at by the jury.

Action of waste given against tenant by curtesy, in dower, for life, or years.

IV. AND BE IT ENACTED *by the authority aforesaid*, That in all actions of waste, if the defendant come not at the return of the original writ, he shall be attached, and if he come not at the return of the attachment, he shall be distrained, and if he come not after the distress, or if he come, and afterwards make default, the sheriff shall be commanded, that in his proper person, he take with him twelve good and lawful men of his county, and go to the place wasted, and inquire of the waste done, and return an inquest, and after the inquest returned, the plaintiff shall have judgment to recover the place wasted, and treble the damages found by the inquest.

Proceedings in waste, where the defendant does not appear, or makes default.

V. AND BE IT ENACTED *by the authority aforesaid*, That when two or more, do or shall hold any lands, tenements, hereditaments, houses, woods, or other such thing, in common, as parceners, tenants in common, or joint-tenants, wherein none knows his or her several part, and some or one of them do waste, an action shall lie by a writ of waste; and when it shall come unto judgment, the defendant shall choose either to take his or her part in a place certain, by the sheriff and a jury to be assigned, or else to give such security, as the court shall allow and deem sufficient, not to commit any further waste, and to take nothing from thenceforth in the same lands, tenements, hereditaments, houses, woods, or other such thing, but as his or her partners will take; and if he or she choose to take his or her part in a place certain, the same shall be assigned to him or her in the part wasted, as it was before he or she committed the waste; but if the defendant shall not choose to take his or her part in a place certain, or if the waste exceed his or her proportion, the plaintiff shall recover against such defendant such damages as shall be found by the jury or inquest.

Proceedings in waste between parceners, tenants in common, and joint-tenants.

VI. AND BE IT ENACTED *by the authority aforesaid*, That every heir, in whose ward soever he or she be, and whether he or she be in ward or not, and as well within age as of full age, shall have his or her recovery, by a writ of waste, for waste and destruction made in houses, lands, or tenements of his or her inheritance, as well in the time of his or her ancestor or ancestors, as at any other time after the inheritance descended or come to him or her, and shall be answered unto

An heir may bring an action for waste committed during the life of his ancestor.

A. D. 1795.

to for the same, and shall recover the houses, lands or tenements wasted, and treble damages as aforesaid.

A tenant, who lets or grants his estate to another, shall, if he take the profits, be liable to an action for waste.

VII. And be it enacted *by the authority aforesaid*, That where any tenant for term of life, or for another's life, or for term of years, or any other term, hath or shall let or grant his or her estate, in the lands and tenements demised to or held by him or her, to any person or persons, and shall still continue to occupy the same lands and tenements, or to take the profits thereof, and shall commit or suffer waste and destruction in the same lands and tenements, to the disinheritance of him, her or them, in the reversion, he, she or they, to whom the reversion doth or shall appertain, may, in such case, have and maintain a writ of waste against the said tenant for term of life, or of another's life, or for term of years, or other term, and recover against him or her the place wasted, and his, her, or their treble damages for the waste done, if the said tenant was punishable of or for waste before he or she leased or granted over his or her estate as aforesaid, but not otherwise.

No action to be brought against a person, in whose house a fire shall accidentally begin.

VIII. And be it enacted *by the authority aforesaid*, That no action, suit, or process whatsoever shall be had, maintained or prosecuted against any person, in whose house or chamber any fire shall accidentally begin, or any recompense be made by such person for any damage suffered or occasioned thereby: Provided, That nothing in this section shall extend to defeat or make void any contract or agreement made or to be made between landlord and tenant.

An ACT *for the more easy and expeditious recovery of penalties on forfeited recognizances, and for appropriating the monies arising from the same, and from fines and amercements.*

Passed the 18th of March, 1795.

Forfeited recognizances in the supreme court, and quarter sessions of the peace, how to be prosecuted.

I. Whereas it frequently happens that recognizors neglect or refuse to appear in the proper courts, agreeably to the conditions of their respective recognizances; and whereas no easy and expeditious mode of prosecuting such recognizors has hitherto been established; therefore, *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person hath been or shall be bound by recognizance to the State of New-Jersey, or to the governor or commander in chief for the time being, for the use of the State, with condition for his or her appearance at the supreme court, or at the general quarter sessions of the peace, to be held in and for any county within the State, and if such person hath not appeared, or shall not appear agreeably to the condition of such recognizance, then the court, in which such recognizor may be bound to appear, shall be and they are hereby empowered and directed, on motion of the attorney-general, or attorney appointed by the court to prosecute the pleas in his absence, to award a writ of scire facias against such recognizor, to shew cause why the recognizance ought not to be forfeited, judgment to be entered against the recognizor, and execution to issue thereon; and if such recognizor shall appear at the return of such writ, and not shew or allege any matter sufficient to discharge him or her from his or her recognizance, or being returned, "warned," or upon two writs of scire facias it be returned, "that the recognizor had nothing whereby to be summoned," or, "could not be found in the county," shall make default, that thereupon the recognizance shall be forfeited, judgment final shall be given against the said recognizor as in case of debt, and execution shall issue thereon accordingly; and that in every such action, suit, or writ of scire facias, against every such recognizor, costs shall be awarded and allowed.

Forfeited recognizances in the courts of oyer and terminer and general gaol delivery, where and how to be prosecuted.

II. And be it enacted *by the authority aforesaid*, That if any person hath been, or shall be bound by recognizance to the State of New-Jersey, or to the governor or commander in chief for the time being, for the use of the State, with condition for his or her appearance at the sessions of oyer and terminer and general gaol delivery, or either of them, to be held in any county of the State, and if such person hath not appeared, or shall not appear agreeably to the condition of such recognizance, and his or her default hath been or shall be recorded in the minutes of the said court or courts, then it shall and may be lawful for the supreme court, on motion of the attorney-general, to award a writ of scire facias against such recognizor,

cognizor, to shew cause why the recognizance ought not to be forfeited, judgment to be entered against the recognizor, and execution to issue thereon, and to cause such further proceedings to be had thereupon, with costs, as are above mentioned and directed.

Duty of attorney-general or attorney acting in his stead to prosecute forfeited recognizances.

III. And be it enacted *by the authority aforesaid*, That it shall be the duty of the attorney-general, or attorney appointed to prosecute the pleas of the State in his absence, to move the court, having jurisdiction of such forfeited recognizance, for one or more writ or writs of scire facias, and the same, if awarded, to prosecute to judgment and execution; and if such attorney-general or attorney shall neglect or refuse to move in proper time and place for such writ or writs of scire facias, or to prosecute the same to effect, he shall, on conviction thereof before the council, on an impeachment exhibited by the house of assembly, be disabled to act as an attorney or solicitor in any court of this State for the term of one year.

How to be punished for neglect of such duty.

Attorney-general, if he neglect to prosecute for debts, &c. due to the State, how to be punished.

IV. And be it enacted *by the authority aforesaid*, That if on return of the amount of any debt, fine or forfeiture, due or belonging to this State, made, agreeably to any law of the State, to the attorney-general for the time being, by the treasurer or auditor of accounts for prosecution, such attorney-general shall refuse, or for the space of three calendar months neglect to prosecute any person or persons for such debt, fine or forfeiture, so to him returned, he shall, on impeachment and conviction thereof as aforesaid, be punished in the manner herein before directed.

Sheriffs, who receive fines and forfeitures, to pay them, annually, into the treasury, under the penalty of 200 dollars, besides being liable for the whole amount.

V. And be it enacted *by the authority aforesaid*, That every sheriff shall, annually, at the close of his office, or within one month after, pay into the treasury of this State, such sums of money as he shall have collected or received in virtue of executions issued against recognizors, or arising from fines and amercements awarded by any court of this State against any offender or offenders, retaining after the rate of five per centum for his trouble in collecting, receiving and paying the same; and every sheriff, who shall neglect or refuse to pay all such sums of money into the treasury agreeably to the directions of this act, shall forfeit for every offence two hundred dollars, to be recovered by and in the name of the treasurer of the State for the time being, in any court of record, where the same shall be cognizable, with costs of suit, and applied to and for the use of the State, and shall also be subject to an action of debt or trespass on the case, at the suit of the said treasurer, on behalf of the State, for recovery of the whole sum so by him received, with interest and costs of suit.

Certain acts repealed;

VI. And be it enacted *by the authority aforesaid*, That the act, entitled, "An Act for the more easy and expeditious recovery of penalties on forfeited recognizances, and for the appropriation of the monies arising from the same, and from fines and amercements, and for other purposes therein mentioned," passed the twenty second day of September, in the year of our Lord, one thousand, seven hundred and seventy seven, and a supplementary act thereto, passed the eleventh day of June, in the year of our Lord, one thousand, seven hundred and seventy nine, and the act, entitled, "An act to enforce the recovery of the penalties on forfeited recognizances, and such other debts and forfeitures due to the State as are therein mentioned, and to authorise any person to prosecute and defend his own suit in any court within this State, and to repeal part of an act therein mentioned," passed the twenty fourth day of December, in the year of our Lord, one thousand, seven hundred and eighty two, shall be and the same are hereby repealed: Provided nevertheless, That such repeal shall not affect any debt, demand, penalty, forfeiture, fine, or sum of money already due, forfeited, or arisen upon the said recited acts, or any of them, or any writ or writs, suit or suits heretofore issued or instituted under or by virtue of the said acts, or any of them; but that all and every such debt, demand, penalty, forfeiture, or sum of money, and all and every such writ or writs, suit or suits, shall be proceeded upon and prosecuted to final judgment, execution and effect, in the same manner, as if this act had not been made.

but such repeal not to affect antecedent fines, debts, and suits.

A. D. 1795.

An ACT *for the better regulation of actions of replevin.*

Passed the 19th of March, 1795.

A writ of replevin to be issued for goods and chattels wrongfully detained.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if the goods or chattels of any person be taken and wrongfully detained, the sheriff, by a writ of replevin, shall cause the same goods or chattels to be replevied and delivered, and shall summon the person, who took them, to appear at the return of the said writ, and answer the plaintiff of the taking and unjust detention of the same.

Writs of replevin shall issue out of supreme court and common pleas.

II. AND BE IT ENACTED *by the authority aforesaid*, That all writs of replevin shall issue out of the supreme court, or out of the inferior court of common pleas of the county, where the distress was made, and the said writs shall be made returnable to the court out of which they issued.

Sheriff authorized to break open houses to make replevin.

III. AND BE IT ENACTED *by the authority aforesaid*, That if any person shall take the goods and chattels of another, and convey and put them into any stable, building, house, or place of strength, and the person, from whom the same goods or chattels shall be taken, sues for a replevin thereof, the sheriff shall solemnly demand deliverance thereof at the stable, building, house, or place, where the same are detained; and if neither the taker, nor any person on behalf of such taker, shall, upon demand, deliver the same, or if no person shall come upon such demand to deliver the same, the sheriff shall take the power of his county and break open such stable, building, house, or place of strength, and make replevin according to the writ.

Sheriff shall, before he delivers the goods, take security to prosecute the suit, or to answer for the value of the goods.

IV. AND BE IT ENACTED *by the authority aforesaid*, That every sheriff, before he makes deliverance of any goods or chattels, by virtue of any writ of replevin, shall take of the plaintiff sufficient security to prosecute the suit, and to return the same goods or chattels, if return thereof shall be adjudged, and if any sheriff shall take security otherwise, or neglect to take such security, he shall answer for the value of the goods and chattels, and the person, who distrains, shall have his or her recovery by writ, that he shall restore to him or her such or so many goods or chattels.

If return of goods be awarded, the plaintiff may have a writ of second deliverance.

But if return be again awarded, the distress shall remain irrepleviable.

V. AND BE IT ENACTED *by the authority aforesaid*, That if the plaintiff, in any action of replevin, shall make default, and a return of the goods or chattels is awarded to the distrainer, the sheriff shall be commanded, by a judicial writ, issuing out of the same court, in which the matter was moved, and no other, to make return of the goods or chattels unto the distrainer; in which writ it shall be expressed, that the sheriff shall not deliver them without writ, making mention of the judgment; and if the plaintiff come unto the said court and desire replevin of the same goods and chattels, he or she shall have a judicial writ, commanding, that the sheriff, taking security for the suit, and also for the return of the same goods and chattels, or for the value of them, if return shall be awarded, shall deliver unto the plaintiff the goods and chattels before returned; and the distrainer shall be attached to come and be, at a certain day, at the court, in which the plea was moved, to answer the plaintiff for the taking and unjustly detaining the same; and if the plaintiff make default again, or for another cause return of the distress be awarded, being now twice replevied, the distress shall remain irrepleviable. But if a distress be taken anew and for a new cause, the process aforesaid shall be observed in the same new distress.

If the sheriff, on a claim of property, deliver the goods, before the claim be tried, he shall forfeit 200 dollars, and be answerable for the trespass.

VI. AND WHEREAS frequent abuses have been committed in the execution of writs of replevin by sheriffs making deliverance, notwithstanding due notice and claim of property have been interposed by the defendant or possessor; for the prevention whereof, *Be it enacted by the authority aforesaid*, That if, on a writ of replevin, the defendant in replevin, or possessor, shall claim property in the things whereof deliverance is sought, and the sheriff, either by himself, his under-sheriff, or bailiff, having due notice, shall nevertheless proceed to make deliverance, and dispossess such defendant or possessor thereof before the claim of property shall be inquired into, or tried according to law, such sheriff, for every such offence, shall, besides being answerable to the defendant or possessor for the trespass, forfeit two hundred dollars, to be recovered, with costs of suit, by any person who

who shall sue for the same, by action of debt, in any court of record having cognizance thereof; the one moiety of the said sum to be appropriated to the use of the person, who shall sue for the same, and the other moiety to the use of the State. A. D. 1795.

An avowry may be made by the landlord upon the land holden of him, without naming his tenant.

VII. And be it enacted *by the authority aforesaid*, That wheresoever any lands, tenements, or hereditaments are or shall be held by any person or persons, by rents, customs or services; if the person, of whom any such lands, tenements, or hereditaments are or shall be held, shall distrain upon the same lands, tenements, or hereditaments for any such rents, customs, or services, and replevin thereof be sued, the person, of whom the same lands, tenements, or hereditaments are or shall be so holden, may avow, or his or her bailiff or servant make cognizance, or justify for taking the said distress upon the same lands, tenements, or hereditaments so holden, as in lands, tenements, or hereditaments within his or her fee, alleging, in the said avowry, cognizance and justification, the same lands, tenements, or hereditaments to be holden of him or her, without naming any person certain to be tenant of the same, and without making any avowry, cognizance, or justification upon any person certain, and the distrainer, or his or her bailiff or servant may make avowry, cognizance, or justification, in like manner and form, upon every writ of second deliverance.

In a writ of replevin or second deliverance, the plaintiffs and defendants shall have the same pleas as at common law.

VIII. And be it enacted *by the authority aforesaid*, That the plaintiffs and defendants in all writs of replevin, or of second deliverance, and in every of them, shall and may have like pleas and like aid-prayers, in all such avowries, cognizances and justifications, (pleas of disclaimer only excepted) as they might have had before the making of this act, and as though the said avowry, cognizance, or justification had been made after the due order of the common law.

They shall have also the same joinder as at common law.

IX. And be it enacted *by the authority aforesaid*, That all such persons as by the common law may lawfully join to the plaintiffs or defendants in the said writs of replevin, or of second deliverance, as well without process as by process, shall and may join unto the said plaintiffs or defendants, as well without process as by process, and have like pleas and like advantages in all things (pleas of disclaimer only excepted) as they might have done and had by the order of the common law, before the making of this act.

If plaintiff in replevin be nonsuited before issue joined, the defendant, if the distress be for rent, may make avowry, have a writ of enquiry, and judgment, and execution upon it.

X. And be it enacted *by the authority aforesaid*, That whensoever any plaintiff in replevin shall be nonsuit, before issue joined, in any suit of replevin, by writ lawfully returned, removed, or depending in any court of record, the defendant, if the distress was made for rent, making a suggestion in nature of an avowry, or cognizance for such rent, to ascertain the court of the cause of distress, the court, upon his or her prayer, instead of awarding a return of the distress, shall award a writ to the sheriff of the county, where the distress was taken, to enquire, by the oath or affirmation of twelve good and lawful men of his bailiwick, touching the sum in arrear at the the time of such distress taken, or the value of the goods or chattels distrained, and fifteen days notice shall be given to the plaintiff, or his or her attorney, of the sitting of such enquiry, and thereupon the sheriff shall enquire of the truth of the matters contained in such writ, by the oath or affirmation of twelve good and lawful men of his county, and upon the return of such inquisition, the defendant shall have judgment to recover against the plaintiff the arrearages of such rent, in case the goods and chattels distrained shall amount to that value; and in case they shall not amount to that value, then so much as the value of the goods and chattels so distrained shall amount unto, together with his or her full costs of suit, and shall have execution thereupon for the same by capias ad satisfaciendum, fieri facias, or otherwise, as law shall require; and in case such plaintiff shall be nonsuit, after cognizance or avowry made and issue joined, or if the verdict shall be given against such plaintiff, then the jurors, empannelled or returned to enquire of such issue, shall, at the prayer of the defendant, enquire concerning the sum of the arrears and the value of the goods and chattels distrained, and thereupon the avowant or the person, who makes cognizance, shall have judgment for such arrearages, or so much thereof as the goods and chattels distrained amount unto, together with his or her full costs, and shall have like execution for the same as aforesaid.

Mode of proceeding, where the plaintiff is nonsuited after issue joined.

XI. And be it enacted *by the authority aforesaid*, That if judgment be given upon

A. D. 1795.

If judgment be given on demurrer, for the defendant, writ of enquiry may issue.

upon demurrer for the avowant, or the person, who makes cognizance for any rent, the court, instead of awarding a return of the distress, shall, at the prayer of the defendant, award a writ to enquire of the value of such distress, and upon the return thereof, judgment shall be given for the avowant or person, who makes cognizance as aforesaid, for the arrears alleged to be behind in such avowry or cognizance, if the goods and chattels so distrained shall amount to that value; and in case they shall not amount to that value, then for so much as the said goods and chattels so distrained amount unto, together with his or her full costs of suit, and shall have like execution for the same as aforesaid.

In a replevin of a distress for rent, the sheriff shall take bond of the plaintiff, with sureties, to prosecute and make return, if it be awarded; which bond he shall, if required, assign to the defendant, who may bring an action upon it in his own name.

XII. AND to prevent vexatious replevins of distresses taken for rent, *Be it enacted by the authority aforesaid*, That every sheriff shall, in every replevin of a distress for rent, take, in his own name, from the plaintiff and two responsible persons as sureties, a bond in double the value of the goods and chattels distrained, (such value to be ascertained by the oath or affirmation of one or more witness or witnesses not interested in the distress, which oath or affirmation such sheriff is hereby authorized and required to administer) and conditioned for prosecuting the suit with effect, and without delay, and for duly returning the goods and chattels distrained, in case a return shall be awarded, before any deliverance be made of the distress; and that the sheriff, taking such bond, shall, at the request and costs of the defendant, avowant, or person making cognizance, assign such bond to the defendant, avowant, or person making cognizance, by indorsing the same, and attesting it under his hand and seal, in the presence of two or more witnesses; and if the bond so taken and assigned be forfeited, the defendant, avowant, or person making cognizance, may, in his or her own name, bring an action and recover thereupon; and the court, where such action shall be brought, may, by a rule or rules of the same court, give such relief to the parties upon such bond, as shall be agreeable to justice; and such rule or rules shall have the nature and effect of a defeazance to such bond.

A defendant in replevin may avow generally, without stating a title.

XIII. AND WHEREAS great difficulties often arise in making avowries or cognizance upon distresses for rents, quit-rents, and other services, *Be it enacted by the authority aforesaid*, That it shall and may be lawful to and for all defendants in replevin, to avow or make cognizance generally, that the plaintiff in replevin, or other tenant of the lands and tenements, whereon such distress was made, enjoyed the same under a grant or demise at such a certain rent, during the time wherein the rent distrained for incurred, which rent was then and still remains due, without further setting forth the grant, tenure, demise, or title of such landlord or landlords, lessor or lessors, owner or owners.

No replevin in case of a distress for a tax or fine.

Penalty on a person, who, in such case, shall take out a replevin.

XIV. AND BE IT ENACTED *by the authority aforesaid*, That no replevin shall lie in case of distress for any tax, assessment, or fine, to be collected or levied in pursuance of any law of this State; and if any person or persons shall hereafter sue out or prosecute a replevin, in any such case, he, she, or they shall forfeit one hundred and fifty dollars, to be recovered, with costs of suit, by any person, who shall sue for the same, by action of debt, in any court of record having cognizance thereof; the one moiety of the said forfeiture to the person, who shall sue for the same, and the other moiety to the State.

An ACT *for the relief of persons imprisoned for debt.*

Passed the 18th of March 1795.

A person in prison for debt may apply to the court of common pleas, and exhibit a true account of his estate, a list of his creditors, and the sum due to each of them.

I. BE IT ENACTED *by the Council and General assembly of this State, and it is hereby enacted by the authority of the same*, That any person, who now is in actual confinement for debt in any of the gaols in this State, and hath been so confined from the first day of October last, and is willing to deliver up to his or her creditor or creditors all his or her estate both real and personal, towards the payment of his or her said creditor or creditors, shall have leave to present a petition to the inferior court of common pleas in and for the county, wherein he or she is so imprisoned, setting forth the cause or causes of his or her imprisonment, containing also a just and true account of all his or her real and personal estate, a full and true inventory of all his or her deeds, bonds, notes, books of account, vouchers and securities

curities whatsoever, together also with a list of all his or her creditors, with the monies due and owing to each of them, to the best of his or her knowledge. A. D. 1795.

On such application the court to appoint a hearing, of which notice is to be given to the creditors.

II. And be it further enacted *by the authority aforesaid*, That the court, to whom such application is made, are required to name the time and place, at which they will attend to hear what can be alleged for or against the liberation of such debtor; of which time and place, so appointed by the court, the debtor shall cause notice thereof in writing, at least thirty days previous thereto, to be served on or left at the usual place of residence of each of his or her creditors, if residing within this State, and have the same inserted in one of the newspapers of this State, and in one of the newspapers of the State most contiguous to the place of his or her confinement.

What is requisite to be produced and done at the hearing.

III. And be it further enacted *by the authority aforesaid*, That at such time and place as aforesaid appointed, the debtor, so applying to the court as aforesaid, shall appear before the said court, and exhibit a just and true account of all his or her estate, both real and personal, either in possession, reversion, or remainder, together with a just and true inventory of all his or her deeds, bonds, notes, books of account, vouchers, specialties whatsoever, with the sums due thereon, as near as may be, and a list of all his or her creditors, with the amount of debts to them due and owing; that the court shall proceed to hear, consider and examine into the truth and justice of such application or petition, so as aforesaid made and presented; to consider and examine also the truth and fairness of the account and inventory, so to be exhibited before the said court.

The prisoner to be examined on oath, in open court, respecting the disposition of his estate and the truth of his inventory.

Punishment for false swearing.

IV. And be it enacted *by the authority aforesaid*, That such examination shall be had in open court and on interrogatories, proposed by the court to such debtor, touching and concerning the disposition of his or her estate, the truth and fairness of the account, and inventory, so as aforesaid exhibited, and the debtor shall, on his or her oath or solemn affirmation, a true and direct answer, of and concerning the same, make to all such questions as shall be asked him or her by the court; and if the debtor to such interrogatories shall, knowingly, falsely swear or affirm, such debtor shall be adjudged guilty and liable to the pains and penalties of wilful and corrupt perjury.

The court to appoint assignees, to whom the debtor shall execute an assignment of his estate; upon which he shall be discharged.

V. And be it further enacted *by the authority aforesaid*, That if, after the hearing, consideration and examination of the proofs and allegations of such debtor, the court and the creditor or creditors, that may attend, shall be satisfied that the conduct of the debtor has been fair, upright and just, the court shall proceed forthwith to appoint one or more respectable, judicious and responsible freeholder or freeholders of the county, where such debtor may be imprisoned, as assignee or assignees; to which said assignee or assignees the debtor shall forthwith execute an assignment of all his or her real and personal estate wheresoever or whatsoever, except such apparel for himself, his wife and children, and such tools and implements of his trade or occupation, as the court may judge proper, not exceeding the value of ten pounds in the whole; upon making which assignment, and filing the same in the clerk's office of the said court, the court may, by writing, under their hands and seals, direct the sheriff to discharge said debtor from confinement, on account of any debts by him or her previously contracted.

When a debtor shall be remanded to prison, and a further hearing ordered.

VI. And be it further enacted *by the authority aforesaid*, That if the creditor or creditors, at whose suit such debtor is imprisoned, or any other creditor, shall not be satisfied with the truth and honesty of the declaration and confession of such debtor, nor with the truth and fairness of the account and inventory so as aforesaid to be exhibited, and such creditor or creditors shall offer and undertake to the court to prove by the first day of the next term, that such debtor has concealed and secreted some part of his or her estate, and has not fairly, fully and honestly, delivered up to the use and benefit of his or her creditors the whole of his or her estate, real and personal, it shall and may be lawful for the court to remand such debtor to prison, and direct such debtor and the said creditor or creditors, so dissatisfied as aforesaid, to appear before the court on the first day of the next term; Provided, That such creditor or creditors, so dissatisfied, shall and do agree by writing, under his or their hands, to allow and pay any sum that the court may direct, not exceeding four shillings per week, to and for the support of such debtor, to be paid on the second day of each week, for and during the said

A. D. 1795.

term; and on failure of payment of which weekly sum, such debtor shall, on application to the court, or any three judges thereof, be forthwith, by order as aforesaid, discharged; PROVIDED ALSO, That if such creditor or creditors, so dissatisfied, shall prove that such debtor hath concealed and kept back any part of his or her estate, he or they shall be reimbursed the expense of supporting such debtor out of the estate of such debtor.

VII. AND WHEREAS the trial by jury is justly considered as the mode of trial most congenial with the liberties of a free people, and should in all cases between individuals be used and had as far as is practicable, and in the present case such a mode of trial would be mutually advantageous both to the debtor and to the creditor; to the creditor, by not depriving him of his property without the verdict of a jury, and to the debtor, by not confining his body, or convicting him of a crime without the interposition and approbation of twelve free and lawful men; *Be it therefore enacted by the authority aforesaid*, That after such debtor shall be remanded to prison as aforesaid, he shall, within thirty days, file, in the clerk's office of said court, a declaration, to the following effect, to wit, Hunterdon, (or other county, as the case is,) to wit: A. (name of the debtor) cometh before the court and saith, that he ought against his creditors to be discharged out of custody for debt, because he saith, that he hath become, according to the force, form and effect of an act of the legislature, entitled, "An act for the relief of persons imprisoned for debt," passed the eighteenth day of March, in the year of our Lord, seventeen hundred and ninety five, and within the true intent and meaning of such act, an insolvent debtor; and that he hath well and truly complied with the said act in all things on his part, for the benefit, and to the use of his creditors, to wit, on the first day of March, in the year of our Lord, seventeen hundred and ninety five, (or other time as the case may be) at the township of Amwell, in the county of Hunterdon (or other place) whereby good right and full title, by virtue of the said act, hath accrued to him against his creditors to be discharged out of custody for debt, and this he is ready to verify; wherefore he prayeth judgment of discharge out of custody for debt, according to the force, form and effect of the said act. That within twenty days after filing the said declaration, but not afterwards, all the creditors of said debtor, or any one of them, may file in the clerk's office of said court, his, her, or their plea, to the following effect, to wit, B. C. D. (the names of the creditors) come before the court and say, that the said A. is not an insolvent debtor, and that he hath not well and truly complied with the said act, in all things, on his part, for the benefit and to the use of his creditors, in manner and form, as the said A. hath thereof declared against his creditors, and of this they put themselves upon the country: that the debtor may join issue with the creditor or creditors, by filing in the office of the said court the replication of the debtor to the following effect, to wit, and the said A. doth so likewise. That for the trial of the issue, joined as aforesaid between the debtor as plaintiff of the one part, and all the creditors or creditor as defendants or defendant of the other part, in one action, and not in two or more actions; the debtor do cause a venire facias to issue, directed to the sheriff, requiring him to summon twelve respectable freeholders of the county to make a jury between the said parties. The debtor filing, in the office of the said court, lawful notice of trial to the creditor or creditors, named in his, her, or their plea, do cause the issue joined as aforesaid to be tried in turn before the court by the said jury to be summoned by the sheriff of the county as aforesaid: that the trial on the said issue shall be had only between the debtor named in the declaration, and the creditor or creditors named in the plea, and not between the debtor and other creditors, that all proceedings had under this act, on the part of the debtor, may, on trial of the issue, if joined as aforesaid, be before the court and jury deemed competent, but not conclusive evidence on his part; and that the debtor do, on the trial of the issue before the court and jury, further than by the proceedings aforesaid, prove in evidence, and maintain the truth and legality of his case, according to the issue on his part joined; and that if the jury do find a verdict for the debtor, the court do render judgment, that the debtor be discharged out of custody according to the force, form and effect of the said act: that if the jury do find a verdict for the creditor or creditors, the court do render judgment, that the debtor be continued in custody, until he be thence delivered by due course of law: that if within twenty days after filing the declaration of the debtor, no creditor do file a plea to the same, the clerk of the court, on the application of the debtor, is hereby required to enter in the minutes of the said court a certificate, that no

Plaintiff, when remanded to prison, to file a declaration within 30 days;

its form.

Plea to be filed, within 20 days, after the filing of the declaration.

Form of the plea.

Venire facias to issue, and due notice of trial to be filed.

If the jury find for the debtor, he shall be discharged; if against him, he shall be continued in custody.

If plea be not filed in due time, the debtor to be discharged.

no plea has been filed by any creditor to the declaration of the debtor, and that the debtor may produce a copy of the said certificate, under the hand of the clerk, and seal of the court, to any two judges of the court, who, being together, are hereby empowered to make their joint order in writing, under their hands and seals, that the debtor, for default of a plea filed to his declaration by any creditor, be discharged out of custody, according to the force, form and effect of the said act; which order is to be delivered to the clerk of the court, and by him to be entered on the minutes of said court, and to be filed. And that if on the trial before the court and jury, and the verdict and judgment thereupon, the debtor shall be convicted, he shall pay such costs as may be taxed by the court; and if the creditor or creditors shall not maintain the issue on his or their part, the said creditor or creditors shall in such case pay the costs by the court to be taxed.

Costs to be awarded according to the event of the suit.

VIII. And be it further enacted *by the authority aforesaid*, That the assignee or assignees, so to be appointed as aforesaid, are hereby declared to be invested with as ample title to all lands, goods, debts and effects whatsoever, so assigned, as the assignor himself or herself had; and no release of the assignor, his or her executor, administrator, or any trustee for him or her, subsequent to such assignment, shall bar the assignee or assignees from recovering any debts, or other property mentioned in the assignment to them made; and the assignee or assignees, after paying the fees of the gaol-keeper, shall divide the proceeds of the property so assigned to them among all the creditors, in proportion to their respective debts, reserving to themselves such compensation for their services as is herein after allowed them.

Debtor's estate vested in the assignees.

IX. And be it further enacted, That such assignee or assignees shall have full power and authority to dispose of all estates, which shall be assigned to them, or which ought, by virtue of this act, to be assigned to them, to execute good and sufficient deeds for the same, to redeem all mortgages and conditional contracts, and to recover in their own names every thing belonging or appertaining to the estate, real and personal, of such debtor; and shall have full power and authority to refer to arbitration, settle, compound and agree, with any person or persons indebted to such insolvent, in such manner as shall from time to time be agreed upon between them; and shall proceed to convert the estate of every such debtor into money, as soon as conveniently may be, and upon such credit as the major part in value of the creditors shall direct; and shall, within the space of eighteen months, proceed to make a division of all the money, which shall come to their hands of all the estate aforesaid, first giving three months notice of the time and place of making such dividend, by advertising the same in one or more of the public newspapers of this State nearest the place of the said debtor's confinement, and fixing advertisements in five of the most public places of the county; and, if the whole be not then distributed, shall, within the space of one year thereafter, make a second division of what monies may come to their hands after the first division; and so from year to year, till a final settlement thereof, and a just and equal distribution of the whole estate, be made: and in case any creditor or creditors of any such debtor shall reside in any other of the United States, having no attorney empowered to appear for and represent him or her in this State, then such assignees shall, at least six months before the making of such dividend, give public notice of the time and place of making the same, by an advertisement inserted in one of the newspapers, published at the seat of the federal government, and continued in the same one month.

Powers and duties of the assignees designated and defined.

X. And be it further enacted, That the assignee or assignees shall, at least one month before a division be made, appoint the day, by public notice as herein before is directed, for a general meeting of all such creditors, as shall choose to attend, to examine and ascertain the debts due to each creditor; and, in case of any controversy relating to such debts, it shall be determined in the following manner; the assignee or assignees shall nominate two arbitrators, not being creditors of the insolvent, and the creditor, whose debt is in controversy, shall nominate two others, and their names shall be separately written on four pieces of paper, as nearly of the same size as possible, which shall be rolled up in the same manner and put into a covered box, and from thence one of the assignees shall draw out three of the said pieces of paper, and the persons, whose names are so drawn, shall finally settle such controversy; and if any arbitrator so appointed shall refuse or be incapable of acting in a reasonable time, a new choice shall be made

Controversies relating to debts, how to be determined.

A. D. 1795.

made in the same manner; and in case any such creditor shall refuse to nominate arbitrators on his part, the assignees shall nominate them for him.

Form of the oath to be taken by the assignees.

XI. And be it further enacted, That the assignee or assignees shall, immediately after the assignment, take an oath or affirmation, as the case may require, to be administered by the judges aforesaid, to the following effect, viz. I A B. do solemnly swear, that I will well and faithfully manage the insolvent's estate, and keep and render a true account of all that shall come to my hands or the same; so help me God. Which oath or affirmation shall be in writing, subscribed by the assignee or assignees, and filed with the clerk of the said court and the said assignees shall keep regular books of account, to which every creditor shall, at all reasonable times, have recourse; and, for the care and trouble incumbent on the assignees, they shall be allowed, out of the insolvent's estate, such sum as the court may deem adequate to their services and expenses.

Their allowance.

The court or judges authorized to examine the wife of the debtor, and other persons respecting his estate.

XII. And be it further enacted, That for the more full discovery of the estate and effects of such debtor, the court or judges as aforesaid, at the request of the assignee or assignees, shall have full power, and are hereby required, to summon and examine on oath or affirmation as aforesaid, the wife of such debtor, and every other person whatsoever, known or supposed to detain any part of the said debtor's estate or effects, or to be indebted to it; and in case any person on such summons shall refuse to attend, having no reasonable excuse, or shall refuse to be sworn or affirmed, then it shall and may be lawful for the said court or judges to commit such person so refusing to gaol, till he or she shall submit to be examined concerning what he or she knows relating to such insolvent's estate or effects.

Such persons to be examined on interrogatories.

XIII. And be it further enacted, That the wife of such debtor, and every person whatsoever, summoned as aforesaid, shall be examined on interrogatories in writing, which interrogatories, with the several answers thereto, shall be signed by the person so examined, and filed by the clerk of such court, as shall award the debtor's discharge.

How suits in equity may be commenced by the assignees.

Creditors, not proving their debts in due time, shall not be entitled to a dividend.

XIV. And be it further enacted, That no suit in equity shall be commenced by any assignee or assignees without the consent of the major part of the creditors in value, at a meeting to be held for that purpose; and if any creditor shall neglect or refuse to give notice of and prove his or her debt within eighteen months after the assignments, and a division of the whole estate be made, such creditor shall not be entitled to a dividend; then all the money arising from the sale of the said debtor's estate shall be divided among the other creditors; but in case the whole of such debtor's estate shall not be divided and settled by the time herein appointed for the first division, and such creditor shall prove his debt before the time appointed for a second division, then such creditor shall, before a second division be made among the other creditors, have his first dividend; but no creditor shall be admitted to prove his debt, in order to entitle himself to a share in the insolvent's estate, after the second division, but shall by this act be debarred from any share thereof.

What proceedings shall be had, where a debtor has been bail.

XV. And be it further enacted, That every such debtor, who shall, before the delivery of the petition before directed, have become bail in any case, on account of which he hath reason to think judgment may be had against him, and shall make oath or affirmation as aforesaid, that at the time he so became bail, he esteemed himself vested with an estate sufficient to answer any demand that could, with any probability, be made upon him as bail, may add to the account of the creditors, and the monies owing by him, before directed to be given an account of, the manner of his becoming bail, and annex such a sum as he imagines he will be liable to pay on that account, and then the assignee or assigness shall reserve in his or their hands, for the space of eighteen months, such a dividend, as a creditor for a like sum would have a right to receive; and after judgment obtained against any such debtor, the person obtaining the same shall be considered in every respect as another creditor, whose debt was due before the delivery of the petition; but if in the space of eighteen months after the petition is delivered, no judgment shall be obtained against the insolvent, the monies so reserved shall be divided among the other creditors in the same manner, as if the sum so annexed to the account of his creditors was paid: if judgment should be obtained against such debtor as bail for any sum within

within eighteen months after the petition is delivered, and after the division of his or her effects among his or her creditors, and the said debtor shall have omitted either wholly or in part to annex the said sum to the account delivered, the person obtaining such judgment shall recover against the said debtor, either for the whole or the part omitted, as the case may be, so much as the other creditors of the said debtor ought to have received for the like just debt, and no more. A. D. 1795.

XVI. And be it further enacted, That all other persons, who have given credit to such insolvent debtor, on valuable consideration for any sum of money or other matter or thing, which is or may not be due or payable at or before the time of the delivery of the petition, shall and may be admitted and considered as creditors, whose debts are then due, and shall receive a dividend in the same proportion, as the other creditors, deducting thereout only a rebate of lawful interest for what shall be received on such debt, to be computed from the actual payment thereof to the time it would have become due.

Creditors, whose debts are not due, may avail themselves of this act, and receive a dividend.

XVII. And be it further enacted, That every such insolvent debtor, having given up all his or her estate, and conformed in all things to the directions of this act, shall for ever thereafter be discharged from all debts due at the time of the assignment, or contracted for, before that time, though payable afterwards, so far as regards the imprisonment of his or her person.

Debtors, who are admitted to the benefit of this act, shall be discharged from their debts, so far as regards imprisonment.

XVIII. And be it further enacted, That in case any such debtor shall, after the assignment of his or her estate, receive any debt or debts due to him or her before, or shall secrete any part of his or her estate, or any book or writings relating thereto, with an intent to defraud his or her creditors, and being thereof convicted on indictment, shall be adjudged guilty of wilful and corrupt perjury, and suffer accordingly, and shall be totally precluded from all benefit and advantage whatever, which he or she might otherwise be entitled to.

Punishment of debtors, who shall secret their estate.

XIX. And be it further enacted, That no person, being able of body, and under the age of thirty-five years, and not having a wife or lawful child, shall be entitled to the benefit of this act, unless he shall signify his willingness to make satisfaction by servitude for his debts, or such part thereof as may remain unpaid after the appropriation of the whole of his property to that use; but in such cases the length of servitude, not exceeding seven years, shall be fixed by the court, equitably proportioned to the monies due, and the services to be rendered, and shall cause the prisoner to indent himself for the benefit of his creditors, and all his former debts shall be thereby cancelled.

What debtors shall not have the benefit of this act, unless they make satisfaction by servitude.

See an act for the relief of insolvent debtors, passed the 26th of January, 1798, which revives the foregoing act, and extends it to all persons, who shall be imprisoned for debts or contracts entered into from and after the 4th of July, 1798.

An ACT *concerning wills.*

Passed the 16th of November, 1795.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all estates, pur auter vie, shall be devisable by will in writing, signed and published by the party so devising the same, in the presence of three subscribing witnesses, and proved and recorded in the manner prescribed in and by the act, entitled, "An Act for confirming of conveyances of lands made and to be made by wills and powers of attorney, and declaring what exemplifications of records and other things shall be holden and received for good evidence of estates of inheritance, and for transferring of uses into possession," passed the seventeenth day of March, in the year of our Lord, one thousand, seven hundred and thirteen--fourteen. And if no such devise thereof be made, the same, or so much thereof, as shall not be so devised, shall go to the executors or administrators of the party, who had the estate thereof by virtue of the

Estates for the life of another devisable.

But if not devised, shall be assets, and distributed as personal estate.

A. D. 1795.

the grant, and shall be assets in their hands, and be applied and distributed in th same manner as the personal estate of the testator or intestate.

Devises of lands, how revocable.

II. And be it enacted *by the authority aforesaid*, That no devise or bequest i writing, of any lands, tenements, hereditaments, or other estates whatsoever i this State, or of any estate pur auter vie, or any clause thereof, shall be revo able, otherwise than by some other will or codicil in writing, or other writing d claring the same, or by burning, cancelling, tearing, or obliterating the same, b the testator himself, or in his presence, and by his direction and consent; but al devises and bequests of any lands, tenements, hereditaments, or other estate whatsoever in this State, or of any estate pur auter vie, shall remain and con tinue in force until the same be burnt, cancelled, torn, or obliterated by the testa tor, or by his directions, in manner aforesaid, or unless the same be revoked o altered by some other will or codicil in writing, or other writing of the devisor signed in the presence of three or more subscribing witnesses, declaring such re vocation or alteration.

What persons incapable of making wills of lands.

III. And be it enacted *by the authority aforesaid*, That wills or testaments made or to be made, of any lands, tenements, or hereditaments, or of any estate pur auter vie, by any woman covert, or person within the age of twenty one years, or any idiot, lunatic, or person of nonsane mind and memory, shall not be held or taken to be good or effectual in law.

Devises to persons, who attest the execution of a will, void; and such persons admitted as witnesses to prove it.

IV. And be it enacted *by the authority aforesaid*, That if any person hath attested the execution of any will or codicil, after the first day of March, in the year of our Lord, one thousand, seven hundred and fifty three, or shall attest the execution of any will or codicil, hereafter to be made, 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, hath been or 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 or her, be utterly null and void, and such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will or codicil.

A creditor, when lands are charged with debts, shall be a witness to a will.

V. And be it enacted *by the authority aforesaid*, That in case, by any will or codicil, made or 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.

A legatee, being a witness to a will on or before the 1st of March, 1753, shall, if he has been paid, or has released, or refused his legacy, be an admissible witness.

VI. And be it enacted *by the authority aforesaid*, That if any person hath attested the execution of any will or codicil, made on or before the said first day of March, in the year of our Lord, one thousand, seven hundred and fifty three, to whom any legacy or bequest is thereby given, whether charged upon lands, tenements, or hereditaments, or not, and such person, before he 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 have refused to accept such legacy or bequest, upon tender made thereof, such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such legacy or bequest; and in case of such tender and refusal as aforesaid, such person shall in no wise be entitled to such legacy or bequest, but shall be for ever afterwards barred therefrom; and in case of such acceptance as aforesaid, such person shall retain, to his or her own use, the legacy or bequest, which shall have been so paid, satisfied, or accepted, notwithstanding such will or codicil shall afterwards be adjugded or determined to be void for want of due execution, or for any other cause or defect whatsoever. And further, That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil, made on or before the said first day of March, in the year of our Lord, one thousand, seven hundred and fifty three, shall have died in the testator's life time, or before he or she shall have received,

or

A. D. 1795.

or released, or refused, on tender, his legacy, such legatee shall be deemed a legal witness to the execution of such will or codicil, notwithstanding such legacy or bequest. PROVIDED ALWAYS, That the credit of every such witness so attesting the execution of any will or codicil, in any of the cases in this act before mentioned, and all circumstances relating thereto, shall be subject to the consideration and determination of the court and jury, or of the court of equity, before whom any such witness shall be examined, or his testimony or attestation made use of, in like manner, to all intents and purposes, as the credit of witnesses, in all other cases, ought to be considered of and determined.

But the credit of such legatee, as a witness, shall be submitted to the court and jury.

VII. AND BE IT ENACTED *by the authority aforesaid*, That no person, to whom any beneficial estate, interest, gift, or appointment, hath been or shall be given or made, which is hereby enacted to be null and void, 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 take possession of, 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 or 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, or under any colour or pretence whatsoever.

If a legatee shall refuse his legacy, and be examined as a witness to the will, he shall not afterwards receive it.

VIII. AND BE IT ENACTED *by the authority aforesaid*, That the clauses in this act concerning the competency or credibility of the witnesses to wills or codicils, made on or before the said first day of March, in the year of our Lord, one thousand, seven hundred and fifty three, shall not extend, or be construed to extend, to the case of any heir at law, or of any devisee in a prior will or codicil of the same testator, executed and attested according to the law of this State, or any person claiming under either of them respectively, who was in quiet possession on the said first day of March, in the year of our Lord, one thousand, seven hundred and fifty three, as to such lands, tenements or hereditaments, whereof he was then in quiet possession as aforesaid; nor to any will or codicil, the validity or due execution whereof hath been contested in any suit in law or equity, commenced by the heir of such devisor, or the devisee in any such prior will or codicil, for recovering the lands, tenements, or hereditaments mentioned to be devised in any will or codicil so contested, or any part thereof, or for obtaining any other judgment or decree relative thereto, and which has been already determined in favor of such heir at law, or devisee in such prior will or codicil, or any person claiming under them respectively, which is consistent with, or may be warranted by or under any will or codicil, attested according to the law of this State; or where the estate descended, or might have descended to such heir at law, till a future or executory devise, by virtue of any will or codicil attested according to the law of this State, should or might take effect, shall be deemed to be a possession within the intent of this clause of this act.

The sections of this act, which relate to the competency or credibility of witnesses to wills, made on or before the 1st March, 1753, shall not affect an heir at law, or devisee in a prior will, who was in possession on that day, nor a will which has been contested by such heir or devisee, and determined in his favor.

IX. AND BE IT ENACTED *by the authority aforesaid*, That where any lands, tenements, or hereditaments have been, or shall be given or devised by any last will or testament, executed in due form of law, to the executors therein named, or any of them, to be sold, or have been or shall be thereby ordered or directed to be sold by the executors therein named, or any of them, and after the death of such testator, part of such executors, named in such last will and testament, refuse or neglect to take upon him, her, or them the execution, or administration, and charge of the same last will and testament, wherein they are so named to be executors, and the residue of the executors do accept and take upon him, her, or them the execution, administration, and charge of the same last will and testament; then all bargains and sales of any such lands, tenements, or hereditaments, so willed to be sold by the executors of any such testator, as well heretofore made as hereafter to be made, by him, her, or them only of the said executors, that so do or shall accept, or that heretofore have accepted and taken upon him, her, or them any such charge or administration of any such will and testament, shall be as good and effectual in the law, as if all the residue of the same executors, named in the said will and testament, so refusing or neglecting to take the administration of the same will and testament, had joined with him, her, or them in the making of the bargain and sale of such lands, tenements, or hereditaments, so willed to be sold by

If lands be devised to, or, by will, be directed, to be sold by the executors, and some of them refuse to act, the others, who accept, may sell and convey the same.

A. D. 1795.

by the executors of any such testator, who hath heretofore made or declared, or who hereafter shall make or declare any such will and testament, of any such lands, tenements, or hereditaments, after his decease, to be sold by his executors.

A father may, by deed or will, dispose of the custody and tuition of his child, if a minor, until he arrives at age.

X. And be it enacted *by the authority aforesaid*, That when any person hath, or shall have, any child or children, under the age of twenty one years, and not married at the time of his death, it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or at that time in ventre sa mere, or whether such father be within the age of twenty one years, or of full age, by his deed executed in his life time, or by his last will and testament in writing, signed and published by such father in the presence of three subscribing witnesses, and proved and recorded in the manner prescribed by the laws of this State, to dispose of the custody and tuition of such child or children, for and during such time, as he, she, or they shall respectively remain under the age of twenty one years, or any less time, to any person or persons, in possession or remainder; and such disposition of the custody of such child or children, made, or hereafter to be made, shall be good and effectual against all and every person or persons, claiming the custody or tuition of such child or children, as guardian in socage, or otherwise; and such person or persons, to whom the custody of such child or children hath been, or shall be so disposed or devised as aforesaid, shall and may maintain an action of ravishment of ward, or trespass, against any person or persons, who shall wrongfully take away or detain such child or children, for the recovery of such child or children; and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.

A testamentary guardian to take the profits of the estate and custody of the child, and bring actions, as a guardian in socage.

XI. And be it further enacted *by the authority aforesaid*, That such person or persons, to whom the custody of such child or children hath been, or shall be so disposed or devised, shall and may take into his, her, or their custody, for the use of such child or children, the profits of all lands, tenements, and hereditaments of such child or children; and also the custody, tuition, and management of the goods, chattels, and personal estate of such child or children, till his, or her, or their respective age of twenty one years, or any less time, according to such disposition aforesaid; and may bring such action or actions in relation thereto, as by law a guardian in common socage might do.

Personal estates may be bequeathed as before this act.

XII. And be it enacted *by the authority aforesaid*, That it shall and may be lawful to and for all and every person and persons, by his, her, or their testament or last will in writing, to give, bequeath, or dispose of all his, her, or their goods, chattels, and personal estate, in the same manner as he, she, or they lawfully might do before the passing of this act.

Widows may bequeath their crops.

XIII. And be it enacted *by the authority aforesaid*, That it shall and may be lawful for widows to bequeath the crop of their ground, as well of their dowers, as of their other lands and tenements.

What nuncupative will shall be good, and how to be proved.

XIV. And be it enacted *by the authority aforesaid*, That no nuncupative will heretofore made, or hereafter to be made, shall be good, where the estate thereby bequeathed shall exceed the value of eighty dollars; unless the same be proved by the oaths of three witnesses at the least, who were present at the making 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, bear witness, that such was his, or her will, or words, to that effect; nor unless such nuncupative will was 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 hath been resident for the space of ten days, or more, next before the making of such will; except where such person was surprised or taken sick, being from his or her own home, and died before he or she returned to the place of his or her dwelling.

Proof of a nuncupative will, within what time to be received.

XV. And be it enacted *by the authority aforesaid*, That, after six months passed after the speaking of the pretended testamentary words, no testimony shall be

be received to prove any nuncupative will, except the said testimony, or the substance thereof, were committed to writing within six days after the making of the said will. A. D. 1795.

XVI. And be it enacted *by the authority aforesaid*, That no letters testamentary, or probate of any nuncupative will, shall pass the seal of any court, till fourteen days at least after the decease of the testator shall be fully expired; nor shall any nuncupative will be at any time received to be proved, unless process hath first issued to call in the widow, or next of kindred to the deceased, to the end, that they may contest the same, if they please.

After what time, and on what terms letters testamentary of a nuncupative will shall be granted.

XVII. And be it enacted *by the authority aforesaid*, That no will, or testament in writing, concerning any goods, or chattels, or personel estate, shall be repealed, nor shall any clause, devise, or bequest therein, be revoked, altered, or changed, by any words, or will by word of mouth only, except the same be, in the life time of the testator, committed to writing, and, after the writing thereof, read unto the testator, and allowed and approved of by him or her, and proved to be so done by three witnesses at the least.

How a written will of personal estate may be altered or revoked by a verbal will.

XVIII. And be it enacted *by the authority aforesaid*, That all such witnesses, as are and ought to be allowed to be good witnesses upon trials at law, by the laws of this State, shall be deemed good witnesses to prove any nuncupative will, or any thing relating thereto.

What persons shall be witnesses to prove nuncupative wills.

XIX. Provided always, *and be it further enacted by the authority aforesaid*, 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 personal estate, as he might have done before the making of this act.

Soldiers and mariners may dispose of their personal estates as before this act.

XX. And be it enacted *by the authority aforesaid*, That all last wills and testaments, which touch and concern the personal estate only of the testator, shall, after the same have been duly proved, be recorded in the like manner as last wills and testaments, which touch and concern the lands, tenements and real estate of the testator, are directed to be recorded by the laws of this State.

Wills affecting personal estates to be recorded.

An ACT *to regulate the secretary's office and the prerogative office in this State, and for the faithful execution of the same,*

Passed the 23d of November, 1795.

Whereas it appears, from a report of a joint committee of the council and general assembly, that the office of secretary of this State and prerogative office of the same, have not heretofore been duly attended to, and that great numbers of letters of administration, wills and other papers, remain unrecorded. And whereas the present deranged state of the said offices is attended with great risk, with respect to the real and other property held by wills within this State, and elsewhere, and may be productive of much litigation, and introduce great confusion in titles to lands, and other property; therefore,

Preamble.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the passing of this act, every person, who shall be elected to the said office of secretary and register of the prerogative office aforesaid, before he enters upon the execution of his said offices, or be admitted to take the oath or affirmation herein after appointed to be taken, for the due and faithful discharge of his said offices, shall, before one or more of the justices of the supreme court, enter into bond to the State of New-Jersey, with at least two good and sufficient sureties, being freeholders in the said State, jointly and severally, in the sum of three thousand pounds, to be approved of by the said justice or justices; which bond, with the condition thereof, shall be in the form herein after mentioned; and, when so executed, shall be recorded in the office of the clerk of the supreme court, and, being so recorded, shall be delivered by the said clerk to the treasurer of this State, to be by him kept among the public papers of his office.

Secretary and register to take an oath of office, and to give bond, with approved sureties, for the faithful discharge of the said offices.

A. D. 1795.

Form of the official oath.

II. And be it enacted *by the authority aforesaid*, That when the said secretary and register of the prerogative office hath given bond as aforesaid, he shall take and subscribe the following oath, or affirmation, before any one of the justices of the supreme court:

I, A. B. do solemnly swear (or affirm) that I will well and truly, faithfully and impartially, execute the office of secretary of the State of New-Jersey and register of the prerogative office of the same, agreeably to law, according to the best of my skill and understanding.

The bond and oath to be lodged with the treasurer.

Which oath or affirmation, so as aforesaid subscribed, shall, by the justice of the supreme court administering the same, be delivered to the treasurer of this State, to be by him kept, together with the bond aforesaid, among the public papers of his office.

The said officers to make a report, quarterly, to the governor, of certain business done in their offices, and a general statement of all business to the legislature, annually.

III. And be it further enacted *by the authority aforesaid*, That the said secretary and register of the prerogative office shall, at the expiration of every three months, make a report in writing, to the governor of the State, for the time being, of the business done in the said offices, so far as relates to the recording of wills, letters of administration, and guardianship, and of the unfinished business remaining therein; and likewise, lay a general statement of the business in the said offices, in manner aforesaid, before the legislature at their first sitting after the annual election, yearly and every year hereafter.

Duties of the said officers as to recording.

IV. And be it enacted *by the authority aforesaid*, That the said secretary and register of the prerogative office shall be, and he hereby is directed and required, with all convenient speed, legibly and fairly, to record all papers, which shall come to his hands, and which it may appertain to his office to record; and also to file and deposit such papers in said offices, agreeably to law. And he is further directed and required, without being entitled to any fees for so doing, to record all letters of administration, wills, and other papers, which have been deposited in said offices since the second day of July, in the year of our Lord, one thousand, seven hundred and seventy six, and now remain in said offices unrecorded, and to file and deposit the same as aforesaid.

The said officers may be impeached and removed for misbehavior.

V. And be it further enacted *by the authority aforesaid*, That if the said secretary and register of the prerogative office shall be guilty of misbehavior in either of the said offices, he shall and may be impeached and removed from office, in the manner prescribed in the constitution of this State, for the removal of other officers.

VI. And be it enacted *by the authority aforesaid*, That the bond to be entered into as aforesaid, by the secretary and register, and his sureties, with the condition thereof, shall be in the form following; that is to say,

Form of bond to be given.

KNOW all men by these presents, that we, A. B. C. D. and E. F. of are held and firmly bound unto the State of New-Jersey, in the sum of three thousand pounds, to be paid unto the said State of New-Jersey: to the which payment, well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents: sealed with our seals. Dated the day of in the year of our Lord,

The condition of the above obligation is such, that if the above bounden A. B. shall well and truly execute the office of secretary and register of the prerogative office of New-Jersey, and in all things, touching and concerning the said offices, shall well and truly, faithfully and impartially, execute and perform the same, as well with respect to all persons whatsoever concerned, as to the said State of New-Jersey, and, at the expiration of his said office, shall deliver all the books, records and papers remaining in the said offices, or appertaining thereto, to his successor in office, then the above obligation to be void, otherwise to remain in full force and virtue.

VII. And be it further enacted *by the authority aforesaid*, That the said secretary

tary and register of the prerogative office shall make out, in writing, a fair copy of all the fees he is by law entitled to receive for the duties of his respective offices, and shall set the same up in public view in the said offices, which shall there remain for the information of all concerned.

A. D. 1796.

The said officers to set up in their offices a table of their fees.

VIII. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That the said secretary and register of the prerogative office shall, after the first day of May next, reside within the city of Trenton.

Secretary to live at Trenton.

An ACT *to authorize the stowing of boats in the public road at Cape-Island, in the lower precinct of the county of Cape-May.*

Passed the 23d of February, 1796.

WHEREAS the inhabitants of the county of Cape-May have, by their petition to the legislature, set forth, that the public are put to great inconvenience for want of a landing place, whereon to stow or lay boats; therefore,

Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the passing of this act, it shall and may be lawful for any person or persons whatsoever, to stow their boat or boats in the high way or road, which now is or which may hereafter be, laid out at Cape-Island, in the lower precinct of the county of Cape-May, they at all times leaving two thirds of the width of the said road open and clear; and that all boats, stowed as aforesaid, shall not be considered, or removed, as a nuisance; any law or usage to the contrary notwithstanding. PROVIDED NEVERTHELESS, That this act shall not authorize any person or persons to stow any boat or boats more than twelve roods distant from the high-water mark.

Boats may be stowed in the highway at Cape-Island, within twelve roods of high water mark.

An ACT *respecting coroners.*

Passed the 8th of March, 1796.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That there shall be elected, annually, in every county of this State, three coroners, who shall be inhabitants and freeholders of the said county.

Three coroners to be elected in each county.

II. AND BE IT FURTHER ENACTED, That every person, who shall be elected to the office of coroner, shall, before he enters upon the execution of his office, take the following oath or affirmation, to wit:

Coroners to take an oath of office.

I, one of the coroners of the county of do solemnly swear, or affirm, that I will well and truly serve the State of New-Jersey, in the office of coroner of the said county; that I will, to the utmost of my power, faithfully and truly execute, or cause to be executed, all writs and precepts to me directed, and which shall come to my hands, and will faithfully and truly return the same, according to the best of my knowledge, skill and judgment; that I will in no case, knowingly, use or exercise the said office illegally, corruptly or unjustly; that I will neither directly or indirectly, by any means or device, or under any colour or pretence whatsoever, accept, receive, take, use or enjoy, or consent to the accepting, receiving, taking, using or enjoying, any fee or reward, of or from any person or persons whomsoever, for the summoning, empannelling, or returning of any inquest, jury or tales, to or in any court for this State, or between party and party, other than such fees or reward as are or shall be allowed, by law, for the same; and that I will not, directly or indirectly, exact or demand any manner of fee or reward from any person or persons, for serving, executing or returning any writ, precept, process, execution or inquisition, or for any other service in my said office, other than such fees or reward, as are or shall be allowed for the same by law; but that I will, in all things, touching the duties of the said office, demean myself honestly, fairly and

Form of such oath.

A. D. 1796.

and impartially, according to the best of my knowledge, skill and understand ing.

The return of one coroner shall, in certain cases, be sufficient, but such return not to affect the rest.

III. And be it further enacted, That any return made and signed by an one of the coroners for the time being, in any of the counties of this State, t any writ, precept, process or execution, except process for summoning of juries which shall issue out of any court of record of this State, and be directed to the coroners of the said counties respectively, shall be as good and effectual in law, a if such return had been made and signed by all the coroners of the said county but the act or return of any one or more of the coroners shall not prejudice o affect the rest.

In what cases it is the duty of coroners to take inquests of deaths.

IV. And be it further enacted, That every coroner shall, upon viev of the body, take inquests of deaths in prison, and of all violent, sudden or cas ual deaths within his county, and the manner of such deaths.

Coroner to make out precept for jurors.

V. And be it further enacted, That each coroner, as soon as he shal have notice, or be certified of any death as aforesaid, shall make out a precep directed to any constable of the county, where the dead body is found or lying requiring him to summon a jury of good and lawful men of the same county, t appear before him at the time and place in such precept mentioned and contained which precept shall be in form following:

Form of the precept.

county, to wit. The State of New-Jersey to any of the constables o the said county.

You are required, immediately upon sight hereof, to summon twenty four goo and lawful men of the said county of to be and appear before me, A. B one of the coroners of the county aforesaid, at in the said county, on th day of at the hour of in the noon of the same day, then and there to enquire of, do and execute all such things as, on behalf of the State, shall b lawfully given them in charge, touching the death of C. D. (or a person unknown as the case is.) And be you then there to certify what you shall have done in th premises; and further to do and execute what, in behalf of the said State, shall b then and there enjoined upon you. Given under my hand and seal, at in the said county, the day of in the year of our Lord,

Precept to be executed and returned by a constable.

VI. And be it further enacted, That the constable to whom such pre cept shall be directed and delivered, shall forthwith execute the same, and shal repair to the place at the time mentioned therein, and make return of the pre cept, with his proceedings thereon, to the coroner who issued it.

Constable and jurors how to be punished for neglect of duty.

VII. And be it further enacted, That it shall be the duty of the coro ner to certify and return every constable, who shall neglect or refuse to execut the services and duties, or any of them, by this act prescribed, and every per son, who shall be summoned as a juror as aforesaid, and shall not appear, to th next court of general gaol delivery, to be held in and for the county; whic court, unless a reasonable excuse be offered, shall set such fine upon the con stable, or juror, so offending, as they shall think fit and reasonable, not exceed ing fifty dollars.

Oath to be taken by the jurors.

VIII. And be it further enacted, That the coroner shall swear, or af firm, twelve or more of the jurors, who shall appear, and shall administer to th foreman of the inquest, an oath or affirmation, upon view of the body, in form following:

Form of such oath.

You, as foreman of this inquest, shall diligently inquire, and true present ment make, on behalf of the State of New-Jersey, how, and in what manner C. D. (or a person unknown, as the case is,) here lying dead, came to his death and of such other matters relating to the same, as shall be lawfully required o you, according to evidence.

And then shall swear, or affirm, by three at a time, in order, the rest of th jurors, in form following:

Such oath, or affirmation, (as the case may be,) as the foreman of this in ques

quest hath taken on his part, you and every of you, shall well and truly observe and keep on your part. A. D. 1796.

IX. And be it further enacted, That when the jurors are sworn and affirmed as aforesaid, the coroner shall give them a charge, upon their oath or affirmation, to delare of the death of the person, whether he or she died by murder, manslaughter, misadventure, misfortune, accident or otherwise, and when and where, and by what means, and in what manner; and if by murder, who were principals, and who were accessaries; and if by manslaughter, who were the perpetrators, and with what instrument the stroke or wound was in either case given, and so of all prevailing circumstances, which may come by presumption; and if by misadventure, misfortune, accident or otherwise, whether by the act of God or man, and whether by hurt, fall, stroke, drowning, or in any other way; to inquire what persons were present at the death, from whence the deceased came, and who he or she was, and his or her parents, relatives or neighbors, who were the finders of the body, whether killed in the same place where he or she was found, or if elsewhere, by whom and how he or she was brought from thence, and of all circumstances relating to the said death; and if he or she died in prison, whether by hard usage there or not, and if so, how and by whom; and if he or she put an end to his or her own life, then to inquire of the manner, means or instrument, and of all circumstances concerning it.

The nature of the charge, which the coroner shall give to the jurors.

X. And be it further enacted, That it shall be lawful for every coroner to issue process for witnesses, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question; and the said coroner shall administer to every witness an oath or affirmation in form following:

Coroner to issue process for witnesses.

You solemnly swear, or affirm, that the evidence, which you shall give to this inquest on behalf of the State, touching the death of C. D. (or a person unknown, as the case is) shall be the truth, the whole truth, and nothing but the truth.

Their oath.

XI. And be it further enacted, That all coroners shall deliver their inquisitions to the next courts of oyer and terminer and general gaol delivery, in their respective counties; and the said courts shall proceed thereupon against the offenders.

Inquisitions, where to be delivered.

XII. And be it further enacted, That every coroner, upon any inquisition before him found, whereby any person or persons shall be indicted of murder or manslaughter, or as accessary or accessaries to the said crime of murder, either before or after the commission thereof, shall put in writing the effect of so much of the evidence given to the jury before him, as shall be material; and every such coroner is hereby authorized and required to bind all such, by recognizance, as do declare any thing material to prove the said murder or manslaughter, or to prove any person or persons to be accessary or accessaries, as aforesaid, to the said murder, to appear at the next court of oyer and terminer, or general gaol delivery, to be holden within the county, where the trial thereof shall be, then and there to give evidence against such offender or offenders, at the time of his, her or their trial, and shall certify, as well the same evidence, as such recognizance or recognizances in writing as he shall take, together with the inquisition or indictment before him taken and found, to the said court of oyer and terminer, or general gaol delivery, at or before the time of the trial of the party so indicted.

When evidence shall be taken in writing and witnesses bound over to court.

XIII. And be it further enacted, That if any coroner be remiss, and do not take inquisition as aforesaid, or do not certify as is before directed, or shall offend in any thing contrary to the true intent and meaning of this act, the court of general gaol delivery of the county, where such offence shall be committed, upon due proof thereof by examination before them, shall, for every such offence, set such fine upon the same coroner, as the said court shall think fit and reasonable, not exceeding five hundred dollars.

Coroners neglecting their duty, how to be punished.

A. D. 1796.

Inquisitions not indented to be as effectual as if indented.

XIV. AND BE IT FURTHER ENACTED, That inquisitions taken before coroners, but not indented, shall have the same force and validity in law as if they had been indented.

An ACT *providing for the restoration of certain records of the inferior court of common pleas in and for the county of Monmouth, which have been lost, embezzled or destroyed.*

Passed the 15th of March, 1796.

Preamble.

WHEREAS a number of the inhabitants of the county of Monmouth have, by their petition to the legislature, set forth, that the original minutes or records of the inferior court of common pleas, in and for the county of Monmouth, of the final judgments rendered in favor of the State, against Christopher Tallman, Hendrick Van Mater, Samuel Osburn, John Longstreet, junior; John Wardell and Chryonce Van Mater, upon convictions had on inquisitions found against them for joining the army of the king of Great Britain, are lost, embezzled or destroyed, and thereupon praying, that a law may be passed to restore the records of the said final judgments; and whereas the said petitioners have produced to the legislature sufficient evidence, that the said final judgments were had and entered upon the said convictions, and that the records thereof, are lost, embezzled or destroyed; therefore,

Restoration of the records of final judgments on certain inquisitions.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the clerk of the said inferior court of common pleas, in and for the county of Monmouth, for the time being, shall be, and he is hereby authorized and directed to restore, in the form and words herein after stated, the records of the said inferior court of common pleas, of the final judgments so lost, embezzled or destroyed, in the following cases, to wit:

The State
against
Christopher Tallman, } On inquisition, &c.

THE defendant having been found guilty in manner and form as he stands charged in the inquisition, ordered by the court, that judgment final be entered for the State against him.

The State
against
Hendrick Van Mater, } On inquisition, &c.

THE defendant having been found guilty in manner and form as he stands charged in the inquisition, ordered by the court, that judgment final be entered for the State against him.

The State
against
Samuel Osburn, } On inquisition, &c.

THE defendant having been found guilty in manner and form as he stands charged in the inquisition, ordered by the court, that judgment final be entered for the State against him.

The State
against
John Longstreet, junior; } On inquisition, &c.

THE defendant having been found guilty in manner and form as he stands charged in the inquisition, ordered by the court, that judgment final be entered for the State against him.

The

The State
against
John Wardell,
} On inquisition, &c.

A. D. 1796.

THE defendant having been found guilty in manner and form as he stands charged in the inquisition, ordered by the court, that judgment final be entered for the State against him.

The State
against
Chryonce Van Mater,
otherwise called
Crinjonce Van Mater, or
Chryneyonce Van Mater,
} On inquisition, &c.

THE defendant having been found guilty in manner and form as he stands charged in the inquisition, ordered by the court, that judgment final be entered for the State against him.

II. AND BE IT ENACTED, That the final judgments aforesaid be taken, held and deemed, both at law and in equity, to have been rendered and entered in the terms following, to wit; the said final judgments against the said Christopher Tallman, Hendrick Van Mater, Samuel Osburn, John Longstreet, junior; and John Wardell, of the term of January, and the said final judgment against the said Chryonce Van Mater, otherwise called Crinjonce Van Mater, or Chryneyonce Van Mater, of the term of April, in the year of our Lord, one thousand, seven hundred and seventy nine, in the said inferior court of common pleas of the county of Monmouth.

In what terms the said final judgments shall be taken to have been entered.

III. AND BE IT ENACTED, That the records of the said final judgments, so restored, in manner and form as by this act is directed, shall, in all cases therein stated, be of equal validity, and shall, by all the courts of law and equity in this State, be allowed of and adjudged to have the same force, operation and effect, that the original records of the said final judgments, in the cases aforesaid, would have had, if the same were still in existance; and that this act may be given in evidence to support the said judgments, and all proceedings had under and by virtue of the same.

The operation of the judgments so restored.

This act may be given in evidence to support them.

An ACT *to prevent the draws of certain bridges in the county of Bergen being left open.*

Passed the 16th of March, 1796.

WHEREAS the inhabitants of the county of Bergen, have at a very considerable expense, erected and built bridges over the Hackinsack river and English creek, with convenient draws, in order to accommodate and render useful the navigation of said waters; and whereas some evil minded person or persons have frequently raised and left said draws standing open, to the great inconvenience and endangering of the good people of this State; for remedy whereof,

Preamble.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any boatman, or other person or persons, shall keep the draw of either of the said bridges hoisted above fifteen minutes, when the same is not necessary for the passage of some boat or vessel, or shall let the draw of either of said bridges, when hoisted, run down without proper and necessary care taken to lower the same safely, he, she, or they, so offending, shall, for each and every such offence, forfeit and pay the sum of five pounds, to be recovered in any court, where the same may be cognizable, with costs of suit, by any person, who will sue for the same, one half to and for the prosecutor, and the other half to be paid into the hands of the county collector, to and for the use of the county.

Penalty for injuring the draw, &c.

A. D. 1796.

A SUPPLEMENT *to an act, entitled, "An Act to empower certain persons to purchase the claims of the Indians to certain lands in this colony," passed the twelfth day of August, in the year of our Lord, seventeen hundred and fifty eight.*

Passed the 17th of March 1796.

Preamble.

WHEREAS the above mentioned act authorized certain persons therein named, together with the governor or commander in chief, to purchase certain lands, and take deeds in trust for the same to and for the use of the said Indians; and it appearing that a tract of land was purchased accordingly, situate in the township of Evesham, in the county of Burlington, commonly called and known by the name of Brotherton; and also that it would conduce to the advantage of said Indians, if commissioners were appointed to take charge of, in trust for their use, the said lands and premises; therefore,

Commissioners appointed to take care of the Indian lands,

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That Joseph Salter, Josiah Foster and Thomas Hollinshead be, and they are hereby appointed commissioners to take charge of the said tract of land and premises, with the appurtenances, and lease out the same, from time to time, on such terms, and in such manner, as shall most conduce to the advantage of said Indians: PROVIDED ALWAYS, That leases or contracts shall in no instance be made for a longer term than ten years, and the rents shall be paid quarterly or yearly.

and to call to account persons, who have received property and not accounted therefor.

II. AND BE IT ENACTED, That the said commissioners, and their successors in office, shall have full power to call to account and settle with all persons, who heretofore have received property and not accounted for the same, or shall hereafter take off any property whatever, without leave of the said commissioners; and also to commence, prosecute and carry on to effect any action or actions against any person or persons trespassing on said lands in any manner whatever, in the same way as if the fee to said lands were vested in them; which money, when recovered, shall be applied to the use of the said Indians.

Monies arising from said lands, how disposed of

III. AND BE IT ENACTED, That the said commissioners shall pay forward, annually, the whole monies arising from said lands unto said Indians, or the value thereof in necessaries, such as provisions and cloathing, or to such of them as shall appear to stand most in need thereof.

and accounted for.

IV. AND BE IT ENACTED, That the said commissioners shall, yearly and every year, render a just and true account of all monies received and expended in supplying the said Indians with necessaries as aforesaid, unto the court of common pleas for the county of Burlington, at their sitting in May term, who are hereby authorized and required, to examine and settle the same; but in case the commissioners' accounts are not satisfactory to the said court, then the said court are hereby authorized to appoint arbitrators, if the said commissioners agree thereto, to settle said accounts, which settlement, after being approved by the said court, shall be final and conclusive; but in case the said commissioners do not agree to submit to arbitration, then the said court shall cause process to issue, in the name of the clerk of the said court, to bring the said commissioners to a settlement at any subsequent term, which shall be by jury, in the same manner that private actions are prosecuted and carried on.

Commissioners may be removed, &c.

V. AND BE IT ENACTED, That in case the said commissioners do not act fairly and justly, touching the charge committed to them by this act, it shall and may be lawful for the said court to remove them from office, and in case of death or refusal to act, or removal from office, to appoint others in their stead, who are hereby vested with the same power and authority, and subject to the same restrictions as those particularly named in this act. PROVIDED ALWAYS, That nothing in this act contained shall be construed to prevent the said Indians from residing on the lands aforesaid, or cutting wood or timber for their immediate use.

Compensation to the commissioners.

VI. AND BE IT ENACTED, That the said commissioners hereby appointed, or that may hereafter be appointed pursuant to the directions of this act, shall be entitled

entitled to receive, out of the monies they may collect by virtue of this act, so much per cent. for their trouble as the said court of common pleas of the county of Burlington, on a settlement of the accounts, may allow for the same. A. D. 1796.

An ACT *concerning sheriffs.*

Passed the 18th of March, 1796.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no person shall be sheriff of any county in this State, unless he shall have been an inhabitant and freeholder in such county for at least three years next preceding his election. Sheriff to be a freeholder for 3 years next before his election.

II. AND BE IT ENACTED, That the judges of the courts of common pleas, in the several counties of this State, shall meet at the office of the clerk of the said court, in their respective counties, on the first Tuesday, after the close of the annual, or other election of the sheriff in the same county, on the penalty of eight dollars for each defaulter, to be sued for and recovered by the collector of the said county, and applied to the use of the same; at which time and place, the sheriff elect is hereby required and enjoined to attend, with the certificate of his election, and not less than five sufficient sureties, being freeholders and residents in the same county, to be approved of by the judges then met, or the major part of them, and then and there, before the said judges, with such approved sureties, shall enter into bond for the faithful execution of his office, in the sum of twenty thousand dollars; which bond shall be in the form following; to wit, Judges of the pleas when and where to meet and take security from the sheriff. Penalty for neglect.

Know all men by these presents, that we, A. B. C. D. E. F. G. H. I. K. and L. M. all of the county of are held and firmly bound to the State of New-Jersey, in the sum of twenty thousand dollars, to be paid to the said State; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals. Dated this day of in the year of our Lord, Form of the bond to be given by the sheriff, and his sureties.

The condition of the above obligation is such, that if the above bounden A. B. shall well and truly execute the office of sheriff of the county of and, in all things touching his said office, shall well and truly, justly and faithfully, perform and execute the same, as well with respect to all persons concerned, as to the State aforesaid, then this obligation to be void, or else to be and remain in full force and virtue.

Signed, sealed and delivered in the
presence of, and approved by us,
A. B.
C. D.
E. F. &c. } Judges of the pleas in and for the county of

To the execution of which bond, the said judges, then present, shall be subscribing witnesses.

III. AND BE IT ENACTED, That the said sheriff, after having entered into bond as aforesaid, shall take and subscribe, before the said judges, an oath or affirmation, in the words following: to wit, Oath of office to be taken by the sheriff.

I do solemnly swear, (or affirm,) that I will well and truly serve the State of New-Jersey, in the office of sheriff of ; that I will in no case, knowingly, use or exercise the office of sheriff illegally, corruptly or unjustly; that I will neither directly or indirectly, by any means or device, or under any colour or pretence whatsoever, accept, receive, take, use or enjoy, or consent to the accepting, receiving, taking, using or enjoying, any fee or reward of or from any person or persons whomsoever, for summoning, empanneling or returning

A. D. 1796.

any inquest, jury or tales, other than such fees or reward as are or shall be allowed by law; that I will not, directly or indirectly, exact, demand or receive, any manner of fee or reward from any person or persons, for serving, executing or returning any writ, precept, process or execution, or for performing any other service, act or duty in my said office, other than such fees or reward as are or shall be allowed for the same by law; that I will not neglect, refuse or delay to serve and return any writ, precept or execution, to me directed and delivered, and to make sale of property by me levied upon and seized, by virtue of any writ or execution, for any gift, promise, reward or favor; that I will do no wrong to any person, for any gift, reward or promise, nor for favor or hatred; that I will do right to all persons in all things belonging to my office; that I will, truly, faithfully and impartially, and with all convenient speed, summon, empannel and return, or cause to be summoned, empanneled and returned, good and lawful men for jurors, able and sufficient, and not suspected or procured, as is or shall be directed by law; that I will, to the utmost of my power, duly, faithfully, and with all convenient speed, execute, or cause to be executed, all writs, process, precepts, and executions to me directed, and which shall come to my hands, and will faithfully and truly return the same according to the best of my skill and understanding; and that I will truly and honestly, without fraud or deceit, do, execute and perform all services, acts and duties of my said office, according to the best of my judgment, skill and power.

Affidavit and bond to be filed in the clerk's office.

IV. And be it enacted, That the above oath or affirmation, in writing, subscribed as aforesaid, and attested by the said judges, or a major part of them, and the bond so as aforesaid executed by the said sheriff and his sureties, and approved of in the manner before prescribed, shall be filed and securely kept in the office of the clerk of the court of common pleas, in and for the same county.

Certificate to be given by the judges;

V. And be it enacted, That the said judges, after having taken the bond and administered the oath or affirmation of office as aforesaid, shall deliver to the said sheriff, a certificate thereof, under their hands and seals, directed to the governor of the State, for the time being, in the form following:

Form thereof.

This day, personally appeared before us the subscribers, judges of the court of common pleas in and for the county of A. B. and executed a bond to the State of New-Jersey, with sufficient sureties, by us approved, for the faithful execution of the office of sheriff of the said county of and subscribed the oath of office in due form of law. Given under our hands and seals, the day of in the year of our Lord,

Which certificate shall be annexed to the certificate of election aforesaid, and by the said judges delivered to the sheriff, to be by him transmitted to the governor, in order to be commissioned; and the said judges, then present, shall, for their services aforesaid, be severally entitled to the sum of one dollar and fifty cents, which the collector of the county is hereby authorized and required to pay out of any public monies he may have in his hands.

Coroners to serve process, until sheriff shall have given bond, &c.

VI. And be it enacted, That until the sheriff elect shall enter into bond and take the oath of office as aforesaid, the coroner or coroners, last elected, shall serve and execute all writs and process directed to the said sheriff.

If a sheriff elect act as sheriff, before he gives bond, &c. he shall be punished, and his acts be void.

VII. And be it enacted, That if any sheriff elect shall presume to execute the office of sheriff, before he shall have given bond and taken the oath of office, agreeably to the directions of this act, then all such his acts and proceedings, done under colour of office, shall be absolutely void, and he shall, for such offence, be liable to be indicted for a misdemeanor, and, on conviction, fined in any sum, not exceeding two thousand dollars.

New election to be had, if the sheriff elect shall not give bond or take the oath of office.

VIII. And be it enacted, That if any sheriff elect shall neglect, refuse, or be unable to give bond with sureties as aforesaid, or shall neglect or refuse to take the oath of office, agreeably to the directions of this act, at the time herein limited, the said judges shall certify the same to the clerk of the court of common pleas, who is hereby authorized and required to advertise a new election for sheriff, in the manner prescribed by law.

IX. And

A. D. 1796.

Governor to order suits upon sheriffs' bonds.

IX. And be it enacted, That it shall and may be lawful for the governor, or executive authority for the time being, upon application made in writing by any person, or his or her legal representative or attorney, who may be aggrieved, or suppose him or herself to be aggrieved by the neglect, default, malepractice or misconduct of any sheriff in his office, to order a prosecution to be commenced upon the bond given or to be given by such sheriff and his sureties, and to be carried into effect at the costs and charges of the applicant.

Such suits to be instituted in the supreme court.

X. And be it enacted, That all suits upon bonds given by sheriffs and their sureties, in manner aforesaid, shall be instituted in the supreme court, and not elsewhere; and when judgment shall be obtained upon any such bond, the said court shall direct so much money to be levied on such judgment, as shall be sufficient to satisfy the party aggrieved for his debt or damages, with costs, to be paid to the said party; and if, after judgment obtained upon such bond, any other party aggrieved by the neglect, default, malepractice or misconduct of such sheriff in his office, shall apply to the supreme court for relief, the said court shall direct such further sum to be levied thereon, as shall be sufficient to satisfy such party for his debt or damages, with costs; and so on as often as application shall be made by parties aggrieved; provided, that the sureties in any sheriff's bond shall not be charged, by virtue of this act, beyond the sum contained in such bond.

Sheriffs to have charge of the gaols, and be responsible for the conduct of the keepers thereof.

XI. And be it enacted, That the sheriff of each county in this State shall have the custody, rule, keeping and charge of the gaol or gaols within such county, and of all prisoners in such gaol or gaols; and shall be responsible for the conduct of any keeper, whom he shall appoint for the same.

Sheriffs and gaolers to receive officers, and on refusal herein to be punished.

XII. And be it enacted, That it shall be the duty of sheriffs and gaolers to receive from constables and other officers all persons, who shall be apprehended by such constables or officers for offences against this State; and if any sheriff or gaoler refuse to receive any such offenders, he shall be adjudged to be guilty of a misdemeanor, and, on conviction, shall be fined at the discretion of the court.

Persons taken on process in personal actions, and indictment for trespasses to be let out on bail,

except such as are in custody by execution, &c.

Bail-bonds, how to be taken.

Sheriff answerable for the appearance of his prisoner.

XIII. And be it enacted, That every sheriff, under sheriff, coroner, gaoler and other officer, shall let out of prison, all persons, who are or shall be arrested by them, or any of them, or be in their or any of their custody, by virtue of any writ, process or warrant, in any personal action, or by reason of any indictment for trespass, upon reasonable sureties of competent persons, having sufficient within the counties, where such persons shall be so let to bail, to appear at such day and place as the said writ, process or warrant, shall require, except such person or persons as are or shall be in custody or prison by condemnation, execution, surety of the peace, or special command of any court of justice; and that no sheriff, nor any of the officers or ministers aforesaid, shall take or make, or cause to be taken or made, any obligation for any cause aforesaid, or by colour of his or their office, of any person, or by any person, who shall be in his or their custody or prison, by course of law, but only to themselves respectively, and by the name of their office, and upon condition written, that the said prisoner shall appear at the day and place mentioned and contained in the said writ, process or warrant; and if any sheriff, or other officer, or minister aforesaid, return upon any person, that he hath taken the body, or that such person hath surrendered himself or herself, such sheriff, or other officer or minister, shall be chargeable to have the body of such person at the day of the return of the said writ, process or warrant, in such form as he or they were before the making of this act.

Sheriffs to let persons out of custody upon security of 100 dollars, or upon endorsing appearance on the process, in cases where the cause of action is not expressed.

XIV. And be it enacted, That no person or persons, who shall be arrested by any sheriff, under sheriff, coroner, minister or other officer, or any other person or persons, having, or pretending to have, authority or warrant in that behalf, by force or colour of any writ, bill or process, issued, or to be issued, out of the supreme court, or any court of common pleas, (except writs of attachment, upon rescous or contempt,) in which said writ, bill or process, the certainty and true cause of action are not expressed particularly, and for which the defendant or defendants, in such writ, bill or process named, is and are, or shall be bailable by such sheriff, under sheriff, coroner, minister or other officer as aforesaid, shall be forced or compelled to give security, or enter into bond with sureties, for the appearance of such person or persons so arrested, at the day and place in the said

A. D. 1796.

said writ, bill or process specified or contained, in any penalty or sum exceeding one hundred dollars, to be conditioned for such appearance. And all sheriffs, and other officers and ministers aforesaid, shall let to bail, and deliver out of prison, and from their and every of their custodies respectively, all and every person and persons, by them or any of them, arrested upon such writ, bill or process, wherein the certainty and true cause of action are not particularly expressed, (except as before excepted,) upon security, in the sum of one hundred dollars, and no more, given for the appearance of such person or persons so arrested, unto the said sheriff, or other officer aforesaid, in manner and form prescribed in the section immediately preceding, or upon such person or persons, so arrested, endorsing his, her, or their appearance upon such writ, bill or process.

Where appearance is endorsed, clerk to enter the same, and where bond is given, entry of appearance shall discharge it.

XV. And be it enacted, That where such appearance shall be endorsed upon any such writ, bill or process, the clerk of the said supreme court, or of the said court of common pleas, shall, at the return of the same writ, bill or process, enter the appearance of such person or persons, so endorsed; and where such person or persons, so arrested, shall give bond, in the sum of one hundred dollars, for his, her, or their appearance as aforesaid, and shall, either in person, or by an attorney of the same court, cause his, her, or their appearance unto the same writ, bill or process, to be entered with the clerk of the same court, in the term wherein the said writ, bill or process, shall be returnable, such bond or bonds, so given for appearance, shall be thereby satisfied and discharged; and after such appearance so entered, no amercement shall be set upon or against any sheriff, or other officer aforesaid, or any other person or persons, concerning the want of such appearance.

Bail-bond may be assigned to the plaintiff, who may prosecute the same in his own name.

The court to give such relief to the parties and the bail as shall be just.

XVI. And be it enacted, That if any person or persons have been or shall be arrested by any writ, bill or process, issuing out of any court of record, at the suit of any person or persons, and the sheriff or other officer hath taken or shall take bail from such person or persons, against whom such writ, bill or process was or shall be taken out, the sheriff, or other officer, at the request and costs of the plaintiff in such action or suit, or his lawful attorney, shall assign to the plaintiff in such action, the bail-bond, or other security taken from such bail, by endorsing the same, and attesting it under his hand and seal, in the presence of two or more witnesses; and if the said bail-bond, or assignment, or other security taken for bail, be forfeited, the plaintiff in such action, after such assignment made, may bring an action or suit thereupon in his own name; and the court, in which the action is brought, may, by rule or rules of the same court, give such relief to the plaintiff and defendant in the original action, and to the bail upon the said bond, or other security taken from such bail, as is agreeable to justice and reason; and that such rule or rules shall have the nature and effect of a defeasance of such bail-bond, or other security for bail.

Returns, how to be made.

XVII. And be it enacted, That sheriffs and other officers, whose duty it is or shall be to make return of any writ or process, shall put their own names to the return of such writ or process, so that the court may know of whom they received such return; and any sheriff or other officer, who shall not sign such return, shall be amerced, and also answer damages to the party.

The sheriff shall not carry a person arrested to any tavern, &c. without his consent, nor charge him for victuals or drink, unless he voluntarily called for the same, nor demand or take a greater fee than the law allows;

XVIII. And be it enacted, That no sheriff, under sheriff, coroner, or other officer, or minister, shall convey or carry, or cause to be conveyed or carried, any person or persons by him or them arrested, or being in his or their custody, by virtue or colour of any writ, process or warrant, to any tavern, ale-house, or other public victualling or drinking house, without the free and voluntary consent of the person or persons so arrested, or in custody; nor charge any such person or persons with any sum of money for wine, brandy, rum, gin, spirits, ale, cyder, beer, victuals, or any other liquor or things whatsoever, except what he, she, or they shall call for of his, her, or their own free accord; nor shall cause or procure him, her, or them to call or pay for any such liquor, victuals or things, except what he, she, or they shall particularly and freely ask for; nor shall demand, take or receive, or cause to be demanded, taken or received, directly or indirectly, any other or greater sum or sums of money, than is or shall be by law allowed to be taken or demanded, for such arrest, taking, detaining or waiting, until the person or persons, so arrested or in custody, shall have given an appearance or bail, as the case may require, or agreed with the person or persons, at whose

whose suit or prosecution he, she or they shall be taken or arrested, or until he, she or they shall be sent to the proper gaol of the county, or place where such arrest or taking shall be; nor shall exact or take any reward, gratuity or money, for keeping the person or persons, so arrested, or in custody, out of gaol or prison; nor shall take or receive any other or greater sum or sums for one or more night's lodging, or day's diet, or other expenses, than what is or shall be allowed by law.

nor exact a gratuity for keeping him out of gaol; nor take or receive for lodging or diet more than by law allowed.

XIX. And be it enacted, That every sheriff, under sheriff, gaoler, keeper of any prison or gaol, or other person or persons whomsoever, to whose custody or keeping any person or persons, so arrested or taken, shall be committed, by virtue of any writ or process, or on any pretence whatsoever, shall permit and suffer him, her or them, so arrested or taken, at his, her or their will and pleasure, to send for and have any cyder, ale, beer, victuals, or other necessary drink or food, from what place and whom they please, and also to have and use such bedding, linen, and other things, as he, she or they shall think fit, without purloining or detaining the same, or any part thereof, or enforcing or requiring him, her or them, to pay for the having or using thereof, or putting any manner of restraint or difficulty upon him, her or them, in using thereof, or relating thereto.

Prisoners to be permitted to have and use such necessaries as they may send for.

XX. And be it enacted, That it shall not be lawful for any sheriff, gaoler, or keeper of any gaol, to confine or keep debtors and criminals together, in the same room or chamber; but they shall be confined and kept separate and apart from each other, in distinct rooms.

Debtors and criminals to be kept separate.

XXI. And be it enacted, That if any sheriff, under sheriff, coroner, gaoler, or other officer or minister aforesaid, shall offend against the three clauses or sections immediately preceding, or any of them, or any part thereof, every such offender, shall, besides being punished, on conviction, for a misdemeanor, forfeit and pay double damages to the party aggrieved, to be recovered, with costs, by action of debt, in any court, having cognizance thereof.

Penalty for offending against the three preceding sections.

XXII. And be it enacted, That if any sheriff or coroner shall neglect or refuse to execute any writ of execution, to him directed, and which hath or shall come to his hands, or, where the execution shall be by fieri facias, shall neglect to file a just and true inventory of the goods and chattels, lands and tenements, so taken in execution, unless such sheriff or coroner return, that he hath levied to the value of the debt or damages, and costs, or shall voluntarily or negligently omit, for the space of two months, rendering to the plaintiff or plaintiffs, his, her or their representative or attorney, the money, which he shall have received from the sale of the estate, real and personal, of the defendant, or otherwise, he shall be amerced in the value of the debt or damages, and costs, to and for the use of the said plaintiff or plaintiffs; provided, that ten day's notice, in writing, shall be given to such sheriff or coroner, by the plaintiff or plaintiffs, his, her or their representative or attorney, before any motion shall be made for such amercement; which said amercement, so as aforesaid ordered by the court, shall have the force and effect of a judgment, whereupon execution, in the name and for the use of such plaintiff or plaintiffs, or his, her or their representative, may, instantly, on motion, in open court, and without any further proceedings, be awarded and issued against the goods and chattels, lands and tenements of such sheriff or coroner, so amerced as aforesaid. Provided, That nothing in this act contained, shall prevent the party injured, from proceeding, at his election, against such sheriff or coroner, by attachment, according to law.

A sheriff or coroner, not executing a writ of execution, or not filing an inventory of the property, or not rendering money to the plaintiff, to be amerced to the amount of the debt, or damages, and costs.

And such amercement to be a judgment, whereon execution may be awarded.

But this clause not to affect procedure by attachment.

XXIII. And be it enacted, That when an amercement, as aforesaid, has been obtained against any sheriff or coroner, it shall be lawful for the court, at the request of the plaintiff or plaintiffs, his, her or their attorney or legal representative, to appoint one or more elisor or elisors, to whom the execution upon such amercement shall be directed, and who, on accepting such appointment, and receiving such execution, shall have as full power and authority to levy upon, seize, and sell the estate, real and personal, of such sheriff or coroner, and make deed or deeds for the same, and in all things, to execute the said writ of execution, as effectually as any sheriff might or could do by law, in cases of

Court may award execution upon amercement to elisors.

A. D. 1796.

execution to him directed, and shall be entitled and liable to the like fees and penalties.

Courts of common pleas may award attachments against persons in cases of contempt.

XXIV. AND WHEREAS doubts have arisen, whether the courts of common pleas, in and for the respective counties, have authority to proceed against the sheriff or coroner, by attachment for contempt or disobedience, in not executing any writ, process or order of the said court; to obviate which, *Be it enacted by the authority aforesaid*, That the court of common pleas, in and for the respective counties of this State, shall have the like power, in cases of contempt and disobedience as aforesaid, to award attachments, and proceed thereupon against the sheriff or coroner of such county, where the said court is held, as the supreme court of this State now hath or hereafter shall have.

Prisonors to be detained until discharged by due course of law.

What deemed an escape.

XXV. AND BE IT ENACTED, That all prisoners, either upon contempt or mesne process, or in execution, who are or shall be committed to any prison, shall be actually detained within such prison, until they shall be from thence discharged by due course of law. And if at any time, the keeper of any prison shall permit or suffer any prisoner, committed to his custody, either upon contempt, or mesne process, or in execution, to go, or be at large out of prison, except by virtue of some writ of habeas corpus, or rule of court, (which rule of court shall be granted only on motion made, or petition read in open court,) every such going or being out of the said prison, shall be adjudged and deemed, and is hereby declared to be an escape.

Debtors taken by execution to be kept in close and safe custody;

And if permitted to escape, sheriff liable for the debt.

XXVI. AND BE IT ENACTED, That every person, who, by virtue of any writ of execution against his or her body, for any debt recovered or acknowledged, or damages assessed, awarded, or adjudged in any court of record, hath been, or hereafter shall be taken or arrested by any sheriff or other officer, to whom any such writ hath been or shall be directed, and every person, who hath been, or shall be committed to the custody of any sheriff or other officer, in execution for any such debt or damages, shall be safely kept in prison, in close and secure custody, without bail or mainprise, until he or she shall satisfy and pay such debt or damages; and if any such sheriff, or other officer, shall permit or suffer any such person, so taken, arrested or committed, or hereafter to be taken, arrested or committed, to go out of prison, or be at large, by bail, mainprise, or otherwise, without the assent and agreement of the plaintiff, such sheriff or other officer, shall thereby become answerable to the plaintiff for the debt or damages, for which such person was or shall be taken, arrested or committed; and the plaintiff may recover the same, with costs, by action of debt, against such sheriff or other officer.

Persons in custody of sheriff on a decree in chancery, and escaping, the sheriff to be answerable.

XXVII. AND BE IT ENACTED, That if any person is or shall be in custody of any sheriff or other officer, for not performing any decree of the court of chancery, whereby money is ordered or decreed to be paid, and shall escape from the said sheriff or other officer, then, and in every such case, the person or persons, his, her or their executors or administrators, to whom the money was to be paid by the said order or decree, shall have the same remedy against the said sheriff or other officer, as if such person, so escaping, had been in custody upon an execution at law, and shall recover the money ordered or decreed to be paid to him, her or them, in and by such order or decree, against such sheriff or other officer, with costs, in any action of debt, or upon the case, to be brought against such sheriff or other officer, in any court of record of this State.

Retaking on fresh pursuit not to be given in evidence in actions of escape, nor pleaded without oath.

Such oath, if false, how punished.

XXVIII. AND BE IT ENACTED, That no retaking on fresh pursuit shall be given in evidence on the trial of any issue in any action of escape, against any sheriff, or keeper of any prison, unless the same be specially pleaded; nor shall any special plea be taken, received or allowed, unless oath or affirmation be first made in writing by such sheriff, or keeper of such prison, against whom such action shall be brought, and filed with such plea, that the prisoner, for whose escape such action is brought, did, without his consent, privity, or knowledge, make such escape; and if such affidavit shall at any time afterwards appear to be false, such sheriff or keeper of such prison, shall, on conviction thereof, be adjudged to be guilty of a misdemeanor, and be punished by fine not exceeding fifteen hundred dollars.

XXIX. AND

XXIX. And be it enacted, That when the sheriff, or any of his deputies, ind that resistance will be made against any process of execution, the sheriff, aying aside all other business, and taking with him the power of the county, hall forthwith go in his proper person and execute the same; and if he find re- istance, he shall certify to the court the names of the persons making such re- istance, their aiders, assistants, favorers and procurers, so that they may be pro- ceeded against according to law.

A. D. 1796.

If resistance be made to process of execution, sheriff shall raise the power of his county, and execute the same.

XXX. And be it enacted, That if any person hath been, or shall be con- lemned in any court of record of this State, and hath been, or shall be, by vir- ue of such condemnation, committed to prison, there to remain until he or she nake satisfaction to the party, to whom he or she is or shall be condemned, and any vrit or writs shall be granted, commanding the sheriff or keeper of the prison vhere such prisoner is held, to have the body of such prisoner, with the cause of his or her imprisonment, in the court of chancery, or supreme court, or before he chancellor, or any judge or justice of the supreme court, and it be returned up- on the said writ or writs, that the said prisoner is condemned by judgment given gainst him or her, then, and in every such case, such prisoner shall be immedi- ately remanded, and remain in prison according to law, until satisfaction be made for the sum adjudged.

If, upon the return of a habeas corpus, it appear, that the prisoner is in execution, he shall be remanded.

XXXI. And be it enacted, That every sheriff shall, at the expiration of his office, turn over, in writing, under his hand and seal, all writs unexecuted o the succeeding sheriff, who shall execute and return the same.

Sheriff to turn over writs unexecuted to his successor, who shall execute the same.

XXXII. And be it enacted, That no person shall exercise the office of a ustice of the peace during the time that he holds and exercises the office of a heriff; and that by acceptance of the latter office his commission for the former hall be null and void.

No person to act as a justice and sheriff at the same time.

XXXIII. And be it enacted, That the act, entitled, "An Act more ef- fectually to secure the faithful execution of the office of sheriff," passed the wenty ninth day of November, in the year of our Lord, one thousand, seven undred and eighty eight; and the act, entitled, "An Act to require sheriffs to ive security, and for other purposes therein mentioned," passed the fifth day of October, in the year of our Lord, one thousand, seven hundred and eighty one; nd the act, entitled, "An Act to oblige the several sheriffs of this colony of New-Jersey to give security, take the oaths or affirmations therein directed for the lischarge of their offices, and to prevent their too long continuance therein," pas- ed the nineteenth day of January, in the year of our Lord, one thousand seven undred and forty seven---eight; and the act, entitled, "An Act for the remov- l of criminals for their more safe custody, and for other purposes therein men- ioned," passed the twelfth day of June, in the year of our Lord, one thousand, even hundred and seventy nine; and the act, entitled, "An Act to direct the node of prosecuting bonds given by sheriffs, for the due execution of their of- ce," passed the eighteenth day of March, in the year of our Lord, one thou- and, seven hundred and eighty six, be, and the same are hereby repealed: Pro- IDED NEVERTHELESS, That such repeal shall not affect any debt, demand, a- nercement, penalty, bond, forfeiture, fine, or sum of money already due, amerc- d, given, forfeited, or arisen, upon or by virtue of the said recited acts, or any f them, or any writ or writs, suit or suits, heretofore issued or instituted under r by virtue of the said acts, or any of them; but that all and every such debt, lemand, amercement, penalty, bond, forfeiture, fine, or sum of money, and all nd every such writ or writs, suit or suits, shall be proceeded upon and prose- uted to final judgment, execution and effect, in the same manner as if this act ad not been made.

Certain acts repealed.

But the repeal not to affect antecedent amercements, or suits already instituted.

See a supplemental act of the 10th of March, 1797.

An ACT

A. D. 1796.

An ACT *for the punishment of crimes.*

Passed the 18th of March, 1796.

Treason, what cases shall be adjudged, how proved, and punished.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person or persons, owing allegiance to this State, shall levy war against it, or shall adhere to its enemies, or to the enemies of the United States, giving them aid or comfort within this State, or elsewhere, or by giving them advice or intelligence by letters, or writings of any kind, or by messages, words, signs, or tokens, or in any way whatsoever, within this State, or elsewhere, or by procuring for, or furnishing to them, money, or any kind of provisions, arms or warlike stores, within this State, or elsewhere, or by bribery, or for reward or promise thereof, or through favor, partiality or treachery, yielding or surrendering to them any town or fortress, castle, garrison, troops, militia, citizen or citizens of this State or of the United States, or any ship, boat or vessel of this State, or of the United States, or by giving them aid or comfort in any other way, and shall be thereof convicted, or attainted on confession in open court, or on the testimony of two witnesses to the same overt act of the treason, whereof he, she or they shall stand indicted, such person or persons shall be adjudged guilty of treason, and shall suffer death.

Misprision of treason, what, and how punished.

II. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal, and not as soon as may be disclose and make known the same to the governor of this State, or to some one of the justices of the supreme court thereof, or to some one of the justices of the peace in and for any of the counties of this State, such person or persons, on conviction, shall be adjudged guilty of misprision of treason, and shall suffer an imprisonment at hard labor for any term not exceeding seven years, or be fined not exceeding one thousand dollars, or both, at the discretion of the court, before whom such offender or offenders shall be convicted.

Murder punished with death; and court may order offender's body to be dissected.

III. AND BE IT ENACTED *by the authority aforesaid*, That every person, who shall commit murder, or shall aid, abet, counsel, hire, command, cause or procure any person or persons to commit murder, shall, on being thereof convicted or attainted, suffer death; and, in such case, the court may, at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the sheriff, who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid; provided, that such surgeon, or some person by him appointed for the purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

Rescue of body ordered for dissection, punishment for.

IV. AND BE IT FURTHER ENACTED *by the authority aforesaid*, That if any person or persons, after such execution had, shall rescue or attempt to rescue the body of such offender out of the custody of the sheriff or his officers, or the surgeon or his agents, during the conveyance of such body to any place for dissection as aforesaid, or shall rescue or attempt to rescue such body from the house of any surgeon, where the same shall have been deposited in pursuance of this act, every person, so offending, shall be liable to a fine not exceeding one hundred dollars, and an imprisonment at hard labor not exceeding twelve months, or either of them, at the discretion of the court.

Manslaughter how punished.

V. AND BE IT ENACTED *by the authority aforesaid*, That if any person or persons commit the crime of manslaughter, and be thereof convicted, such person or persons shall be liable to a fine not exceeding one thousand dollars, and an imprisonment at hard labor, not exceeding three years, or either of them, at the discretion of the court.

Petit treason to be deemed murder only, and punished accordingly.

VI. AND BE IT ENACTED *by the authority aforesaid*, That, from and after the passing of this act, in all cases wherein heretofore any person or persons would have been deemed or taken to have committed the crime of petit treason, such person or persons shall be deemed and taken to have committed the crime of murder

murder only, and shall be indicted and prosecuted to final judgment accordingly, and the same punishment and no other shall be inflicted as in case of murder.

Sodomy, how punished.

VII. AND BE IT ENACTED *by the authority aforesaid*, That sodomy, or the infamous crime against nature, committed with mankind or beast, shall be adjudged a high crime and misdemeanor, and be punished by fine and solitary imprisonment at hard labor, for any term not exceeding twenty one years.

Rape, what, and how punished.

Carnal knowledge of a woman child under ten years, punishment for.

VIII. AND BE IT ENACTED *by the authority aforesaid*, That any person, who shall have carnal knowledge of a woman, forcibly and against her will, or who shall aid, abet, counsel, hire, cause or procure any person or persons, to commit the said offence; or who, being of the age of fourteen years, shall unlawfully and carnally know and abuse any woman child, under the age of ten years, with or without her consent, shall, on conviction, be adjudged guilty of a high misdemeanor, and be punished by fine and solitary imprisonment at hard labor, for any term not exceeding fifteen years.

Forcible abduction of a woman, and marriage, or defilement, punishment for.

Such marriage void; and the pretended husband not to take or hold any estate from the woman, to whom he is so married.

IX. AND BE IT ENACTED *by the authority aforesaid*, That if any person shall unlawfully take any maid, widow or wife, contrary to her will, and shall marry her himself, or cause, or procure her to be married to another, either with or without her consent, or shall defile, or cause her to be defiled, such person, so offending, his aiders, abettors, counsellors and procurers, and such as wittingly receive such woman, so taken against her will, and knowing the same, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be fined and sentenced to solitary imprisonment at hard labor, for any term not exceeding twelve years; and every such marriage shall be void; and also, the person, to whom such woman shall be so married, shall not receive, take, hold, possess or enjoy any part of her estate, real or personal, by any gift, grant, bequest or devise, of, from, or under her; but every such gift, grant, bequest or devise, so made to him, or for his use, shall be void and of no effect.

Taking women under 15 from the possession, and against the will of parents or guardians with intent to deflower, &c. how punished.

Punishment if deflowered or married, and such marriage void.

X. AND BE IT ENACTED *by the authority aforesaid*, That if any person shall unlawfully convey or take away any woman child unmarried, whether legitimate or illegitimate, being within the age of fifteen years, out of or from the possession, custody or governance, and against the will of the father, mother or guardian of such woman child, though with her own consent, with an intent to seduce, deflower, or contract matrimony with her, such offender shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine and imprisonment at hard labor for any term not exceeding two years, or either of them; and if he deflower such woman child, or, without the consent of her father, mother or guardian, contract matrimony with her, then, and in such case, he shall be deemed guilty of a high misdemeanor, and, on conviction, shall be punished by fine and imprisonment at hard labor for any term not exceeding five years; and further, every such marriage shall be void.

Polygamy, what, and how punished.

To what cases this act does not extend.

XI. AND BE IT ENACTED *by the authority aforesaid*, That if any person, being married, or who hereafter shall marry, shall marry any person, the former husband or wife being alive, then the person so offending shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by fine and imprisonment at hard labor for any term not exceeding ten years, or either of them at the discretion of the court before whom such conviction shall be had; but neither this act, nor any thing therein contained shall extend to any person, whose husband or wife shall be continually remaining without the United States of America for the space of five years together, or whose husband or wife shall absent him or herself, the one from the other, for the space of five years together in any parts within this State, or the United States, the one of them not knowing the other to be living within that time; nor to any person who is or shall be, at the time of such marriage, divorced by the sentence or decree of any authority, or court, having cognizance thereof; nor to any person where the former marriage hath been, or shall be, by the sentence or decree of any such authority, or court, declared to be void and of no effect; nor to any person for or by reason of any former marriage had or made, or to be had or made, within the age of consent.

Women, pregnant with bastard children, concealing such pregnancy, and being delivered in secret, how punished.

XII. AND WHEREAS many lewd and dissolute women, being pregnant with bastard children, but regardless of natural affection, or to avoid shame, or escape punishment, conceal their pregnancy and the birth of such children, whereby many of them perish for want of the usual and necessary aid and assistance, and also conceal the death of such children, so that it cannot be known whether they were murdered or not: *Be it therefore enacted by the authority aforesaid*, That if any woman shall conceal her pregnancy, and shall willingly and of purpose 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 be adjudged to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment at hard labor, not exceeding four months, or both. *And be it further enacted*, That if any woman shall endeavor privately, by drowning or secret burying, or any other way, 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, then, and in every such case, the woman so offending, her aiders, abettors, counsellors and procurers, shall be adjudged to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding two hundred dollars, or by imprisonment at hard labor, not exeeeding one year, or both.

Concealing the death of bastard child, punishment for.

Incest, what and how punished.

XIII. AND BE IT ENACTED *by the authority aforesaid*, That all persons who shall intermarry within the degrees prohibited by law, shall be adjudged to be guilty of incest and a misdemeanor, and on conviction, shall be punished by fine, not exceeding five hundred dollars, or by imprisonment at hard labor, not exceeding eighteen calendar months, or both, at the discretion of the court.

Adultery, how punished.

XIV. AND BE IT ENACTED *by the authority aforesaid*, That every person who shall commit adultery, and be thereof convicted, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment, not exceeding the term of six months.

Fornication, how punished.

XV. AND BE IT ENACTED *by the authority aforesaid*, That every person who shall commit fornication, and be thereof convicted, shall be punished by the fine of fourteen dollars, to be paid to the overseers of the poor of the township where the offence was committed, for the use of the poor of the said township.

Open lewdness, &c. how punished.

XVI. AND BE IT ENACTED *by the authority aforesaid*, That every person who shall be guilty of open lewdness, or any notorious act of public indecency, grossly scandalous, and tending to debauch the morals and manners of the people, shall, on conviction, be liable to a fine, not exceeding one hundred dollars, and to an imprisonment at hard labor, not exceeding twelve months, or either of them at the discretion of the court.

No suit to be carried on against any person for witchcraft, &c, or for charging another with such offence.

XVII. AND BE IT ENACTED *by the authority aforesaid*, That no prosecution, suit or proceeding, shall be commenced or carried on in any court of this State, against any person for conjuration, witchcraft, sorcery or inchantment, or for charging another with any such offence.

Persons, pretending to exercise witchcraft, or by occult science to discover stolen or lost goods, how punished.

XVIII. AND for the effectual prevention and punishment of any pretences to such arts or powers as are before mentioned, whereby ignorant persons are frequently deluded or defrauded, *Be it further enacted*, That if any person shall pretend to exercise or use any kind of conjuration, witchcraft, sorcery or inchantment, or pretend, from his or her skill or knowledge in any occult or crafty science, to discover where, or in what manner any goods or chattels, supposed to have been stolen or lost, may be found, every person so offending, being thereof convicted, shall, for every such offence, be punished by fine, not exceeding fifty dollars, or imprisonment at hard labor, not exceeding three months, or both, at the discretion of the court.

Religious impostors, how punished.

XIX. AND BE IT ENACTED *by the authority aforesaid*, That all impostors in religion, such as personate our Saviour Jesus Christ, or suffer their followers to worship or pay them divine honors, or terrify, delude, or abuse the people by false

false denunciations of judgments, shall, on conviction, be punished for every such offence by a fine, not exceeding one hundred dollars, or an imprisonment at hard labor, not exceeding six months, or both, at the discretion of the court. A. D. 1796.

XX. And be it enacted *by the authority aforesaid*, That if any person shall wilfully blaspheme the holy name of God, by denying, cursing or contumeliously reproaching his being or providence, or by cursing or contumeliously reproaching Jesus Christ, or the Holy Ghost, or the Christian religion, or the holy word of God, that is, the Canonical Scriptures contained in the books of the Old and New Testament, or by prophanely scoffing at, or exposing them, or any of them to contempt and ridicule, then every person so offending shall, on conviction, be punished by a fine, not exceeding two hundred dollars, or an imprisonment at hard labor, not exceeding twelve months, or both, at the discretion of the court. Blasphemy, and how punished.

XXI. And be it enacted *by the authority aforesaid*, That if any person shall wilfully and corruptly commit perjury, or shall by any means procure or suborn any person to commit corrupt and wilful perjury, on his or her oath or affirmation, in any action, plea, suit, bill, answer, complaint, indictment, controversy, matter, or cause depending, or which may depend in any of the courts of this State, or before any referrees or arbitrators, or in any deposition taken, or to be taken pursuant to the laws of this State, every person so offending shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding eight hundred dollars, or by imprisonment at hard labor, not exceeding seven years, or both, at the discretion of the court, and be thereafter rendered incapable of giving testimony in any of the courts of this State, until such time as the judgment so given against the said offenders shall be reversed. Perjury, and subornation of perjury, how punished.

XXII. And be it enacted *by the authority aforesaid*, That in every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken (averring such court, or person or persons to have competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceedings, either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed In prosecutions for perjury, it shall be sufficient to set forth the substance of the charge.

XXIII. And be it further enacted *by the authority aforesaid*, That in every presentment or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceedings, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed. Also, in prosecutions for subornation of perjury.

XXIV. And be it enacted *by the authority aforesaid*, That if any person shall, directly or indirectly, give any sum or sums of money, or any goods, chattels, lands or real estate, or any other bribe, present or reward, or give or make any promise, contract, covenant, obligation or security for the payment, delivery, alienation or transfer of any money, goods, chattels, lands or real estate, or other bribe, present or reward, to obtain, procure or influence the opinion, judgment, decree or behaviour of any judge or judges, justice or justices of this State, in any action, plea, suit, complaint, indictment, controversy, matter or cause depending, or which shall depend before him or them, such person so giving, promising, contracting, covenanting or securing to be given, paid, delivered, aliened or transferred, any sum or sums of money, goods, chattels, lands, real estate, or other present, reward or bribe as aforesaid, and the judge or judges, justice or justices, who shall in any wise receive or accept the same, shall be adjudged guilty of a high misdemeanor, and, on conviction thereof, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; but such fine shall not exceed eight hundred dollars, and such imprisonment shall not exceed five Bribery, what cases shall be adjudged, and how punished.

A. D. 1796.

five years; and also shall for ever be disqualified to hold any office of honor, trust or profit under this State.

Extortion, what, and how punished.

XXV. And be it enacted *by the authority aforesaid*, That no judge, justice, sheriff, coroner, constable, gaoler, or other officer of this State, ministerial or judicial, shall receive or take any fee or reward to execute and do his duty and office, but such as is or shall be allowed by the laws of this State; and if any doth, he shall restore to the party grieved double damages and costs: And further, That if any such judge, justice, sheriff, coroner, constable, gaoler, or other officer as aforesaid, shall receive or take, by colour of his office, any fee or reward whatsoever not allowed by the laws of this State for doing his office, and be thereof convicted, he shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; the fine not to exceed four hundred dollars, nor the imprisonment the term of two years.

Embracery, and attempts to influence a juror or jury, how punished.

XXVI. And be it enacted *by the authority aforesaid*, That embracery, and all attempts to corrupt or influence a jury, or any of them, or any way to incline such jury, or any of them, to be more favorable to the one side than to the other, by promises, persuasions, entreaties, threats, letters, money, entertainments, or other sinister means, and all indirect, unfair and fraudulent practices, arts and contrivances to obtain a verdict, and all attempts to instruct a jury or juror beforehand, or at any place or time, or in any manner or way, except only in open court, at the trial of the cause, by the strength of the evidence, the arguments of the parties, or their counsel, or the opinion or charge of the court, shall be deemed misdemeanors, and punished by fine or imprisonment or both, or by fine or imprisonment at hard labor, or both; the fine in such case not to exceed three hundred dollars, nor the imprisonment the term of one year: And further, if any juror take money, goods, chattels, or other reward of the one party or the other, or be so as aforesaid embraced, then every such juror shall, on conviction, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; the fine in such case not to exceed six hundred dollars, nor the imprisonment the term of two years; and also shall be for ever disqualified to serve or act as a juryman.

A juror, who shall take an illegal reward, how punished.

Arson, what, and how punished.

XXVII. And be it enacted *by the authority aforesaid*, That if any person wilfully and maliciously shall burn or cause to be burned, or aid, counsel, procure, or consent to the burning of the dwelling house of another, or any kitchen, shop, barn, stable, or other out house, that is parcel thereof, or belonging or adjoining thereto, or any other building, by means whereof a dwelling house shall be burnt, then, and in every such case, the person so offending shall be adjudged guilty of arson, and be proceeded against for a high misdemeanor, and, on conviction, shall be punished by fine and solitary imprisonment at hard labor, for any term not exceeding fifteen years.

Burning public buildings, mills and out houses, how punished.

XXVIII. And be it enacted *by the authority aforesaid*, That if any person wilfully and maliciously shall burn or cause to be burned, or aid, counsel, procure, or consent to the burning of any barn, stable, or other building of another, not parcel of the dwelling house, or any shop, store house, ware house, malt house, mill, or other building of another, or any ship, boat, or other vessel of another, lying within the body of any county in this State, or any church, meeting house, court house, work house, gaol or other public building, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on conviction, shall be liable to a fine and imprisonment at hard labor, for any term not exceeding ten years, or either of them.

Dwelling house, mills, &c. setting fire to, with intention to burn, how punished.

XXIX. And be it enacted *by the authority aforesaid*, That if any person wilfully and maliciously shall set fire to, or aid, procure, or consent to the setting fire to any church, meeting house, court house, work house, gaol, or other public building; or any dwelling house, kitchen, shop, store house, ware house, malt house, mill, barn, stable, or other house or building of another, or any ship, boat, or other vessel of another, lying within the body of any county in this State, with intent to burn the same, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine and imprisonment at hard labor, for any term not exceeding five years, or either of them.

XXX. And

XXX. And be it enacted *by the authority aforesaid*, That if any person shall, by night, wilfully and maliciously break and enter any church, meeting house, or dwelling house, with intent to kill, rob, steal, or commit a rape, every such offender, and his or her procurers, counsellors, aiders and abettors, shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine and solitary imprisonment at hard labor, for any term not exceeding ten years.

Burglary, what, and how punished.

XXXI. And be it enacted *by the authority aforesaid*, That if any person shall steal of the money or personal goods and chattels of another, under the price or value of six dollars, he or she so offending, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; the fine not to exceed thirty dollars, nor the imprisonment the term of one year.

Larceny under six dollars, how punished.

XXXII. And be it enacted *by the authority aforesaid*, That if any person shall steal of the money or personal goods and chattels of another, under the sum of six dollars, such person being committed to gaol for the same, for want of bail, shall, and may by virtue of a warrant under the hands and seals of any two justices of the county, city or town corporate, wherein such fact was committed, or wherein such money, goods or chattels were found on the person, or in his custody, to the sheriff or constable of such county, city or town corporate directed, be brought before the said justices, at such time and place as in the said warrant shall be appointed, and such sheriff or constable shall attend the said justices, with the prisoner, during such reasonable time as the said justices shall direct; that the said justices shall then cause the clerk of the court of quarter sessions of the county, city or town corporate, or such other person as the said justices shall see fit to appoint and direct, to prefer to the said justices an accusation in writing, alleging the time, place and nature of the offence of the prisoner so as aforesaid brought before them, which they the said justices are hereby fully empowered and required to hear and determine; to which accusation the said prisoner shall plead, and on refusal to plead, or on trial and conviction in manner aforesaid, shall suffer and incur, by order of the said justices, the punishment, penalty and forfeiture prescribed and directed in the preceding section of this act, at the discretion of the said justices: Provided always, That if the person, so accused of committing such offence as aforesaid, shall make it his or her choice and request to the said justices, to be tried in such manner as other persons charged with the commission of the crimes and offences in this act enumerated are tried, he or she shall, for want of bail, be remanded by the said justices to the gaol aforesaid, there for that purpose to be kept and confined.*

Mode of trial in cases of larceny under six dollars.

But such offender may elect to be tried in the usual manner.

XXXIII. And be it enacted *by the authority aforesaid*, That if any person shall steal of the money, or personal goods and chattels of another, of or above the price or value of six dollars; or shall steal of the money or personal goods and chattels of another from his or her person, whether privately or without his or her knowledge, or openly and in his presence, to any value whatever, above the sum of six dollars; or shall, in any church, meeting house, or place of worship, or in any dwelling house, shop, store house, ware house, mill, barn, stable, out house, or other building, steal of the money or personal goods and chattels of another to any value whatever, above the said sum of six dollars, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

Larceny of or above six dollars, or from the person, how punished.

XXXIV. And be it enacted *by the authority aforesaid*, That if any person shall forcibly take from the person of another, money, or personal goods and chattels, to any value whatever, by violence, or putting him or her in fear, every person so offending, and his or her aiders, procurers and abettors, shall be adjudged guilty of a high misdemeanor, and, on conviction, shall be punished by a fine and solitary imprisonment at hard labor, for any term not exceeding fifteen years.

Robbery, how punished.

* By a supplemental act, of the 10th of March, 1797, the fines, imposed by virtue of this section, are to be paid to the overseers or trustees of the poor.

A. D. 1796.

Assault with intent to rob, or house breaking by day with intent to kill, rob, steal, &c. how punished.

XXXV. And be it enacted *by the authority aforesaid*, That if any person shall unlawfully and maliciously assault another with any offensive weapon or instrument, or by menaces, or in and by other forcible and violent manner and means, demand of another any money, or personal goods and chattels, with intent to rob him or her; or shall, by day, wilfully and maliciously break and enter any dwelling house, shop, ware house, store house, mill, barn, stable, out house, or other building whatever, with intent to kill, rob, steal, or commit a rape, mayhem or battery, then, and in every such case, the person so offending, and his or her counsellors, procurers, aiders and abettors, shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine not exceeding five hundred dollars, or solitary imprisonment at hard labor, for any term not exceeding ten years, or both.

Entering dwelling house, &c. without breaking, with intent to kill, &c. how punished.

XXXVI. And be it enacted *by the authority aforesaid*, That if any person shall wilfully and maliciously enter, either by day or by night, without breaking the same, any church, meeting house, or place of worship, or any dwelling house, shop, ware house, store house, mill, barn, stable, out house, or other building whatsoever, with intent to kill, rob, steal, or to commit a rape, mayhem or battery, then, and in every such case, the person so offending, and his or her counsellors, procurers, aiders and abettors, shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding three hundred dollars, or solitary imprisonment at hard labor, for any term not exceeding five years, or both.

Apprentices or servants, entrusted by their masters with money or goods, and who shall go away with them, with intent to steal, or who shall embezzle them, how punished.

XXXVII. And be it enacted *by the authority aforesaid*, That if any apprentice or servant, whether bound or hired, to whom any money, bank bill or note, or goods or chattels, shall be by his or her master or mistress delivered to be safely kept, shall withdraw himself or herself from his or her said master or mistress, and go away with the said money, bank bill or note, goods or chattels, or any part thereof, with intent to steal the same and defraud his or her said master or mistress thereof, contrary to the trust and confidence in him or her reposed, by his or her said master or mistress; or being in the service of his or her said master or mistress, without assent or commandment of his or her said master or mistress, shall embezzle the said money, bank bill or note, goods or chattels, or any part thereof, or otherwise shall convert the same to his or her own use, with like purpose to steal the same, then, and in every such case, the person so offending shall be judged guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labor, for any term not exceeding two years, or both: Provided, That this clause or section shall not extend to any apprentice or servant, guilty of any of the premises therein mentioned, within the age of fourteen years.

Not to extend to servants, under 14 years of age.

Lodger stealing goods from his lodging, how punished.

XXXVIII. And be it enacted *by the authority aforesaid*, That if any lodger shall take away, with intent to steal, embezzle or purloin, any bedding, furniture, goods or chattels, which, by contract or agreement, he or she is to use, or shall be let to him or her to use, in or with his or her lodging, then, and in such case, every person so offending, shall be deemed guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding two hundred dollars, or imprisonment at hard labor, not exceeding two years, or both.

Stealing bills, bonds, notes, &c. or taking them by robbery, how punished.

XXXIX. And be it enacted *by the authority aforesaid*, That if any person shall steal, or take by robbery, any bank bill or note, bill of exchange, order, warrant, draught, check, bond, bill, or promissory note for payment of any money, or any certificate, or other public security of the United States, or of this State, or of any of the United States, for payment of money, or acknowledging the receipt of money or goods, being the property of any other person or persons, or of any corporation, notwithstanding the said particulars or any of them are or may be termed in law, choses in action, it shall be deemed and construed a misdemeanor of the same nature, in the same degree, and in the same manner as it would have been, if the offender had stolen, or taken by robbery, any other goods of like value, with the money due on such bank bill or note, bill of exchange, order, warrant, draught, check, bond, bill, or promissory note, or certificate, or other public security, or secured thereby, and remaining unsatisfied; and such offender shall suffer such punishment as he or she should or ought to have done, if he or she

she had stolen, or taken by robbery, other goods of the like value with the money due on such bank bill or note, bill of exchange, order, warrant, draught, check, bond, bill, or promissory note, or certificate, or other public security respectively, or secured thereby and remaining unsatisfied. A. D. 1796.

Stealing records, &c. how punished.

XL. And be it enacted *by the authority aforesaid*, That if any person shall steal, or take by robbery, any letters patent, charter, testament, will or deed, whether indented or poll, covenant, assurance, lease, indenture of apprenticeship, articles of agreement, contract, letter of attorney, or other power, or any instrument of writing respecting any property, real or personal, or any release, acquittance, voucher, receipt, receipt book, waste book, day book, journal, ledger or other book of accounts, of or belonging to another, every such offender shall be deemed guilty of a misdemeanor, and, on being convicted thereof, shall be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

Persons stealing or avoiding records, whereby any judgment is reversed, how punished.

XLI. And be it enacted *by the authority aforesaid*, That if any clerk, coroner, sheriff, justice or judge, or any other person, shall steal, embezzle, take away, alter, withdraw, falsify or avoid, any record or parcel of the same, writ, return, panel, process, minutes, documents, book or other proceeding, of or belonging to any of the courts of this State, or of or belonging to the office of the secretary of this State, or the office of the clerk of the supreme court, or of the inferior court of common pleas, or general quarter sessions of the peace of any city or county in this State, by means whereof any verdict, judgment, sentence or decree shall be reversed, annulled, made void, or lose its force and effect, then every such offender, his or her procurers, counsellors, aiders and abetters, shall be adjudged guilty of a high misdemeanor, and, on being convicted thereof, shall be punished by fine, not exceeding seven thousand dollars, or imprisonment at hard labor, not exceeding seven years, or both; and in case no verdict, judgment, sentence or decree, shall be reversed, annulled, made void, or lose its force and effect by any such stealing, embezzling, taking away, altering, withdrawing, falsifying, or avoiding of any of the records, proceedings, minutes, books, matters or things aforesaid, then every such offender, his or her procurers, counsellors, aiders and abettors, shall, on conviction, be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding four years, or both. Provided always, That this act shall not extend to any amendment or entry made or to be made by any rule, order, judgment or decree of any court.

And if judgment, &c. be not reversed, how punished.

But not to extend to any entry made by order of court.

Forgery, what, and how punished.

XLII. And be it enacted *by the authority aforesaid*, That, if any person shall falsely make, alter, forge or counterfeit, or cause, counsel, hire, command, or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any record, or other authentic matter of a public nature, charter, letters patent, deed, lease, writing sealed, will, testament, annuity, bond, bill, writing obligatory, bank bill or note, check, draught, bill of exchange, promissory note for the payment of money, indorsement or assignment of any bill of exchange, or promissory note for the payment of money, or any acceptance of a bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for the payment of money, or any warrant, order or request for the payment of money, or delivery of goods or chattels of any kind, or any acquittance or receipt, either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property whatsoever, or any letter of attorney or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, or shall utter or publish, or cause, counsel, hire, command or procure to be uttered or published, as true, any of the above false, altered, forged or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, then every such offender shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine

A. D. 1796.

fine or solitary imprisonment at hard labor, or both; provided such imprisonment shall not exceed the term of ten years.

Persons acknowledging fines, recoveries, deeds, bail, judgments, &c. in the names of others, not privy thereto, or personating others as bail, how punished.

XLIII. And be it enacted *by the authority aforesaid*, That if any person shall acknowledge, or procure to be acknowledged, any fine or fines, common recovery or recoveries, deed or deeds, recognizance or recognizances, bail or bails, judgment or judgments, in the name or names of any other person or persons, not privy or consenting to the same; and if any person shall, before any person or persons authorized to take bail or bails, represent or personate any other person or persons, whereby the person or persons so represented or personated may be liable to the payment of any sum or sums of money, for debt or damages, to be recovered in the same suit or action wherein the person or persons are represented or personated, as if he, she or they had really acknowledged and entered into the same bail or bails, every such person or persons so offending, shall be adjudged guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding seven thousand dollars, or solitary imprisonment at hard labor, or both; provided such imprisonment shall not exceed the term of seven years; and provided also, that this act shall not extend to the acknowledgment of any judgment or judgments by any attorney or attornies, duly admitted for any person or persons, against whom any such judgment or judgments shall be had or given.

Persons using any false token, or writing to obtain money or goods, with intent to cheat or defraud, how punished.

XLIV. And be it enacted *by the authority aforesaid*, That all persons who knowingly and designedly, by colour of any false token, counterfeit letter or writing, or false pretence or pretences, shall obtain from any person money, wares, merchandise, goods or chattels, or other valuable thing, with intent to cheat or defraud any person or persons, body politic or corporate, of the same, then every person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years.

Persons obstructing the execution of process, how punished.

XLV. And be it enacted *by the authority aforesaid*, That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any sheriff, coroner, constable, or other officer of this State, or other person or persons duly authorized, in serving or attempting to serve or execute any mesne process, writ, warrant, rule or order of any of the courts of this State, or any other legal or judicial writ, warrant or process whatsoever, or shall assault, beat or wound any sheriff, coroner, constable or other officer or person duly authorized, in serving or executing any writ, rule, order, process or warrant aforesaid, or for having served or executed the same, every person so knowingly and wilfully offending in the premises, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding eight hundred dollars, or by imprisonment at hard labor, not exceeding two years, or both.

Sheriffs, and other officers guilty of voluntary escapes in capital cases, to suffer death.

But not to prevent their being proceeded against for a misdemeanor at common law.

XLVI. And be it enacted *by the authority aforesaid*, That if any sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer or person whatsoever, having any offender, guilty of treason, murder or other crime punishable with death, in his custody for any such crime, shall voluntarily permit or suffer such offender to escape and go at large, then every such sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer or person so offending, shall be adjudged guilty of a high misdemeanor, and, on being thereof convicted, shall suffer death. Provided, That nothing herein contained shall be construed to prevent any sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer or person, so guilty of such voluntary escape as aforesaid, from being prosecuted or proceeded against for a misdemeanor at common law.

Voluntary escapes, in cases not capital, and negligent escapes, how punished.

XLVII. And be it further enacted *by the authority aforesaid*, That all voluntary escapes, in cases not punishable with death, and all negligent escapes of whatever kind, in criminal matters, shall be deemed misdemeanors, and punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years, or both. And further, any sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer, who shall be guilty of any voluntary escape, in any criminal case whatever, shall for ever be disqualified to hold any office of honor, trust or profit under this State.

XLVIII. And

A. D. 1796.

XLVIII. And be it enacted *by the authority aforesaid*, That all rescues of any person or persons, guilty of treason, murder, or other crime punishable with death, shall be deemed high misdemeanors, and every person so offending shall, on conviction, suffer death. Provided, That nothing herein contained shall be construed to prevent any such rescuer as aforesaid, from being prosecuted and proceeded against for a misdemeanor at common law.

Rescuer of persons guilty of capital crimes, how punished.

But such rescuer may be proceeded against at common law.

XLIX. And be it enacted *by the authority aforesaid*, That all rescues in criminal cases, not punishable with death, and in all civil cases, shall be deemed misdemeanors, and every such rescuer shall, on conviction, be liable to a fine, not exceeding one thousand dollars, or an imprisonment at hard labor, not exceeding three years, or both.

Rescues in criminal cases, not capital, and in all civil cases, how punished.

L. And be it enacted *by the authority aforesaid*, That from henceforth no person, who, being imprisoned, shall break prison, shall have judgment of life or member for breaking prison only; except the cause, for which such prisoner was taken and imprisoned, did require such judgment if he had been convicted thereupon; and if any person, being imprisoned for a crime not punishable with death, shall break prison and escape, or shall break prison, although no escape be actually made, he or she so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years, or both.

Prisoner, breaking prison, not to suffer death, unless confined for a crime punishable with death.

Prisoner confined for a crime not capital, breaking prison, how punished.

LI. And be it enacted *by the authority aforesaid*, That if any person shall, by any means whatsoever, be aiding or assisting to any prisoner in gaol, indicted for or convicted of any offence against this State, or sentenced to imprisonment on such conviction, or lawfully committed or detained in such gaol for any crime against this State, expressed in the warrant of his or her commitment or detainer, to make or to attempt to make his escape from any gaol, although no escape be actually made, every person so offending as aforesaid, and being thereof convicted, shall be deemed to be guilty of a misdemeanor, for which he or she shall be liable to a fine, not exceeding five hundred dollars, or an imprisonment at hard labor, not exceeding two years, or both; and if any person shall convey, or cause to be conveyed into any gaol or house of correction, any mask, visor, or other disguise, or any instrument, or arms proper to facilitate the escape of such prisoners as aforesaid, and the same shall deliver, or cause to be delivered to any such prisoner in any such gaol or house of correction, or to any other person there, for the use of any such prisoner, without the consent or privity of the keeper of such gaol or house of correction, every such person, although no escape or attempt to escape be actually made, shall be deemed to have delivered such mask, visor, or other disguise, instrument or arms, with intent to aid or assist such prisoner to escape, and being thereof convicted, shall be deemed and adjudged to be guilty of a misdemeanor, for which he or she shall be liable to a fine, not exceeding five hundred dollars, or an imprisonment at hard labor, not exceeding two years, or both. And further, if any person shall aid or assist any prisoner to attempt to make his or her escape from the custody of any constable, officer, or other person, who shall have the lawful charge of such prisoner, in order to conduct or carry him or her to gaol, by virtue of a warrant of commitment for any crime against this State, expressed in such warrant, or to the house of correction, by virtue of any order, sentence or judgment of imprisonment on conviction of any crime against this State, then every person so offending, and being thereof convicted, shall be deemed and adjudged to be guilty of a misdemeanor, for which he or she shall be liable to a fine, not exceeding five hundred dollars, or an imprisonment at hard labor, not exceeding two years, or both.

Assisting a prisoner in gaol to escape, how punished.

Conveying to such prisoner any disguise or arms, proper to facilitate his escape, how punished.

Assisting a prisoner to escape from a constable, or other person, how punished.

LII. And be it enacted *by the authority aforesaid*, That if any person take money, goods, chattels, lands, or other reward, or promise thereof, to compound, or upon agreement to compound any treason, misprision of treason, murder, manslaughter, sodomy, rape, arson, forgery, burglary, house breaking, robbery, larceny, kidnapping, escape, rescue, breach of prison, embracery, bribery, perjury, or subornation of perjury, every person so offending, shall be deemed to be guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding three hunded dollars, or imprisonment at hard labor, not exceeding twelve months, or both.

Compounding of treason, and other crimes, how punished.

A. D. 1796.

Conspiracy, what, and how punished.

LIII. And be it enacted *by the authority aforesaid*, That all such as combine, unite, confederate, conspire, or bind themselves by oath, covenant, agreement, or other alliance, that they shall and will mutually aid, support and help one another falsely and maliciously to indict, or cause or procure to be indicted, any person or persons, shall be deemed to be guilty of conspiracy, and, on conviction, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both.

Kidnapping, and spiriting away children, punishment for.

LIV. And be it enacted *by the authority aforesaid*, That if any person shall kidnap, or steal, or forcibly take away any man, woman or child, bond or free, and send or carry, or with intent to send or carry such man, woman or child from this State into another State or country; or shall spirit, persuade, or entice any child, within the age of fourteen years, to leave his father, mother or guardian, or other person or persons entrusted with the care of such child, and the same child shall secrete and conceal, then the person so offending in any of the premises, and his or her procurers, shall be adjudged to be guilty of a high misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding five years, or both; but

To what cases this section does not extend.

neither this act, nor any thing therein contained, shall extend to oppose, obstruct or prevent any master or mistress, who may remove from this State into any other of the United States, from taking with him or her, his or her servants or slaves.

Cutting out or disabling the tongue, cutting off, or sliting the nose, lip, ear, &c. of any person, how punished.

LV. And be it enacted *by the authority aforesaid*, That if any person shall voluntarily, unlawfully, and on purpose, cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, lip or ear, cut off the nose or lip, or cut off or disable any limb or member of any person, or brand any person, with intention in so doing, to murder or kill, to maim or disfigure such person, in any of the manners before mentioned, then, and in every such case, the person so offending shall, on conviction, be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding seven years or both.

Challenging to fight a duel, though no duel be fought, how punished.

LVI. And be it enacted *by the authority aforesaid*, That if any person shall, by word, message, letter, or any other way, challenge another to fight a duel, with a rapier, or small sword, back sword, pistol, or other dangerous weapon, or shall accept a challenge, although no duel be fought, or knowingly be the bearer of such challenge, or shall any ways abet, prompt, encourage, persuade, seduce, or cause any person to fight a duel, or to challenge another to fight such duel, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both. And further, If any person shall engage in and fight a duel with another, with a rapier, or small sword, back sword, pistol, or other dangerous weapon, although death does not thereby ensue, or shall be a second in any such duel, then, and in such case, every person so offending shall be adjudged to be guilty of a high misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding four years, or both.

Duel, punishment for fighting, where death does not ensue.

Sending letter, or other writing threatening to accuse of an indictable offence, with intent to extort money, or demanding money or threatening to maim, kill, or to burn houses, &c. how punished.

LVII. And be it enacted *by the authority aforesaid*, That if any person shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or signed with a fictitious name, letter or letters, threatening to accuse any person of a crime of an indictable nature by the laws of this State, with intent to extort from him or her any money, wares, merchandize, goods or chattels, or other valuable thing; or demanding money, goods or chattels, or other valuable thing; or threatening to maim, wound, kill, or murder any person, or to burn his or her house, out house, barn or other building, or stack or stacks of corn, grain or hay, though no money, goods or chattels, or other valuable thing be demanded by such letter or writing, then every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding nine months, or both.

Stealing lead or iron fixed to a house, or grass or grain standing and growing, how punished.

LVIII. And be it enacted *by the authority aforesaid*, That if any person shall steal, or shall rip, cut or break, with intent to steal, any lead or iron bar, iron rail, iron gate, or iron palisado, or any lock fixed to any dwelling house, out house, stable,

stable, or any other building; or shall pull, cut, gather, or take away with intent to steal, any flax, grass, or indian corn, wheat, rye, barley, oats, or grain of any kind, standing and growing, of another, then every person, offending in any of the premises, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding fifty dollars, or imprisonment at hard labor, not exceeding four months, or both.

Stealing in the night time, vegetables or fruit standing and growing how punished.

LIX. And be it enacted *by the authority aforesaid*, That if any person shall, in the night time, dig, pull up, pick or gather, with intent to steal, any turnips, potatoes, cabbages, parsnips, carrots, peas, beans, musk melons, water melons, apples, peaches, plumbs, cherries, or other roots, vegetables, or fruit of any kind, standing or growing, of another, every person, so offending, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding twelve dollars, or by imprisonment, not exceeding one month, or both; and that every person accused of offending as aforesaid, may be taken before any two of the justices of the peace of the county, city or town corporate, where the offence was committed, who are hereby authorized and required to hear and determine the same, if the person accused shall consent thereto; and if, on trial, such person shall, from the evidence produced, appear to be guilty, the said justices shall sentence him or her accordingly.

Persons maliciously destroying deeds, bonds, and other writings, how punished.

LX. And be it enacted *by the authority aforesaid*, That if any person shall wilfully, unlawfully and maliciously tear, cut, burn, or in any way whatever destroy any letters patent, charter, deed indented, or poll, lease, indentures of apprenticeship, writing sealed, will, testament, bond, annuity, bill, writing obligatory, release, bank bill or note, check, draught, bill of exchange, promissory note for the payment of money, indorsement or assignment of any bill of exchange, or promissory note for the payment of money, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for the payment of money, or any warrant, order, or request for the payment of money, or the delivery of goods or chattels of any kind, any certificate, or other public security of the United States, or of this State, or of any of the United States, for the payment of money, or acknowledging the receipt of money or goods, or any acquittance or receipt either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand, or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels, or other property whatsoever, or any letter of attorney, or other power to receive money, or to receive or transfer stock, or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, or any day book, journal, ledger, or book of accounts, or any agreement or contract in writing, whether sealed or not, respecting any estate, real or personal, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding eight hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

Malicious mischief to bridges, houses, horses, cattle, grain, timber, &c. how punished.

LXI. And be it enacted *by the authority aforesaid*, That if any person shall wilfully, unlawfully and maliciously cut down, break down, level, demolish, or otherwise destroy or damage any bridge, or sea or river bank, or any meadow bank or mill dam, or break or destroy the windows or doors of any dwelling house, or other house or building, or set fire to, or burn or destroy, or procure or cause to be burnt or destroyed, any barrack, cock, crib, rick or stack of hay, corn, wheat, rye, barley, oats, or grain of any kind, or any fences, piles of wood, boards or other lumber; or shall wilfully, unlawfully and maliciously kill or destroy any horse, mare or gelding, or any bull, ox, steer, bullock, cow, heifer or calf, or any sheep or lamb, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one hundred and fifty dollars, or imprisonment at hard labor, not exceeding two years, or both.

Receivers of goods stolen, or taken by robbery, and harbourers of thieves or robbers, how punished.

LXII. And be it enacted *by the authority aforesaid*, That if any person or persons shall receive or buy any goods or chattels, that shall be stolen or taken by robbery, from any other person, knowing the same to have been so stolen or taken

A. D. 1796.

taken by robbery; or shall receive, harbor or conceal any thief or thieves, robber or robbers, knowing him, her or them to be so, he, she or they so offending shall be deemed guilty of a high misdemeanor, and, on conviction, be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding three years, or both.

Concealment of burglary, robbery, &c. how punished.

LXIII. And be it enacted *by the authority aforesaid*, that if any person or persons, having knowledge of the actual commission of murder, manslaughter, sodomy, rape, arson, burglary, larceny, robbery, or forgery, within the jurisdiction of this State, shall conceal, and not, as soon as may be, disclose and make known the same to some one of the justices of the supreme court, or one of the justices of the peace in and for any of the counties of this State, such person or persons, on conviction thereof, shall be adjudged guilty of a misdemeanor, and shall be fined, not exceeding five hundred dollars, or suffer an imprisonment at hard labor, not exceeding three years, or both.

Persons killing others attempting to rob, murder, &c. to be acquitted.

LXIV. And be it enacted *by the authority aforesaid*, That if any person shall attempt to commit murder, sodomy, rape, robbery, arson, or burglary, and in such attempt shall be slain, the slayer shall be deemed faultless, be liable to no forfeiture, and be totally acquitted and discharged.

Persons killing others by misadventure, or in their defence, &c. to be acquitted.

LXV. And be it enacted *by the authority aforesaid*, That if any person kill another by misadventure, or in his or her own defence, or in defence of his or her husband, wife, parent, child, master, mistress or servant, then the person so killing shall be deemed guiltless, be liable to no forfeiture, and be totally acquitted and discharged.

If persons attempting to commit robbery, burglary, arson, &c. shall kill another, or death shall ensue, or if any officer of justice be killed in the execution of his office, &c. such killing shall be murder.

LXVI. And be it enacted *by the authority aforesaid*, That if any person or persons, in committing or attempting to commit sodomy, rape, arson, robbery or burglary, or any unlawful act against the peace of this State, of which the probable consequence may be blood shed, shall kill another, or if the death of any one shall ensue from the committing or attempting to commit any such crime or act as aforesaid; or if any person or persons shall kill any judge, justice of the peace, sheriff, coroner, constable, or other commonly known officer of justice, either civil or criminal, of this State, or the marshal, or other commonly known officer of justice, either civil or criminal, of the United States, in the execution of his office or duty, or shall kill any of his assistants, whether specially called to his aid or not, endeavouring to keep and preserve the peace, or apprehend a criminal, knowing the authority of such assistant, or shall kill a private person endeavouring to suppress an affray, or to apprehend a criminal, knowing the intention with which such private person interposes, then such person or persons, so killing as aforesaid, on conviction, shall be adjudged to be guilty of murder, and shall suffer death.

Persons maintaining the authority of foreign powers over this State, how punished.

LXVII. And be it enacted *by the authority aforesaid*, That if any person, owing allegiance to this State, shall, by speech, writing, open deed or act, advisedly and wittingly, maintain and defend the authority or jurisdiction of any foreign power, potentate, republic, king, state or nation whatsoever, in and over this State, or the people thereof, such person so offending shall, on conviction, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, so that the fine exceed not four hundred dollars, nor the imprisonment the term of one year.

Assaults, batteries, and other offences at common law, not provided for by this or some other act, how punished.

LXVIII. And be it enacted *by the authority aforesaid*, That assaults, batteries, false imprisonments, mayhems, affrays, riots, routs, unlawful assemblies, nuisances, cheats, deceits, and all other offences of an indictable nature at common law, and not provided for by this or some other act of the legislature of New-Jersey, shall be deemed and taken to be misdemeanors, and punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, or by fine or solitary imprisonment at hard labor, or both, at the discretion of the court, before whom the conviction shall be had.

In what case corporal punishment may be imposed on negroes.

LXIX. And be it enacted *by the authority aforesaid*, That the court or justices, before whom any negro, Indian or mulatto slave shall be convicted, of any offence

offence not punishable with death, shall have authority to impose, instead of the punishment by this act prescribed, such corporal punishment, not extending to life or limb, as such court or justices in their discretion shall direct.

Offenders sentenced to hard labor, and escaping, how punished.

LXX. AND BE IT ENACTED *by the authority aforesaid*, That if any offender, sentenced to hard labor, shall escape, he or she shall, on conviction thereof, suffer such additional confinement at hard labor as the court shall direct.

Conviction of a second offence shall, in certain cases, be punishable with death.

LXXI. AND BE IT ENACTED *by the authority aforesaid*, That if any offender, sentenced to imprisonment at hard labor for manslaughter, sodomy, rape, arson, burglary, robbery, or forgery, shall be convicted of a second offence of the like nature, such offender shall suffer death.

Court may order offenders to find surety to keep the peace, or be of good behaviour.

LXXII. AND BE IT ENACTED *by the authority aforesaid*, That if any person be convicted of any offence against this State, not punishable with death, it shall be lawful for the court, before whom such conviction shall be had, to order, beside the punishment prescribed by law, that such offender shall find surety to keep the peace, or be of good behaviuor, or both, in such sum for such time, and in such number and sufficiency as they shall judge proper.

No prosecution for treason or other capital offence, murder excepted, unless indictment be found within three years, nor in other cases, unless within two years; except the offender flee.

LXXIII. AND BE IT ENACTED *by the authority aforesaid*, That no person or persons shall be prosecuted, tried or punished for treason, or other offence punishable with death (murder excepted) unless the indictment for the same shall be found by a grand jury within three years next after the treason or other offence, punishable with death, shall be done or committed; nor shall any person be prosecuted, tried or punished for any offence not punishable with death, unless the indictment for the same shall be found within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid: PROVIDED, That nothing herein contained shall extend to any person or persons fleeing from justice.

Punishment of death, how to be inflicted.

LXXIV. AND BE IT ENACTED *by the authority aforesaid*, That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

No conviction or judgment to work corruption of blood, forfeiture of estate, &c.

LXXV. AND BE IT ENACTED *by the authority aforesaid*, That no conviction or judgment for any of the offences aforesaid, or any other offence against this State, shall make or work corruption of blood, disinherision of heirs, loss of dower, or forfeiture of estate.

The benefit of clergy abolished.

LXXVI. AND BE IT ENACTED *by the authority aforesaid*, That the benefit of clergy shall be, and the same hereby is abolished and for ever done away.

The action of appeal for murder, &c. abolished.

LXXVII. AND BE IT ENACTED *by the authority aforesaid*, That the suit or action of appeal for murder, manslaughter, rape, arson, larceny, mayhem, or other offence or wrong whatsoever, shall be, and the same hereby is abolished and for ever done away.

Until buildings be erected for hard labor, prisoners to be confinen in gaol.

LXXVIII. AND BE IT ENACTED *by the authority aforesaid*, That until proper buildings are erected for the confinement of persons to hard labor, according to the directions of this act, the sentence of imprisonment in all cases shall be considered as extending to confinement in the gaols in the respective counties of this State.

Certain acts repealed.

LXXIX. AND BE IT ENACTED *by the authority aforesaid*, That the act, entitled, "An Act for suppressing immorality," except the first section, passed the twelfth day of December, in the year of our Lord, one thousand, seven hundred and four; and the act, entitled, "An Act for continuing an act, entitled, "An Act for the trial and punishment of persons guilty of larceny under the value of twenty shillings," passed the fourth day of November, in the year of our Lord, one thousand, seven hundred and forty one; and the act, entitled, "An Act to prevent the destroying and murdering of bastard children," passed the day and year last aforesaid; and the act, entitled, "An Act for the more effectually preventing the counterfeiting the bills of credit of the neighboring governments, or

A. D. 1797.

uttering the same in this colony, knowing them to be so counterfeit," passed the twenty eighth day of June, in the year of our Lord, one thousand, seven hundred and sixty six; and the act, entitled, "An Act for the more effectual discovery and punishment of the crime of horse stealing," passed the sixth day of December, in the year of our Lord, one thousand, seven hundred and sixty nine, and a supplementary act thereto, passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and seventy four; and the act, entitled, "An Act for more effectually preventing horse stealing," passed the twelfth day of June, in the year of our Lord, one thousand, seven hundred and eighty; and the act, entitled, "An Act to punish traitors and disaffected persons," passed the fourth day of October, in the year of our Lord, one thousand, seven hundred and seventy six, and a supplement thereto, passed the seventh day of June, in the year of our Lord, one thousand, seven hundred and seventy seven; and the act, entitled, "An Act more effectually to prevent the passing of counterfeit bills of credit," passed the thirteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty; and the act, entitled, "An Act for the punishment of certain crimes in the State of New-Jersey," passed the fifteenth day of November, in the year of our Lord, one thousand, seven hundred and ninety one, be, and the same are hereby repealed. PROVIDED ALWAYS, That such repeal shall not affect the prosecution, conviction and punishment of any person, who hath offended against the said acts previous to the repeal thereof.

A SUPPLEMENT *to an act, entitled, "An Act to prescribe the manner of appointing senators of the United States, and electors of the President and Vice President of the United States, on the part of this State."*

Passed the 31st of October, 1796.

Preamble.

WHEREAS in and by the act, entitled, "An Act to prescribe the manner of appointing senators of the United States, and electors of the President and Vice President of the United States, on the part of this State," passed the twelfth day of November, in the year of our Lord, seventeen hundred and ninety, the time fixed for appointing the said electors is not in all cases conformable to the law of the United States in that case made and provided:

Senators and electors, when to be appointed.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the said senators and electors shall hereafter be appointed on the thirty fourth day preceding the first Wednesday in December, in every year, in which this State is authorized to elect a senator or senators, or electors of the President and Vice President of the United States, or either of them, in the manner prescribed in the before recited act.

The original act, see in page 102 of this volume.

An ACT *to suppress fairs.*

Passed the 27th of January, 1797.

No fairs to be hereafter held.

BE IT ENACTED *by the Council and General Assembly of this State, and is hereby enacted by the authority of the same,* That no fair or fairs shall hereafter be held at any city, town or place in this State.

An ACT *giving relief to creditors, where prisoners for debt escape or die.*

Passed the 28th of January, 1797.

If a debtor escape from prison, the plaintiff may have a new execution.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if any person, who is or shall be committed, in execution, to any prison, shall escape from thence, by any ways or

A. D. 17[illegible]

or means whatsoever, the creditor or creditors, at whose suit such prisoner was charged in execution at the time of his or her escape, may retake such prisoner by any new capias, or capias ad satisfaciendum, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution.

If debtor die in prison upon a ca. sa. plaintiff may have execution against his estate.

II. And be it enacted *by the authority aforesaid*, That the party or parties, at whose suit, or to whom any person doth or shall stand charged in execution for any debt or damages recovered, his, her or their executors or administrators, may, after the death of the said party so charged and dying in execution, lawfully sue forth and have new execution against the goods and chattels, lands and tenements, or any of them, of the person so deceased, in such manner and form, to all intents and purposes, as he, she or they, or any of them might have had by the laws of this State if such person so deceased had never been taken or charged in execution. Provided always, That no person or persons, his, her or their executors or administrators, at whose suit or suits any such party shall be in execution, and die in execution, shall have or take any new execution against the lands, tenements or hereditaments of such party so dying in execution, which shall, at any time after the judgment or judgments against such party so dying, and by reason whereof such party was taken or charged in execution, be by him or her sold, bona fide, for the payment of any of his or her creditors; and the money, which shall be paid for the lands so sold, either paid or secured to be paid to any of his or her creditors, with their privity and consent, in discharge of his, her or their due debts, or of some part thereof; nor against any lands, tenements, or hereditaments of such party so dying in execution, which shall have been sold by reason of any other judgment against him or her so dying in execution.

But such execution not to affect any estate bona fide sold for payment of debts.

An ACT *to prevent the importation of convicts into this State.*

Passed the 28th of January, 1797.

Persons convict of felony or other infamous crime, &c. not to be brought into this State.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no captain or master of any vessel, or any other person, shall, knowingly or willingly, import, bring or send, or cause, or procure to be imported, brought or sent, or be aiding or assisting therein, into this State, by land or water, any felon-convict, or person convict of an infamous crime, or under sentence of death, or other legal disability, incurred by a criminal prosecution, or who shall be delivered or sent to him or her from any prison or place of confinement, in parts out of the United States.

The penalty for bringing or offering such for sale.

II. And be it enacted, That every captain or master of a vessel, or other person, who shall so as aforesaid import, bring or send, or cause or procure to be imported, brought or sent, or be aiding or assisting therein, into this State, by land or water, or shall sell or offer for sale, any such person as above described, knowing him or her so to be, shall forfeit for every such offence, two hundred dollars, to be recovered, with costs, by action of debt, by any person who will sue for the same, in any court of record having cognizance thereof, in which the defendant shall be ruled to give special bail, the one moiety of said forfeiture to the State, and the other moiety to the person suing for the same.

Recognizance to be given to transport such convicts out of the State.

III. And be it enacted, That every person, who shall offend against this act, shall, on conviction thereof, be adjudged and ordered to enter into a recognizance, with sufficient sureties, to convey and transport, within such reasonable time as shall be directed by the court, to some place without the limits and jurisdiction of the United States, every such felon-convict or other person of the description aforesaid, which he or she shall have been convicted of having brought, imported or sent, or having caused or procured to be brought, imported or sent, or having been aiding or assisting therein, into this State, or of having so as aforesaid sold or offered for sale; and in default of entering into such recognizance, with sufficient sureties as aforesaid, he or she shall be committed to gaol, there to remain, without bail or mainprise, until he or she shall enter into such recognizance, or shall cause such felon-convict, or other person of the description

tion

A. D. 1797.

tion aforesaid, to be conveyed or transported to some place without the limits and jurisdiction of the United States.

Former act repealed.

IV. AND BE IT ENACTED, That the act, entitled, "An Act imposing a duty on persons convicted of heinous crimes, and to prevent poor and impotent persons being imported into this province of New-Jersey, and for amendment of the law relating to servants," passed the eighth day of July, in the year of our Lord, one thousand, seven hundred and thirty, be, and the same is hereby repealed.

An ACT to prevent gaming.

Passed the 8th of February, 1797.

Cock fighting and playing at cards or dice for money, declared to be indictable offences.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all playing at cards, dice or other game, with one or more die or dice, or with any other instrument, engine or device, in the nature of dice, having one or more figure or figures, number or numbers thereon, or at billiards, or A. B. C. or E. O. tables, or other tables, or at tennis, bowls or shuffle-board, or at farro-bank, or other bank of the like kind, under any denomination whatever; and all cock fightings, for money, goods, chattels, or other valuable thing, shall be, and hereby are declared to be offences against this State, and the authors, parties, players, betters, wagerers, contrivers, and abettors in and of the same, shall be prosecuted and proceeded against by indictment.

Bets and wagers thereon to be void.

II. AND BE IT ENACTED, That all promises, agreements, notes, bills, bonds, contracts, judgments, mortgages, or other securities or conveyances, which shall be made, given, granted, drawn, entered into, or executed by any person or persons, where the whole or any part of the consideration of such promises, agreements, notes, bills, bonds, contracts, judgments, mortgages, or other securities or conveyances, shall be for money, goods, chattels, or other valuable thing or things whatsoever, won, laid, or betted at cards, dice, billiards, tables, tennis, bowls, shuffle-board, or any other game or games, or at any cock fighting, or other sport or pastime, or for the reimbursing or repaying any money, knowingly lent or advanced at the time and place of such play, cock fighting, or other sport or pastime, to any person or persons so gaming, laying or betting, or who shall, at such time and place, so play, lay or bet, shall be utterly void and of none effect.

Real or personal estate sold or mortgaged for gaming debts shall descend to the heirs, or legal representatives.

III. AND BE IT ENACTED, That any conveyance, or lease of lands, tenements, or hereditaments, sold, demised or mortgaged, or any sale, mortgage, or other transfer of personal estate, to any person, or for his use, to satisfy or secure money, or other thing by him won of, or lent or advanced to the seller, lessor or or mortgagor, or whereof money or other thing, so won, or lent, or advanced, shall be part or all of the consideration money, shall enure to the use of the heirs or legal representatives of such mortgagor, lessor, bargainor or vendor, and shall vest the whole estate and interest of such person in the lands, tenements, or hereditaments, so leased, mortgaged, bargained, or sold, and in the personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs or legal representatives of such lessor, bargainor, mortgagor, or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate; and all grants, conveyances and transfers, to be made for preventing of such lands, tenements, hereditaments, or personal estate 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 none effect.

When and how persons losing money by gaming, may recover the same.

IV. AND BE IT ENACTED, That it shall and may be lawful for any person, who shall lose any money, goods, chattels, or other valuable thing, by playing at cards, dice, billiards, tables, tennis, bowls, shuffle-board, or other game or games, or by betting on the sides or hands of such as do play at any game or games, or by betting at cock fighting, or other sport or pastime, and shall pay or deliver the same, or any part thereof to the winner or winners, or other person for his or their use, or on his or their behalf, to sue for and recover the money, or value of the thing or things so lost and paid, or delivered, or any part thereof, from the respective

respective winner or winners, with costs of suit, by action of debt, founded on this act, in any court of record in this State having cognizance thereof; in which action it shall be sufficient for the plaintiff or plaintiffs to allege, that the defendant or defendants is or are indebted to the plaintiff or plaintiffs in the monies so lost and paid, or to the value of the thing or things so lost and delivered, for so much money had and received by such defendant or defendants, to the plaintiff's use, whereby an action hath accrued to the plaintiff or plaintiffs, according to the form of this act, without setting forth the special matter: PROVIDED, That such suit shall be instituted within six calendar months after losing and payment, or delivery as aforesaid.

If the loser does not sue within six months, any other person may prosecute.

V. AND BE IT ENACTED, That if the person or persons, who shall lose and pay such money, or lose and deliver such thing or things as aforesaid, shall not, within the time aforesaid, really and bona fide, and without covin or collusion, sue, and with effect prosecute for the money or other thing or things so lost and paid, or delivered, it shall and may be lawful for any other person or persons, by any such action as aforesaid, to sue for and recover the same, with costs of suit, from such winner or winners as aforesaid; the one moiety thereof to the use of the person or persons suing for the same, and the other moiety to the use of the State: PROVIDED, That such suit shall be instituted within six calendar months from and after the expiration of the time limited in the preceding section for the loser to prosecute for the same.

Witness compellable to answer bills in equity.

VI. AND BE IT ENACTED, That every person who, by virtue of this act, shall or may be liable to be sued for monies or other things, so won as aforesaid, shall be obliged and compellable to answer, upon oath or affirmation, such bill or bills as shall be preferred against him in a court of equity, for discovering the money or other things, so won as aforesaid.

Former acts repealed.

VII. AND BE IT ENACTED, That all and every act and acts, part and parts of acts, heretofore made, and coming within the purview of this act, be, and they are hereby repealed.

An ACT *against usury.*

Passed the 8th of February, 1797.

Rate of legal interest.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no person shall, upon any contract, take, directly or indirectly, for loan of any money, wares, merchandize, goods or chattels, above the value of seven dollars for the forbearance of one hundred dollars for a year, and after that rate for a greater or less sum, or for a longer or shorter time.

Bonds, contracts, &c. for a greater rate to be void.

II. AND BE IT ENACTED, That all notes, bills, bonds, mortgages, contracts, covenants, conveyances, and assurances, which shall be made for the payment or delivery of any money, wares, merchandize, goods or chattels, so to be lent, on which a higher interest is reserved or taken than is hereby allowed, shall be utterly void.

Penalty on persons taking a greater rate.

III. AND BE IT ENACTED, That if any person shall, by way or means of any bargain, agreement, contract, loan, exchange, shift, covin, device, contrivance, deceit, or conveyance, take, accept or receive, directly or indirectly, for the loan of, or the forbearing or giving day of payment, for any money, wares, merchandize, goods or chattels, above the value of seven dollars for one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, every person, so offending, shall forfeit the full value of the money, wares, merchandize, goods or chattels so lent, sold, bargained, contracted for, or exchanged; one moiety to the use of the State, and the other to the prosecutor, to be recovered, with costs, by action of debt, or on the case, in any court of record having cognizance thereof.

A. D. 1797.

Lenders compellable to answer bills in equity for discovery.

IV. And be it enacted, That any borrower of money, wares, merchandize, goods or chattels, may exhibit a bill in chancery against the lender, and compel him or her to discover, upon oath or affirmation, the money or wares, merchandize, goods or chattels really lent, and all agreements, devices, shifts, bargains, contracts and conveyances, which shall have passed between them relative to such loan, or the repayment thereof, and the interest or consideration for the same, and if thereupon it shall appear, that more than lawful interest was taken or reserved, the lender shall be obliged to accept his principal money, or the wares, merchandize, goods or chattels, or the value thereof, without any interest, or other consideration, and pay costs; but shall be discharged from all other penalties of this act. Provided always, That such bill be exhibited before any suit shall have been instituted by virtue of the section next preceding.

Rates of brocage on loans.

V. And be it enacted, That every solicitor, scriviner, broker or driver of bargains, who shall, directly or indirectly, take or receive more than the rate or value of fifty cents for brocage, or soliciting, or procuring the loan or forbearance of one hundred dollars for a year, and so in proportion for a greater or less sum, or for a longer or shorter time, or above twenty five cents for drawing, making, or renewing the bond or bill for such loan or forbearance, or for any counter bond or bill concerning the same, shall, for every such offence, forfeit sixteen dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, the one moiety to the prosecutor, and the other to the State.

Former law repealed.

VI. And be it enacted, That the act, entitled, "An Act to restrain extravagant and excessive interest," passed the fifteenth day of March, in the year of our Lord, one thousand, seven hundred and thirty eight---nine, be, and it is hereby repealed.

An ACT *to incorporate into a township, a part of the townships of Saddle-River and Franklin in the county of Bergen.*

Passed the 8th of February, 1797.

Preamble.

Whereas a number of the inhabitants of the townships of Saddle-River and Franklin, in the county of Bergen have, by their petition set forth, that they have long labored under many difficulties by reason of the length of the said townships; for remedy whereof,

Bounds of the township of Pompton.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the townships of Saddle-River and Franklin, lying within the following line, beginning on the line that divides the State of New-York and New-Jersey, where the said line strikes the first pond in the Ramapaugh mountain, from thence on a direct line until it strikes the division line of said townships, at the north west corner of John Ryerson's land, thence along said line until it strikes the Ramapaugh river, thence along said river until it meets the Pequanack river, thence up said river until it meets the line that divides the counties of Bergen and Sussex, thence along said line until it meets the line that divides the State of New-York and New-Jersey, thence along said line to the place of beginning, shall be, and is hereby set off from the said townships of Saddle-River and Franklin, and made a separate township, to be called by the name of, "The Township of Pompton."

An ACT *for dividing the township of Windsor in the county of Middlesex, into two separate townships.*

Passed the 9th of February, 1797.

Preamble.

Whereas it hath been represented to the legislature by the petition of sundry inhabitants of the township of Windsor, in the county of Middlesex, that it

it would tend greatly to promote the convenience of the inhabitants of the said township to have the same divided into two separate townships ; A. D. 1797.

Line between East and West Windsor.

BE IT THEREFORE ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the said township of Windsor, lying to the eastward of the following line, to wit ; beginning at Millstone Creek, in the line separating the lands of William Dook from lands of Iscarrick Moore, running thence along said Iscarrick Moore's line until it strikes the westwardly line of lands late the property of William Smith, deceased, thence along said last mentioned line to the easterly line of --------- Lyell's land, thence along said Lyell's easterly line until it strikes Assanpink creek, thence down Assanpink creek to Augustine Gordon's line, thence along said Gordon's line to the province line, commonly called Keith's line, shall be, and the same is hereby set off from the said township and established a separate township, to be called and known by the name of, " East-Windsor ;" and that all that part of the said township of Windsor lying to the westward of the aforesaid line shall be, and the same is hereby established a separate township, to be called by the name of, "West Windsor."

An ACT *to prevent the use of spirituous liquors at vendues.*

Passed the 11th of February, 1797.

Penalty on giving or selling spirituous liquors at vendues.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person, who shall make any vendue in this State, shall give or sell, or suffer to be given or sold, in order to be drank at the time and place of such vendue, any vinous, spirituous, or other strong liquors, such person, so offending, shall forfeit twenty dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court of record having cognizance of that sum, one half to the prosecutor, and the other half to the overseers of the poor of the township or precinct, where the offence was committed, for the use of the poor thereof.

This act not to affect vendues held by civil officers.

II. PROVIDED ALWAYS, *and be it further enacted*, That this act shall not extend to any vendue made or held at any inn or tavern by any civil officer.

Former laws repealed.

III. AND BE IT ENACTED, That all and every clause and clauses of any act, coming within the purview of this act, be, and they are hereby repealed.

An ACT *for suppressing of lotteries.*

Passed the 13th of February, 1797.

Lotteries declared common nuisances, and indictable.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all lotteries for money, goods, wares, merchandize, chattels, lands, tenements, hereditaments, or other matters or things whatsoever, shall be, and hereby are adjudged to be common and public nuisances ; and the supreme court, the courts of oyer and terminer and general gaol delivery, and the courts of general quarter sessions of the peace, shall respectively have cognizance of such offences.

Penalty on persons, who shall make or draw lotteries.

II. AND BE IT ENACTED, That no person or persons shall, within this State, publicly or privately, erect, set up, open, make or draw any such lottery or lotteries ; and every person, who shall offend in the premises, shall forfeit, for every such offence, two thousand dollars, to be recovered by action of debt, with costs, by any person who will sue for the same, in any court of record having cognizance thereof ; the one moiety of such forfeiture to be paid to the treasurer of this State, for the use of the State, and the other moiety to the person, who shall sue for the same ; and the person so offending shall likewise be proceeded against by way of indictment, as is directed in the preceding section.

III. And

A. D. 1796.

Persons selling or offering to sell, &c. lottery tickets to forfeit 30 dollars.

III. And be it enacted, That if any person shall give, barter, sell, or otherwise dispose of, or offer to give, barter, sell, or otherwise dispose of any ticket or tickets in any lottery, whether erected, set up, opened, or made in this State or elsewhere; or if any person shall receive or purchase the same, or in any other way become an adventurer therein; or if any person shall be aiding or assisting in any such lottery, by printing, writing, or in any other manner publishing an account thereof, or where tickets may be had or obtained in the same, or if any person shall set up, shew, or expose to public view, any scheme or schemes, advertisement or advertisements, of or concerning such lottery, or shall permit or suffer any such lottery to be drawn in or on his or her house or land; every person, so offending, shall, for every offence, forfeit and pay the sum of thirty dollars, to be recovered and applied in the manner prescribed in and by the section next preceding.

Transfers of property made in pursuance of lotteries, to be void.

IV. And be it enacted, That every grant, bargain, sale, conveyance, or transfer of any goods or chattels, lands, tenements, hereditaments or real estate, which shall be made in pursuance of any such lottery, is hereby declared to be invalid and void.

This act not to extend to certain lotteries.

V. Provided always, *and be it further enacted*, That this act shall not extend to, or affect any lottery, which shall be established by or under the authority of the United States, or which has been or shall be established by or under the authority of the legislature of this State.

Former laws repealed.

VI. And be it enacted, That the act, entitled, "An Act more effectually to prevent the erecting of lotteries and selling of lottery tickets within this colony," passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and seventy four; and the act, entitled, "An Act to prevent the sale of tickets in lotteries erected out of this province, and more effectually to prevent gaming, and to revive three public lotteries appointed by a former law of this colony," passed the fifth day of December, in the year of our Lord, one thousand, seven hundred and sixty, and all and every other act and acts, clause and clauses of acts heretofore made, and coming within the purview of this act, be, and they are hereby repealed.

An ACT *to authorize the treasurer of this State to receive certain monies due from the United States, and also to authorize the said treasurer to pay the State debt.*

Passed the 13th of February, 1797.

Treasurer authorized to receive certain monies from the commissioner of loans of the United States.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the treasurer of this State, for the time being, shall be, and he is hereby authorized and directed to receive from the commissioner of loans appointed by the United States for the State of New-Jersey, the dividends, which now are or shall be payable according to law on the stock, which stands to the credit of this State on the books of the said commissioner, in consequence of an act, passed on the thirty first day of May, in the year one thousand, seven hundred and ninety four; and also, such additional sums as will render the reimbursement of the said stock equal to that made upon the residue of the stock standing in the said books at the commencement of the present year.

II. and III. Executed.

An ACT

An ACT *to regulate the election of members of the legislative council and general assembly, sheriffs and coroners, in this State.*

A. D. 1797.

Passed the 22d of February, 1797.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the clerks of the courts of common pleas of the several counties in this State shall attend at the court house of their respective counties, on the first Monday in September in each and every year, and shall there receive, at any time between the hours of ten in the morning and five in the afternoon of the same day, from any person qualified to vote for members of the legislature for such county, a list of the persons proposed as candidates for members of the legislative council, members of the general assembly, sheriff and coroners of such county; which list such person or persons shall subscribe with his or their names, and may either deliver personally, or transmit by letter to the said clerks.

Clerks of the common pleas, when and where to receive nominations of candidates for the legislature.

II. AND BE IT ENACTED, That the said clerks of the court of common pleas, respectively, shall, on the same day, after the said hour of five o'clock, make a general list of all the persons nominated, and the offices for which they shall have been respectively proposed, and transmit a copy thereof within one week thereafter to each of the clerks of the several townships or precincts of the county; and no vote shall be received for any person on the day of election, unless he hath been previously nominated in the manner herein before mentioned.

List of nominations to be sent to the town clerks.

III. AND BE IT ENACTED, That the clerks of the several townships or precincts of each county shall, fourteen days before the second Tuesday in October in each and every year, put up, or cause to be put up, advertisements, in three or more of the most public places in such township or precinct, making known the time and place or places of holding the election, and the names of the persons proposed as candidates; and on the said second Tuesday in October yearly, the judge of election, assessor, collector and town clerk of every township and precinct, shall attend at the place of holding the town meeting, or at such other place as the people at their annual town meeting shall appoint; and the said clerk shall, on the same day, between the hours of nine and ten in the morning, put up in public view, on the door of the house at which the election shall be held, the general list received by him, or a fair copy thereof; and the said judge of election, assessor and collector, or any two of them, shall, at the said hour of ten o'clock, make or cause to be made public proclamation, that the poll is opened for the reception of voters, and shall judge and determine the persons that are qualified to vote agreeably to this act, as they respectively offer themselves for that purpose, and shall keep good order during the time of election, and may at any time during the day adjourn the poll for a short period, as occasion may require, in case no voters appear to give in their votes, and shall close the poll and certify the number of votes, in the manner herein after prescribed.

Town clerks to advertise the time and place of election, and the names of the candidates.

Duties of the judge of election, assessor, and collector.

IV. AND BE IT ENACTED, That the said judge of election, assessor and collector shall, severally, before they proceed to receive any votes, take the following oath or affirmation: "I do swear (or affirm) that I will, during this election, faithfully and impartially execute the duties and services required of me by law, and that I will not receive, or assent to the receiving the vote of any person, who I shall have reason to think is not by law entitled to vote in this election;" which oath or affirmation they are hereby respectively authorized and required to administer to each other, in a public manner, at the place of opening the election.

Form of the oath to be administered to them.

V. AND BE IT ENACTED, That the clerk of the township or precinct, or any person by him appointed for the purpose of the election, and approved of by the said judge, assessor and collector, or any two of them, shall take, before the said judge, assessor and collector, or any two of them, the following oath or affirmation: "I do swear (or affirm) that I will faithfully and impartially serve as clerk of this election, and execute the duties and services required of me by law."

Oath of the clerk.

A. D. 1797.

If the judge, assessor, or collector be disqualified or absent, another person to be elected, and by whom.

VI. And be it enacted, That if the said judge, assessor, collector, or town clerk, shall be a candidate at such election, such person or persons shall be disqualified from serving or assisting to conduct the said election; and if the said judge, assessor and collector, or either of them, shall not be present at the time and place of holding the election, or shall be disqualified to hold the same, then, at the said hour of ten o'clock, the people present entitled to vote, shall proceed to choose a person or persons to serve in the stead of him or them so absent or disqualified; which person or persons, so chosen, shall take the oath or affirmation herein before required, and shall in all respects perform the duties and services, and be entitled to the same rewards, and subject to the like penalties as are herein after specified for the said judge, assessor and collector; and a certificate shall be made of such choice, signed by at least three reputable freeholders present, which shall be transmitted to the clerk of the court of common pleas of the county, within three days thereafter, whose duty it is hereby declared to be, to prosecute the person or persons so absent, in the manner herein after directed, unless the judges of the said court of common pleas, at the next term thereafter, shall admit the excuse of such absentee to be good and sufficient.

If town clerk be absent, or unable to execute the duties required by this act, by whom a clerk of election shall be appointed.

VII. And be it enacted, That if the clerk of the township or precinct shall be absent, or by death, removal or other inability, be unable to perform the duties enjoined on him by this act, and shall not appoint any one in his stead, to be approved of as aforesaid, or shall be disqualified from acting, then the said judge, assessor and collector, or any two of them, shall be, and they are hereby empowered to appoint a fit person clerk of the election, who shall in like manner take the oath or affirmation herein before required of the town clerk, and shall perform the same duties and services, and be entitled to the like rewards, and be subject to the same penalties as are herein prescribed for the said town clerk; and a certificate of such appointment shall be made and signed by the said judge, assessor and collector, or any two of them, and transmitted to the clerk of the court of common pleas of the county, who shall in like manner prosecute such absent clerk, unless the judges of the court aforesaid shall admit his excuse.

Votes to be by ballot; and county clerks to provide election boxes.

VIII. And be it enacted, That all elections held by virtue of this act shall be by ballot; and the clerks of the several counties shall provide at the expense of their respective counties, a number of election boxes, equal to the number of townships or precincts within their respective counties, and shall forward them to the clerks of the several townships or precincts for the use of such township or precinct, on or before the first Tuesday in October next; and each box shall be made about a foot square with a lid on the top, fastened with brass or iron hinges, and with two locks and keys thereto of different sizes and constructions, having an aperture of such size only as to admit a single ticket, and a sliding spring bolt placed on the inside, so as effectually to exclude the admission of any thing into the box during the time of adjournment, through which aperture all the ballots shall be put separately into the box.

Ballots, how to be delivered, and by whom to be received.

On adjournment of the poll, how the election box is to be secured.

IX. And be it enacted, That every voter shall openly, and in full view deliver his or her ballot (which shall be a single written ticket, containing the names of the person or persons for whom he or she votes) to the said judge, or either of the inspectors, who, on receipt thereof, shall, with an audible voice, pronounce the name of such voter, and if no objection is made to the voter, put the ballot immediately into the election box, and the clerk of the election shall thereupon take down the name of such voter in a book or poll list, to be provided for the purpose; and if an adjournment of the poll shall take place during the election, the aperture in the top of the box shall be secured by the bolt aforesaid, and the names on the poll list shall be counted, and the number put down in writing, and the said list locked in the box, and the keys kept separate by two of the persons hereby appointed to conduct the election.

At the close of the poll, the poll list to be signed by the judge, inspectors, and clerk, the names numbered, and put down in writing; and then the box opened; the ballots counted, and the votes cast up.

X. And be it enacted, That at the close of the poll, the aperture in the lid of the box shall be covered in the manner aforesaid, and the poll list shall be signed by the said judge and inspectors, or any two of them, and also by the said clerk; and the names contained therein shall be numbered, and the number put down in writing; after which the box shall be opened, and the ballots therein contained taken out, one at a time, by any one of the persons hereby appointed to conduct the election, who shall call out distinctly, while the ballot remains in his

his hands, the names contained therein, and for what offices, and then deliver the same to one of the other persons associated with him by this law, who shall distinctly read off, and file the same, and the clerk shall enter in distinct columns all the names contained in each ballot, and for what offices, and so on in like manner with the rest of the ballots contained in the box, to the amount of the number of names contained in the poll list; and if it shall so happen that there are a greater number of ballots than there are names on the poll list, then no more ballots shall be examined and enumerated than will amount to the number of names on the poll list; and if two or more ballots shall be found folded or rolled up together, or if a ballot shall contain more names than it ought to contain, or otherwise appear to be fraudulent, such ballot or ballots shall not be estimated, but shall be rejected as utterly void, and as many numbers shall be deducted from the amount of the poll list as shall be equal to the number of ballots so rejected; and after the examination of the ballots shall be completed, the number of votes for each candidate shall be carefully cast up by the said clerk, under the inspection of the persons hereby empowered to conduct the election, or any two of them, and be publicly declared unto the people present.

What persons entitled to vote.

XI. And be it enacted, That all free inhabitants of this State, of full age, who are worth fifty pounds, proclamation money, and have resided within the county in which they claim a vote, for twelve months immediately preceding the election, shall be entitled to vote for all public officers, which shall be elected by virtue of this act; and no person shall be entitled to vote in any other township or precinct, than that in which he or she doth actually reside at the time of the election.

Threats, bribery, false assertions and reports, indirect means, and offensive weapons prohibited at elections, upon forfeiture of 30 dollars.

XII. And be it enacted, That if any candidate shall, at any such election, or previous thereto, solicit any voter or voters, either personally or by letter, message, advertisement or otherwise, to nominate him, or to vote for him, or if any person whatsoever shall at any such election, give, offer or promise any fee or reward, victuals, drink or other consideration to or for the use of any person or persons, or to or for the use of any county, city, township, precinct, or body politic or corporate, or by bribery or corruption, endeavor to prevail on any person to nominate him, or to vote for him, or to nominate or vote for any other person, or shall appear at such election with any weapons of war, or staves, or bludgeons, or use any threats, that may tend to put any of the candidates or voters in fear of personal danger, or shall by any other way endeavor to intimidate, or by indirect means persuade any voter to give, or to dissuade any voter from giving his vote for the choice of any candidate, or shall make any false assertion or propagate any false report concerning any candidate, with a view to prevent his being elected, or that shall have any evident tendency thereto, or shall summon or request any party of militia to attend at the time and place of election, every such person shall, for every such offence, forfeit and pay the sum of thirty dollars, to be recovered, with costs of suit, by any person that will sue for the same, in any court having cognizance thereof, one half to the use of the prosecutor, and the other half to be paid to the collector of the county, wherein such offence was committed, for the use of the county; and such offender shall be further liable to a private action at the suit of the party injured.

Poll when to be closed.

XIII. And be it enacted, That the said judge and inspectors, or any two of them, shall continue to receive the votes of all voters offering themselves for that purpose, until seven of the clock in the evening of the next day, and no longer, and at the close of the poll, the said judge and inspectors, or any two of them, shall proceed to ascertain the number of votes for each candidate in the manner herein before prescribed, and shall thereupon make a certificate, under their hands and seals, in the following or like form:

Form of the election certificate.

We, the judge and inspectors of election of the township (or precinct) of in the county of do hereby certify, that having proceeded to receive the votes of the voters of the said township (or precinct) the following is a list of all the candidates voted for, of the offices proposed for them, and of the number of votes for each.

For

A. D. 1797.

For members of the legislative council.

	Number of votes.
A B.	
C. D.	

For members of the general assembly.

	Number of votes.
E. F.	
G. H.	
I. K.	
L. M.	
N. O.	

For sheriff.

	Number of votes.
P. Q.	
R. S.	

For coroners.

	Number of votes.
T. U.	
V. W.	
X. Y.	
Z. A.	

The whole number of votes received.

In testimony whereof, we have hereunto subscribed our names and affixed our seals, this day of October, in the year of our Lord,

A duplicate certificate of the election to be filed in the office of the town clerk.

And the said judge and inspectors, or any two of them, shall likewise prepare and execute, under their hands and seals, a duplicate certificate of such election, which shall be filed in the office of the town clerk, together with the poll list of the election, to be used as occasion may require; in all which certificates the number of votes for each candidate shall be written in words at length and not in figures.

The certificate of the election to be sent to the clerk of the pleas.

His duty thereupon.

XIV. And be it enacted, That the said judge of elections, or either of the inspectors, shall deliver or safely transmit the said certificate of election to the clerk of the court of common pleas, who shall attend at the court house of the county, on the Saturday next after the day of election, for the purpose of receiving the same, and which certificate shall be delivered to him before three o'clock in the afternoon of said day; which said clerk shall then proceed, in a public manner, to make a list of the votes for each candidate from the several certificates, and shall add the whole together, and shall thereby ascertain, who are duly elected, by plurality of votes, to the several offices for which an election shall have taken place, and shall thereupon file the said certificates, and the list of votes made thereupon in his office, certificates of which he shall prepare for the members of the legislative council and general assembly, to be signed and sealed by himself, in the following or like form:

Form of certificate for a member of the legislature.

"I clerk of the court of common pleas of the county of do hereby certify, that is duly elected member of the legislative council (or general assembly, as the case may be) for the said county of for the ensuing year. Witness my hand and seal this day of in the year of our Lord,

And for the sheriff and coroners, in the following or like form, to be signed and sealed by the said clerk, together with six freeholders of the county:

Form of certificate for sheriffs and coroners.

"We, clerk of the court of common pleas of the county of and (here insert the names of six) freeholders in the said county, do hereby certify, that is duly elected sheriff (or one of the coroners, as the case may be) of the said county of for the ensuing year. Witness our hands and seals the day of in the year of our Lord,

With

Which certificate the said clerk shall transmit to the person, whose election is certified therein, and shall forward duplicate copies of all such certificates, together with a copy of the list of votes filed in his office, under a sealed cover to his excellency the governor of the State, or the person administering the government for the time being, so that the same may be received by him within fourteen days thereafter.

Duplicates of such certificates to be sent to the governor.

XV. And be it enacted, That if any clerk of the court of common pleas, judge of election, assessor, collector, town clerk, or other person, hereby authorized and directed to conduct the election, shall neglect, improperly delay or refuse to perform any of the duties or services required of him by this act, or shall be guilty of any corrupt misbehaviour, or manifest partiality in any matter or thing relating to the business committed to him by this act, or shall attempt in an undue manner, to influence the election, every person so offending shall forfeit and pay the sum of thirty dollars, to be recovered and applied as herein before directed; and shall be further liable to a private action at the suit of the party injured.

Penalty on clerks, judges, assessors and collectors for partiality and misbehaviour at elections.

XVI. And be it enacted, That the respective clerks of the court of common pleas shall be allowed, for the services required of them by this act, the sum of four dollars each; and the clerk of each township or precinct, for advertising in the manner directed by this act, the sum of one dollar and fifty cents; and the judge of election, inspectors and clerk, for attending the election, the sum of one dollar and fifty cents, by the day, each; and the person delivering the certificate of election to the clerk of the court of common pleas, the sum of eight cents for every mile of the distance from the place of his abode to the court house of the county; all which sums shall be paid by the collector of the county.

Compensation of certain officers for their services relative to elections.

XVII. And be it enacted, That it shall and may be lawful for the inhabitants of each township and precinct within this State, at their annual town meetings, to appoint the place or places, not exceeding two, for holding elections within their respective townships or precincts; and in case the inhabitants of any township or precinct, as aforesaid, shall neglect such appointment, then, and in such case, the election shall be held at their usual place or places of holding town meetings.

Elections, where to be held.

XVIII. And be it enacted, That the inhabitants of each of the townships or precincts in the several counties of this State, who are qualified by law to elect town officers, shall be, and they are hereby authorized and required, at their annual town meeting, to choose one reputable freeholder as a judge of elections.

Judges of elections, when and by whom to be appointed.

XIX. And be it enacted, That if any person, chosen to represent any county in this State in council or assembly, shall neglect or refuse to take his seat pursuant to his election, or to send forward an excuse, which shall be deemed satisfactory, within twenty days after the meeting of the legislature, or shall die, or remove out of the State, or be expelled from his seat by a vote of the house to which he may belong, then, and in every such case, the Vice President of the council, or speaker of the house of assembly, as the case may be, shall issue a warrant to the clerk of the county, where the vacancy or vacancies may happen, who shall immediately advertise in five of the most public places in such county, setting forth, that he will attend at the court house of the county on a day by him named in said advertisements, not less than five, to receive the nomination of persons to supply such vacancy or vacancies; which nomination and election shall be conducted, in every respect, in the mode herein prescribed for annual elections, except that the nomination shall be made only fourteen days previous to the day appointed for the election to be held.

On vacancies, warrants for a new election to be issued by the Vice President of the council, or speaker of the assembly.

XX. And be it enacted, That the act, entitled, "An Act to regulate the election of members of the legislative council and general assembly, sheriffs and coroners, in the counties of Bergen, Monmouth, Burlington, Gloucester, Salem, Hunterdon and Sussex," passed the eighteenth day of November, in the year of our Lord, one thousand, seven hundred and ninety, with the several supplements thereto, and all other acts respecting the election of members of the legislature, sheriffs

Former act repealed.

A. D. 1797.

sheriffs and coroners, now in force in this State, shall be, and the same is and are hereby repealed after the first day of March next.

An ACT *to prevent routs, riots and tumultuous assemblies.*

Passed the 24th of February, 1797.

Proclamation to be made among rioters, commanding them to disperse.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That from and after the publication of this act, if any persons, to the number of twelve or more, being armed with clubs, guns, swords, or other weapons, or if any number of persons, consisting of thirty or more, shall be unlawfully, routously, riotously, or tumultuously assembled, any justice of the peace, sheriff, under sheriff, or constable of the county, where such assembly shall be, shall, among the rioters, or as near to them as he can safely come, command silence, while proclamation is making, and shall, openly and with loud voice, make, or cause to be made, proclamation in these or the like words :

Form of proclamation.

State of New-Jersey. By virtue of an act of this State, entitled, "An Act to prevent routs, riots and tumultuous assemblies," I am directed to charge and command all persons, being here assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains and penalties contained in the said act. God save the State.

Justices, sheriffs and constables to resort to the place and make the said proclamation.

And all justices of the peace, sheriffs, under sheriffs, and constables, within the limits of their respective jurisdictions, are hereby authorized, empowered and required, on notice or knowledge of any such unlawful, routous, riotous, or tumultuous assembly, to resort to the place, where such unlawful, routous, riotous, or tumultuous assembly shall be, and there to make, or cause to be made, proclamation in manner aforesaid.

Rioters, not dispersing within an hour after such proclamation, to be apprehended;

II. AND BE IT ENACTED *by the authority aforesaid,* That, if such persons, so unlawfully, routously, riotously, and tumultuously assembled as aforesaid, shall, after proclamation made, or attempted to be made, in manner aforesaid, continue together and not disperse themselves within one hour, then it shall and may be lawful to and for every justice of the peace, sheriff, under sheriff, or constable of the county where such assembly shall be, and to and for such other person and persons, as shall be commanded to be assisting unto any such justice, sheriff, under sheriff, or constable, (who are hereby respectively authorized and empowered to command all the citizens of this State, to be assisting to them therein,) to seize and apprehend, and they are hereby required to seize and apprehend such persons, so unlawfully, routously, riotously and tumultuously continuing together, after proclamation made, or attempted to be made, as aforesaid, and forthwith to carry the persons, so apprehended, before one or more of the justices of the peace of the county, where such persons shall be so apprehended, in order to their being proceeded against, for such their offences, according to law; and if the persons, so unlawfully, routously, riotously, and tumultuously assembled, or any of them, shall happen to be killed, wounded or hurt, in the dispersing, seizing or apprehending, or endeavoring to disperse, seize or apprehend them, by reason of their resisting the persons so dispersing, seizing or apprehending, or endeavoring to disperse, seize or apprehend them, then every such justice of the peace, sheriff, under sheriff, or constable, and all and singular person and persons, being aiding or assisting to them, or any of them, shall be held guiltless, and be absolutely indemnified and discharged.

and if they make resistance, the persons killing them to be held guiltless and discharged.

Persons, who shall oppose the making such proclamation, how to be punished.

III. AND BE IT ENACTED *by the authority aforesaid,* That if any person or persons, do or shall, with force and arms, wilfully and knowingly, oppose, obstruct, or in any manner, wilfully and knowingly, let, hinder, or hurt any person or persons, that shall begin to proclaim, or go to proclaim, according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, that then every such opposing, obstructing, letting, hindering, or hurting such person

son or persons, so beginning, or going to make such proclamation as aforesaid, shall be adjudged a misdemeanor, and be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, the fine not to exceed one hundred dollars, nor the imprisonment six months. A. D. 1797.

IV. And be it enacted *by the authority aforesaid*, That all persons, who, for the space of one hour after proclamation made, or attempted to be made, as aforesaid, shall unlawfully, routously, riotously and tumultuously continue together, to the number of twelve or more, if armed, or of thirty or more, if unarmed, as aforesaid; then such persons, so offending, shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, the fine not to exceed one thousand dollars, nor the imprisonment three years. Punishment for unlawfully continuing together an hour after proclamation made.

V. And be it enacted *by the authority aforesaid*, That this act shall be read at the opening of every court of general quarter sessions of the peace, by the clerk of the said court, and at the annual meeting of each precinct, township and corporation, by the respective clerks thereof. This act to be read at the opening of the court, and at the annual town meetings.

An ACT *concerning inns and taverns.*

Passed the 24th of February, 1797.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the courts of general quarter sessions of the peace, in and for the several counties of this State, shall be, and they are hereby authorized to grant licenses to persons to keep inns and taverns, and to utter and sell victuals, and vinous, spirituous, and other strong liquors, for the accommodation of men, and provender for horses, within their respective counties, in the manner prescribed by this act, and not otherwise. Courts of quarter sessions empowered to grant tavern licenses.

II. And be it enacted, That no person or persons shall be licensed by the said courts to keep an inn and tavern, but such as shall be recommended for that purpose, by the chosen freeholders, the commissioners of appeal, and the overseers of the poor, or at least two thirds of them, of the township or precinct, in which the said inn and tavern is proposed to be kept, who shall certify, that the person recommended, is of good repute for honesty and temperance, is known to the persons recommending to have at least two spare feather beds, more than are necessary for the family's use, and is well provided with house room, stabling and provender; upon which certificate or recommendation, the said courts may, in their discretion, grant the license prayed for by the applicant. Recommendation, by whom to be signed.

III. And be it enacted, That if any person, who shall sign a recommendation as aforesaid, shall therein have imposed on the court, either by signing to an undeserved character, or by describing a situation not true, or in any other manner, then every person, so offending, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in the sum of ten dollars, to be paid to the overseers of the poor, where the said inn and tavern was proposed to be kept, and applied to the use of the poor of the township or precinct. Persons recommending improper characters, to be fined 10 dollars.

IV. And be it enacted, That every person, before he or she shall receive a license to keep an inn and tavern, shall become bound by recognizance to the State, in the sum of one hundred dollars, as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court, that shall grant the said license, with condition following; to wit, Tavern keepers to enter into recognizance with sureties.

The condition of this recognizance is such, that whereas the above bounden A. B. is licensed by the court, to keep an inn and tavern, in the house where dwelleth, in the township or precinct of in the county of for the space of one year next ensuing; if, therefore, the said A. B. during the continuance of the said license, shall not keep a disorderly inn or Form of recognizance.

A. D. 1797.

or tavern, nor game himself or herself, nor suffer any person to game in his or her house, for money, or the value of money, nor violate the laws made concerning inns and taverns, but shall, during the said term, in all things respecting him or her as an innholder and tavernkeeper, use and maintain good order and rule, and find and provide good, wholesome, and sufficient lodging, diet and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to inns and taverns; then this recognizance to be void, or else to remain in full force and virtue.

And if the applicant for a license, to keep an inn and tavern, shall be prevented by sickness, infirmity, or other reasonable cause, to be judged of and allowed by the said court, from attending in person, then the said court may grant the license, on three sureties as aforesaid, entering into such recognizance, in sixty dollars each. All recognizances taken by virtue of this section, shall be and remain with the clerk of the court, before whom the same shall be taken.

Recognizance to remain with the clerk.

V. And be it enacted, That it shall be lawful for the said court to demand and receive, for every such license granted and recognizance taken, the sum of one dollar; and for the clerk of the court, to demand and receive, for entering, drawing and filing such recognizance, and drawing the license, and annexing thereto the seal of the court, and making entry in the minutes of such license being granted, the sum of one dollar.

Fees of the court and clerk, for each license and recognizance.

VI. And be it enacted, That every license to keep an inn and tavern, shall be signed by the clerk of the court, which granted the same, and shall have the seal of the said court thereto affixed by the said clerk; which license shall be in the words, or to the effect following:

License to be signed and sealed.

Form of the license.

County, to wit.

At the court of general quarter sessions of the peace, in and for the said county, held at in the same, the day of in the year of our Lord, one thousand,

The said court doth hereby allow and license A. B. of the township of in the county aforesaid, to keep an inn and tavern, in the house wherein dwells, for one whole year from the day abovesaid, and no longer; so that the said A. B. shall use and exercise this license, during the said term, according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court, the day and year first above written.

C. D. Clerk.

License restricted to the place.

VII. And be it enacted, That no license shall entitle any person to keep an inn and tavern in any other place, than that in which it was first kept, by virtue of such license; and such license, with regard to all other places and persons, shall be void.

License to continue for one year, but may be renewed.

VIII. And be it enacted, That every license to keep an inn and tavern, shall be made to continue for one year, and no longer; but may be renewed yearly by the said courts, upon the like recommendation, penalties, assessments, and fees, and in the same manner in every respect, as when such license was originally granted. And further, If any person, who, at the expiration of his or her license, shall neglect or refuse to renew the same in manner aforesaid, and shall, notwithstanding, sell and retail vinous, spirituous or strong liquors, then such person shall be subject to the like penalties, as for selling without license.

Courts to license no more taverns than are necessary.

IX. And be it enacted, That it shall be the duty of, and it is hereby expressly enjoined upon the said courts, to license no more inns and taverns, in their respective counties, than shall be necessary to accommodate and entertain travellers and strangers, to serve the public occasions of the said counties, and for the convenience of men's meeting together to transact business; and to prevent

vent as much as possible, inns and taverns to be kept for the encouragement of gaming, tippling, drunkenness, and other vices.

No sheriff, under sheriff, or gaoler to be licensed.

X. And be it enacted, That the said courts shall not grant a license to keep an inn and tavern, to any sheriff, under sheriff, or gaol keeper.

License not to be granted to a shopkeeper.

Shopkeepers giving, &c. liquor, so as to encourage drunkenness, what to forfeit.

XI. And be it enacted, That the said courts shall not grant a license to any shopkeeper, to keep an inn and tavern; neither shall any inn and tavern, and shop, for selling goods, wares, and merchandize, be kept in one house; and if any shopkeeper, shall give or retail strong liquors, so as to encourage drunkenness, revelling or frolicking in his or her house or store, he or she shall forfeit sixteen dollars for every such offence, to be recovered, with costs, by action of debt, by any person who will prosecute for the same, in any court of record, having cognizance of that sum.

Tavernkeepers how to be provided.

Penalty for not being so provided.

XII. And be it enacted, That every innholder and tavernkeeper, shall have and keep in his or her house, at least two good feather beds for guests, with good and sufficient bed cloths for the same, and provide and keep good, wholesome, and sufficient diet for travellers, and stabling and provender of hay and grain for four horses more than his or her own stock, upon pain of forfeiting, for every neglect or default of having any of the articles in this clause mentioned, the sum of three dollars, to be recovered by action of debt, with costs, in any court of record, having cognizance thereof, by any person or persons, who shall prosecute for the same.

Court to ascertain what each person is to pay for a license.

XIII. And be it enacted, That every person, to whom the court shall see cause to grant a license to keep an inn and tavern, shall, before the delivery of the said license to him or her, pay to the clerk of the said court, such sum, as the said court shall assess thereon; and the said court shall take into consideration, the situation and circumstances of the place where the inn and tavern is intended to be kept, as affording more or less profit to the applicant, and agreeably thereto, shall ascertain the sum to be paid for every license, not being less than ten nor more than seventy dollars; and no license shall be delivered to any person, unless the money, so assessed for the same, shall have been paid to the clerk of the court.

The clerk to pay such license money to the county collector for the use of the county.

XIV. And be it enacted, That it shall be the duty of every clerk of the said courts, to make and enter upon the minutes of the said courts, a true account of the monies, which he shall from time to time receive upon licenses granted for inns and taverns, and to pay the same monies, within two weeks after the receipt thereof, to the collector of the county, to and for the use of the said county, accompanied with a copy of the account thereof from the minutes, signed by at least three of the justices present, a duplicate of which account, signed as aforesaid, the said clerk shall also transmit to the clerk of the board of justices and chosen freeholders of the said county.

The county collector to lay a state thereof before the board of chosen freeholders.

XV. And be it enacted, That it shall be the duty of every county collector, to lay yearly and every year before the board of justices and chosen freeholders of such county, at their annual meeting, an accurate state and account of the monies, which he shall have received from the clerk aforesaid, upon licenses for inns and taverns, together with the settlement he shall have made with the said clerk, for such monies.

The clerk accountable to the board.

XVI. And be it enacted, That the said clerks shall at all times, be accountable to the board of justices and chosen freeholders, for the monies, which they shall receive for licenses as aforesaid, to and for the use of the said counties respectively.

The court to fix the rates to be taken by tavernkeepers; which shall be set up and kept in the most public room in the tavern under the penalty of four dollars.

XVII. And be it enacted, That it shall be the duty of the said courts, and they are hereby respectively empowered and directed, at every of their spring sessions hereafter, to ascertain the rates and prices of the several liquors, meat, and entertainment for man, and also fix the several sums for the provender, stabling and pasture for horses, to be taken by every licensed innholder and tavernkeeper, within their respective counties; and every such innholder and tavernkeeper,

A. D. 1797.

ernkeeper, shall obtain from the clerk of the court, and in ten days after such session fix or set up to open view, in the most public room in his or her inn and tavern, a fair copy of the rates and prices of the articles and things, so ascertained by the said court, with a copy of this clause thereto subjoined, attested by the said clerk, and keep up the said copy so as aforesaid, exposed to open view until a new rate shall be made, under the penalty of four dollars for every day that he or she shall refuse, neglect, or omit to fix, set, or keep up the same, to be sued for and recovered by action of debt, with costs, in any court of record, having cognizance thereof, by any person or persons, who shall prosecute for the same; AND FURTHER, If any innholder and tavernkeeper, shall ask, demand, or receive a greater price for any liquors, diet, lodging, provender, stabling, pasturage, or other article, than by such rate shall be allowed, he or she so offending, shall, for every offence, forfeit and pay four dollars, to be recovered in the manner last above mentioned, and his license shall immediately thereupon become void; and lastly, the said clerk shall be entitled to receive from such innholder and tavernkeeper, for the copy of rates aforesaid, and this section thereto annexed, the sum of fifty cents.

Penalty on tavernkeepers asking or receiving more than the price rated by the court.

Tavernkeepers to put a sign before their houses.

XVIII. AND BE IT ENACTED, That every innholder and tavernkeeper, shall, within twenty days after obtaining his or her license, put up or fix a sign on or adjacent to the front of his or her house, with his or her name thereon, and keep such sign up, during the time he or she shall keep an inn and tavern, under the penalty of one dollar for every month's neglect thereof, to be recovered by action of debt, with costs, in any court of record, having cognizance thereof, by any person or persons, who shall prosecute for the same.

Tavernkeepers not to permit gaming in their houses.

XIX. AND BE IT ENACTED, That it shall be deemed an offence against this State, for any innholder or tavernkeeper, to permit or suffer any cock fighting, or playing with cards or dice, or to keep any billiard table, or other gaming table, in his or her inn or tavern, or in any out house, tenement, yard, or garden, belonging thereto, or therein to permit any kind of gaming by lot or chance.

Courts empowered to revoke licenses in certain cases.

XX. AND BE IT ENACTED, That it shall be the duty of the said courts, within their respective counties, to revoke or annul any license by them granted, to any person to keep an inn and tavern, in case such person shall offend against any section or part of this act, or shall not observe the directions thereof, or shall not do all and every the matters and things therein prescribed and enjoined to be done; and if such person, after a copy of the rule or order of the said court, revoking or annulling his or her license, shall have been served on him or her, shall, notwithstanding, continue to sell or retail any vinous, spirituous, or strong liquors, then such person shall be liable to the like penalties as for selling without license.

Penalty on persons retailing liquors without license.

XXI. AND BE IT ENACTED, That if any person, shall, without such license, open an inn or tavern, or sell by retail, any rum, brandy, wine, or spirits of any kind, under the quantity of one quart, or any cyder, strong beer, metheglin, or such strong liquors, or any mixed liquors, under the quantity of five gallons, he or she, so offending, shall forfeit and pay, for every offence, ten dollars, to be recovered by action of debt, with costs, in any court of record, having cognizance thereof, by any person or persons, who will sue for the same. PROVIDED, That such prosecution shall be commenced within six calendar months after the said offence shall have been committed.

Tavernkeepers selling liquors to apprentices, servants, or slaves, to forfeit four dollars.

XXII. AND BE IT ENACTED, That if any innholder or tavernkeeper, shall sell any vinous, spirituous, or strong liquors, to any apprentice, servant, or slave, knowing, or having reason to suspect or believe him or her to be such, without the consent of his or her master or mistress, such innholder or tavernkeeper, shall, for every offence, forfeit the sum of four dollars, to be recovered by action of debt, with costs, by the master or mistress of such apprentice, servant or slave, in any court of record, having cognizance thereof.

XXIII. AND BE IT ENACTED, That if any innholder, tavernkeeper, or other person or persons, shall take or receive, directly or indirectly, from any apprentice,

tice, servant, or slave, any clothing or other goods, chattels, wares or merchandize, in payment for any vinous, spirituous, or strong liquors, or in pawn or pledge to secure such payment, then he, she or they, so offending, shall forfeit and pay unto the master or mistress of such apprentice, servant, or slave, treble the value of all such clothing, or other goods, chattels, wares or merchandize, which he, she or they, shall have so taken or received as aforesaid, to be recovered by such master or mistress, his, or her executors or administrators, by action of debt, or on the case, with costs, in any court, having cognizance of the same.

Penalty on tavernkeepers and others receiving goods from apprentices, servants, or slaves, in payment for liquors.

XXIV. And be it enacted, That if any innholder and tavernkeeper shall trust or give credit to any person or persons, above the sum of two dollars, for vinous, spirituous, or strong liquors, or other tavern expenses, he, she or they, so trusting or giving credit to any person or persons as aforesaid, shall lose the debt, and be for ever disabled from suing for, or recovering the same, or any part thereof; and if any innholder and tavernkeeper shall sue for any such debt, above the said sum of two dollars, the person or persons, sued, shall and may plead this act in bar; and if the plaintiff, in such suit, shall become nonsuit, or a verdict, or judgment shall be given for the defendant, then such plaintiff shall pay double costs.

Tavernkeepers trusting persons more than two dollars, to lose the debt.

XXV. And be it enacted, That if any innholder and tavernkeeper shall take or get from any person or persons, trusted as aforesaid, any note, bill, bond, or other security, for any sum above two dollars, for any vinous, spirituous, or strong liquors, sold and drank in or at his or her house, under pretence that it is for victuals, or any other thing, whereby to evade this act, then every such note, bill, bond, or other security, shall be void; and the defendant or defendants, may plead this act in bar, to any action or suit to be brought thereon.

Notes, bills, or other securities taken for such debt to be void.

XXVI. Provided always, *and be it further enacted*, That nothing in this act shall be construed to debar any innholder and tavernkeeper, from taking, receiving, or recovering any sum or sums of money, which shall become due, and owing to him or her, from persons, who may be lodgers in his or her house, or from travellers, not residing in the town, city, precinct or township, where such inn and tavern is kept.

But this act not to extend to lodgers, or travellers not residing in the township.

XXVII. And be it enacted, That it shall be the duty of every justice of the peace, on view, complaint, or information, that any innholder and tavernkeeper hath committed any act or thing, or hath neglected, omitted, or refused to observe or do any act or thing, whereby in the judgment of such justice the recognizance aforesaid may be forfeited, or the condition thereof broken, to require, by summons under his hand and seal, such innholder and tavernkeeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant, or any other person, in recognizance to appear and give evidence: and it shall be the duty of the said court to direct the jury, which shall there attend for the trial of traverses, or some other jury of good and lawful men to be then and there empannelled by the sheriff, to enquire thereof, and if the jury find that such innholder and tavernkeeper hath done, or hath neglected, omitted or refused to observe or do any act or thing, whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty; which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final, with costs, shall be given against the recognizors, as in case of debt, and execution shall issue thereon accordingly; and further, that the sheriff shall pay the money, which he shall have received by virtue of such execution, into the treasury of this State, at the time and in the manner mentioned and prescribed in the fifth section of the act, entitled, "An Act for the more easy and expeditious recovery of penalties on forfeited recognizances, and for appropriating the monies arising from the same, and from fines and amercements," passed the eighteenth day of March, in the year of our Lord, one thousand, seven hundred and ninety five, and shall be entitled to the fees, and subject to the penalties and actions in the said section prescribed. Provided, That the said court, at the

Mode of proceeding upon recognizances given by tavernkeepers when forfeited.

The money thereon arising to be paid to the treasurer.

A. D. 1797.

the request of the attorney general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on reasonable cause shewn, adjourn the trial of such complaint or information to the then next sessions or term.

The license of a tavernkeeper, convicted of drunkenness in his own house, to be void.

XXVIII. And be it enacted, That if any innholder and tavernkeeper shall be convicted of being drunk in his own inn and tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void.

Not to affect taverns now under license.

XXIX. And be it enacted, That this act shall not be construed to prevent any innholder and tavernkeeper, who, before the passing thereof, was licensed according to law, from acting as such during the term for which his or her license shall have been granted; subject nevertheless to the like conditions, duties, pains and penalties as if this act had not been made.

Not to affect cities and towns corporate.

XXX. Provided always, *and be it further enacted*, That nothing in this act contained shall be taken, deemed or construed to alter, change, or in any manner affect the rights, powers, privileges and immunities given and granted by law to any city or town corporate in this State, relative to the licensing of inns and taverns within their respective cities or towns corporate, such cities or towns corporate nevertheless conforming to the directions, and being subject to the limitations, restrictions and provisions herein contained and given to the courts of general quarter sessions of the peace in the several counties of the State, except that the recommendation for a license in such cities or towns corporate shall be signed by at least ten reputable freeholders residing therein.

Former laws repealed.

XXXI. And be it enacted, That all laws heretofore made for regulating taverns, ordinaries, innkeepers and retailers of strong liquors, and all clauses and parts of laws respecting them, or any of them, or coming within the purview of this act, be, and the same are hereby repealed.

XXXII. And be it enacted, That this act shall not be in force until the first day of June next.

An ACT *for dividing the township of Newton, in the county of Sussex, into two separate townships.*

Passed the 1st of March, 1797.

Preamble

Whereas a number of the inhabitants of the township of Newton, in the county of Sussex, by their petition, have set forth, that they have long labored under many and great difficulties, by reason of the large extent of the said township; for remedy whereof,

Division line.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Newton, lying to the north of the following line, to wit; beginning at the division line between the townships of Newton and Sandiston, where a true line will strike the south end of the Long Pond, near the said division line, and the outlet of the White Pond, near the division line between Newton and Hardiston, and so continue to the line of Hardiston, shall be, and the same is hereby set off from the township of Newton, and the same is hereby established a separate township, to be called by the name of, "Frankford."

An ACT *concerning horse-racing.*

A. D. 1797.

Passed the 3d of March, 1797.

Horse-racing, for money, declared to be public nuisances, and indictable.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all racing, running, pacing or trotting of horses, mares or geldings, for money, goods or chattels, or other valuable thing, shall be, and hereby are declared to be common and public nuisances and offences against this State; and the authors, parties, contrivers and abettors thereof shall be prosecuted and proceeded against by indictment.

All bets and wagers thereon to be void.

II. AND BE IT ENACTED, That all wagers and bets, which shall be laid, betted or made on the racing, running, pacing or trotting of horses, mares or geldings, and all promises, agreements, notes, bills, bonds, contracts, judgments, mortgages, or other securities or conveyances, which shall be made, given, granted, drawn, entered into, or executed by any person or persons, where the whole, or any part of the consideration thereof shall be for any money, goods, chattels, or other valuable thing, won, laid, or betted on the racing, running, pacing or trotting of horses, mares or geldings, shall be utterly void and of none effect.

When and how persons, losing money on horse-racing, may recover the same.

III. AND BE IT ENACTED, That it shall and may be lawful for any person, who shall lose any money, goods, chattels, or other valuable thing, on the racing, running, pacing or trotting of horses, mares or geldings, and shall pay or deliver the same, or any part thereof to the winner, or other person for his use or in his behalf, to recover the same, or the value, from such winner, with costs, by action of debt, or on the case, in any court of record having cognizance thereof. PROVIDED ALWAYS, That such suit shall be instituted within six calendar months after such losing and payment, or delivery as aforesaid.

Penalty on persons collecting money to make up a purse or plate.

IV. AND BE IT ENACTED, That if any person shall contribute or collect, or shall ask or desire any other to contribute or collect any money, goods or chattels, to make up a purse, plate, or other thing, to be run, paced or trotted for as aforesaid, at any place in this State; such person, so offending, shall forfeit the sum of eight dollars, to be recovered, within six calendar months thereafter, by action of debt, with costs, by any person, who will sue for the same, in any court of record having cognizance thereof.

Penalty for running horses, where ten or more persons are met, without betting.

V. AND BE IT ENACTED, That if any person shall run, pace or trot any horses, mares or geldings, at any place, where ten persons or more shall have convened together, although no money, goods, chattels, or other valuable thing shall be betted, wagered, or laid thereon, or shall be aiding, assisting, or any way concerned therein; then every such person, so offending, shall forfeit the sum of five dollars, to be recovered in the manner and time prescribed in and by the section next preceding.

Former acts repealed.

VI. AND BE IT ENACTED, That all and every act and acts, and clause and clauses of acts heretofore made, and coming within the purview of this act, be, and they are hereby repealed.

An ACT *declaring when the death of persons absenting themselves shall be presumed.*

Passed the 7th of March, 1797.

Persons absenting themselves for seven years to either, presumed to be dead.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That any person, who shall remain beyond sea, or absent himself or herself from this State, or conceal himself or herself in this State, for seven years successively, shall be presumed to be dead, in any case wherein his or her death shall come in question, unless proof be made, that he or she were alive within that time; but an estate recovered in any such case, if in a subsequent action or suit, the person, so presumed to be dead, shall be proved to be living, shall be restored to him or her, who shall have been evicted;

A. D. 1797.

evicted; and he or she may also demand and recover the rents and profits of the estate, during such time as he or she shall have been deprived thereof, with costs of suit.

An ACT *concerning stray cattle, horses and sheep.*

Passed the 7th of March, 1797.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That any person or persons, who, at any time hereafter, between the first day of November and the first day of April in any year, shall discover any stray neat cattle, horses or sheep, upon his, her or their improved lands, shall forthwith deliver to the clerk of the city, township or precinct, where such estray or estrays shall happen to be found, a note, in writing, containing their several ages, colours and marks, natural and artificial, as near as may be, together with his, her or their name or names, and place or places of abode; which said clerk shall, on the receipt of every such note, forthwith make a full entry thereof at large, in a book provided for that purpose; for which entry, so made, the said clerk shall have twenty five cents, by the head, for all neat cattle and horses, and six cents for each sheep, to be paid by the person or persons delivering such note; and the person or persons delivering such note shall have for so doing, twenty five cents by the head for all neat cattle and horses, and six cents for each sheep described in such note; and such person or persons may detain such estray or estrays until the owner or owners thereof shall appear and pay the fees, as well for delivering the said note as making the said entry, together with all reasonable charges for keeping the said estray or estrays, to be adjudged by any one indifferent freeholder, chosen by the parties, upon which the said estray or estrays shall be delivered to the said owner or owners.

Town clerk to make an entry of estrays, and fees therefor.

II. AND BE IT ENACTED, That if no owner or owners of such estray or estrays shall appear to claim the same on or before the first day of May next after the making such entry as aforesaid, or if the said owner or owners shall refuse or neglect to pay the fees aforesaid and reasonable charges for the keeping, to be adjudged of as aforesaid, then the possessor of such estray or estrays shall, within the space of five days, give notice to one of the overseers of the poor of the said city, township or precinct where the said estray or estrays was or were found, who is hereby required, within five days after such notice given, to set up advertisements in at least three of the most public places of the said city, township or precinct, appointing the time and place of the sale of such estray or estrays at public vendue, not less than five nor more than ten days after setting up such advertisements, and shall at the said time and place, proceed to sell the said estray or estrays, at public vendue, to the highest bidder, and out of the monies arising from such sale, the said overseer shall pay the possessor of such estray or estrays the fees of giving notice of and entering the said estray or estrays as aforesaid, and such charges for keeping the same as shall be adjudged by any indifferent freeholder, chosen by the overseer and the possessor, to be just and reasonable, whose determination shall be final; and the said overseer shall and may retain and keep, to his own use, thirty three cents in the pound for his trouble in advertising and attending the said sale, and for defraying the charges and expenses thereof, and the remainder of the monies arising from such sale shall be paid to the owner or owners of such estray or estrays, provided he, she or they shall appear, demand the same and make good his, her or their title thereto within one year after the said sale; but if no owner or owners shall appear and make demand of the said overplus monies, and shew his, her or their right to the same within the said year, then the said owner or owners shall for ever after be barred from recovering or having the said monies, or any part thereof, and the said monies shall thereupon be applied by the said overseer to the use of the poor of the city, township or precinct, where such estray or estrays shall have been sold as aforesaid; and the said overseer shall be accountable for the said overplus monies to his successor in office in the manner prescribed by law; and the said overseer is hereby authorized and required to give a receipt to the purchaser or purchasers of such estray or estrays for any sum or sums, which the same shall have been sold

Estrays to be sold;

and monies arising from the sale, how applied.

sold for, which receipt shall be a sufficient voucher for the payment of the same, and shall vest in the said purchaser or purchasers a lawful right and title to such estray or estrays, without his, her or their being any further accountable to the owner or owners, or any other person whatsoever. A. D. 1797.

III. And be it enacted, That any person or persons, who shall, at any time hereafter between the first day of November and the first day of April in any year, have any such stray neat cattle, horses or sheep as aforesaid upon his, her or their improved lands, or in his, her or their possession, and do not acquaint the owner or owners therewith, or give the notice prescribed by this act within the space of twenty days after discovery or knowledge thereof, such person or persons, so offending, shall not only lose any demand he, she or they might otherwise have had for keeping and feeding such estray or estrays, but shall also forfeit to the owner or owners thereof, for every such offence, the sum of six dollars for each and every such stray cattle or horse, and fifty cents for every sheep, to be recovered by action of debt before any one justice of the peace, with costs of suit; and if the said owner or owners shall not appear and prosecute the same within twenty days after the first day of April aforesaid, then the overseers of the poor of the city, township or precinct, where the said estray or estrays shall have been so concealed, upon notice thereof, are hereby required to prosecute the same to effect, and to apply the said penalty or penalties, when recovered, to the use of the poor.

Penalty for concealing estrays.

IV. And be it enacted, That the books, so to be kept by the respective clerks of each city, township and precinct, shall always by them be kept open and free for any person or persons, who at any time may have occasion to search therein, for any such estrays, and for which search, such clerk shall not ask or receive any fee or reward, under the penalty of three dollars, to be recovered by the party aggrieved in manner aforesaid, with costs of suit.

Clerk's books to be open and free.

V. And be it enacted, That the act, entitled, "An Act the better to prevent the concealing of stray cattle, horses and sheep," passed the nineteenth day of January, in the year of our Lord, seventeen hundred and forty seven-eight, and all other acts, containing any thing coming within the purview of this act, shall be, and the same are hereby repealed.

Former law repealed.

An ACT *for the relief of creditors against heirs and devisees.*

Passed the 7th of March, 1797.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all and every creditor and creditors, whether by simple contract or specialty, and whether the heirs are mentioned therein or not, shall and may, by virtue of this act, have and maintain his, her, and their action and actions, against the heir and heirs at law of any debtor, who hath already died, or shall hereafter die, intestate seized of any messuages, lands, tenements or hereditaments, and against the heir and heirs at law, and devisee and devisees of such debtor, in case such debtor made any last will and testament; and such heir and heirs, devisee and devisees, shall be liable and chargeable for a false plea by him, her or them pleaded, in the same manner as any heir should have been for any false plea, by him pleaded, in any action of debt upon specialty, or for not confessing the lands or tenements, to him descended; and, moreover, all such creditors shall be preferred as in actions against executors and administrators.

Creditors may maintain actions on specialties, or simple contracts, against heirs and devisees.

II. And be it enacted, That in all cases, where any heir or heirs at law is, are, or shall be liable to pay the debt of his, her or their ancestor, in regard of any lands, tenements or hereditaments, descending to him, her, or them, and shall sell, alien, or make over the same, before any action brought, or process sued out against him, her or them, such heir and heirs at law shall be answerable for such debt, to the value of the said lands, tenements or hereditaments, so by him, her or them sold, aliened or made over; in which cases, all creditors shall

If the heir alien land descended to him, before action brought, he shall be liable to the value of such land.

A. D. 1797.

shall be preferred, as in actions against executors and administrators; and further, such execution shall be taken out upon any judgment, so obtained, against such heir or heirs, to the value of the said lands, tenements or hereditaments, as if the same were his, her, or their own proper debt; but the lands, tenements and hereditaments, which were bona fide aliened before the action brought, shall not be liable to such execution.

In such action, the heir may plead riens per discent.

And if, on issue joined thereon, the jury find for the plaintiff, they shall enquire of the value of the lands descended, but if judgment be given of the heir on demurrer, or nihil dicit, it shall be for the debt and damages.

III. PROVIDED ALWAYS, *and be it further enacted*, That where any action shall be brought against any heir or heirs, such heir or heirs may plead riens per discent at the time of the original writ brought, or the bill filed against him, her or them; and the plaintiff in such action may reply, that such heir or heirs had lands, tenements or hereditaments from his, her, or their ancestor before the original writ brought, or bill filed; and if, on issue joined thereupon, it be found for the plaintiff, the jury shall enquire of the value of the lands, tenements or hereditaments so descended, upon which judgment shall be given and execution awarded as aforesaid; but if judgment be given against such heir or heirs, by confession of the action, without confessing the assets descended, or upon demurrer, or nihil dicit, it shall be for the debt and damages, without any writ to enquire of the lands, tenements and hereditaments so descended.

Devisees made liable in the same manner as heirs.

IV. PROVIDED ALSO, *and be it further enacted*, That all and every devisee and devisees, made liable by this act, shall be liable and chargeable in the same manner as the heir and heirs at law by force of this act, notwithstanding the lands, tenements and hereditaments to him, her or them devised shall be aliened before the action brought, and shall be liable to the like judgments and executions as the heir and heirs at law.

An ACT *to authorize the recording certain deeds for lands lying in the river Delaware, heretofore acknowledged or proved according to the laws of Pennsylvania.*

Passed the 7th of March, 1797.

Deeds for certain islands and real estates, in the Delaware; which have been acknowledged or proved according to the laws of Pennsylvania, to be recorded in this State.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all deeds, evidences, and conveyances of any island, or part of any island, or other real estate, lying in the river Delaware, and by laws of the commonwealth of Pennsylvania, and of this State, settling the jurisdiction of the said river and islands within the same annexed to this State, which at any time heretofore have been duly acknowledged or proved according to the laws of Pennsylvania, shall be deemed and taken to be sufficiently acknowledged or proved, to authorize the same to be recorded in any book or office, which is or shall be kept for the purpose by any person, who is or hereafter shall be lawfully empowered to record deeds or conveyances of land within this State.

Deeds, so acknowledged or proved, and certified copies of them from the records, to be admitted in evidence.

II. AND BE IT ENACTED, That all such deeds, evidences and conveyances, acknowledged or proved as aforesaid, and all copies thereof, taken from any book, where the same is so recorded, and certified as a true copy by any such person lawfully empowered to record deeds and conveyances of land in this State, and proved in court to be a true copy by some person, who has compared the same with the record of the said deeds, and the acknowledgment or proofs thereof made as aforesaid, shall be as good and sufficient evidence in any court of record in this State, as if the same had been duly acknowledged according to the laws thereof.

An ACT

An ACT *declaring the jurisdiction of the several counties in this State, which are divided by rivers, creeks, bays, highways or roads.*

A. D. 1797.

Passed the 7th of March, 1797.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That where any two counties are, or hereafter shall be, divided by rivers, creeks, bays, highways or roads, within this State, the jurisdiction of each respective county, bounding on such rivers, creeks, bays, highways or roads, shall be reciprocal; and all arrests, by virtue of any legal process, or service of any legal process, made on the same, or on any bridge over any such rivers, creeks or bays, are hereby declared to be as good and effectual, as if such arrests or service had been made within the body of either of the said counties.

Where reciprocal jurisdiction shall be had.

II. AND BE IT ENACTED, That where any treason, murder or other offence hath been or hereafter shall be committed on any of the rivers, creeks, bays, highways or roads, which divide or hereafter shall divide any of the counties within this State, or on any of the bridges over any such rivers, creeks or bays, such offence or offences, whether of principal or accessary, shall be enquired of and tried by a jury of that county where the offender or offenders last resided; and in case such offender or offenders, whether principal or accessary, be non residents of either of the adjacent counties, such offence or offences, whether of principal or accessary, shall be enquired of and tried by a jury of either of the said counties, and such enquiry and trial, and all other the proceedings thereon had, shall be as good and effectual as if the said offence or offences, as well principal as accessary, had been committed, done or perpetrated within the body of such county, where the said enquiry, trial and proceedings shall be had.

Where offences shall be tried.

III. AND BE IT ENACTED, That the act, entitled, "An Act to extend the jurisdiction of the several counties in this colony, which are divided by rivers, creeks and bays," passed the twenty first day of December, in the year of our Lord, one thousand, seven hundred and seventy one, shall be, and the same is hereby repealed.

Former law repealed.

An ACT *directing bills of exception to be sealed.*

Passed the 7th of March, 1797.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That when any person, who is or shall be impleaded before any court, and in any cause, where a writ of error lies to a higher court, shall allege an exception, praying, that the justice or justices will allow it, and he or they will not allow it, if he, who alleged the exception, instantly writes the same, and requires, that the said justice or justices will put thereto his or their seal or seals, in testimony thereof, such justice or justices, or the greater part of them present, shall so do; and if such higher court, upon the cause being removed before them, do not find the same exception in the record, and the plaintiff shew the exception, written and sealed as aforesaid, the said justice or justices shall be commanded to appear at a certain day, either to confess or deny his or their seal or seals; and if such justice or justices cannot deny his or their seal or seals, the said higher court shall proceed to judgment according to the same exception, as it ought to be allowed or disallowed.

Bills of exception to be sealed.

The justice sealing the same to confess or deny his seal.

A. D. 1797.

An ACT *relating to hawkers, pedlers and petty chapmen.*

Passed the 7th of March, 1797.

No person to be a pedler, without a license from the governor in pursuance of a recommendation from the court of quarter sessions.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That no person shall follow, use or exercise the business or calling of a hawker, pedler or petty chapman, or shall go or travel from town to town, or to other men's houses, either on foot or with horse, mule, or other beast, bearing or drawing burden, or otherwise, (except as herein after is excepted,) carrying or selling, or exposing to sale, any goods, wares or merchandize, within this State, until such person shall have obtained a recommendation from the court of general quarter sessions of the peace of the county, where he or she dwells, certifying their opinion of the honesty of the person recommended, and that he or she resides in this State, and intends to travel with one or more horse or horses, or other beast of burden, or on foot, and thereupon shall have obtained a license from the governor, or chief executive magistrate of this State, and shall have given bond, in the clerk's office of the said court, to the said State, with one surety at least, being a freeholder in the said county, in any sum, according to the discretion of the said court, not less than sixty nor more than one hundred and fifty dollars, conditioned, that such person shall be of good behaviour, during the continuance of the said license, and shall duly satisfy and pay all such taxes and duties as shall be legally laid and imposed upon him or her, within the county, where he or she shall obtain the said recommendation, and shall well and truly observe the directions and perform the matters and things prescribed by law, respecting hawkers, pedlers and petty chapmen; and further, shall have taken a certificate of the said clerk of his or her having given bond as aforesaid.

Fees to be paid to the governor, and clerk.

II. AND BE IT ENACTED, That every person, who shall obtain a license to travel with a horse or horses, or other beasts of burden, for the purpose of selling goods, wares and merchandize, shall pay to the governor or chief executive magistrate, three dollars and fifty cents; and every person, who shall obtain a license to travel on foot, for the purpose aforesaid, shall pay to the governor or chief executive magistrate, two dollars, and every person licensed as aforesaid, shall pay to the clerk for the said bond and certificate, fifty cents.

Penalty on any person pedling not being qualified.

III. AND BE IT ENACTED, That if any person, not being qualified as directed in and by the first section of this act, shall be found hawking, pedling or travelling from house to house, or place to place, in this State, to sell goods, wares or merchandize, as a hawker, pedler or petty chapman, he or she, so offending, shall, for every offence, forfeit and pay the sum of thirty dollars, one moiety whereof to this State, and the other moiety to the person, who shall sue for the same, to be recovered, with costs, by action of debt, in any court of record having cognizance thereof; and further, if any person, so hawking, pedling or trading as aforesaid, shall, upon demand made by any justice of the peace, constable, or other person, being a freeholder, in any county in this State, where he or she shall so trade, hawk or peddle, refuse to produce and shew unto such justice, constable, or other person, his or her license for so hawking, pedling or trading, to be granted as aforesaid, and certificate of his having given bond as aforesaid; then such person, so offending, shall forfeit and pay for every offence, in not producing and shewing such license, the sum of five dollars, and for every offence, in not producing and shewing such certificate, the sum of three dollars, to be recovered and applied in the manner above directed.

Penalty on pedlers refusing to show their license or certificate.

Penalty for forging a license.

IV. AND BE IT ENACTED, That if any person shall forge or counterfeit any license, or travel with such forged or counterfeited license, for the purposes aforesaid; such person shall forfeit the sum of one hundred and fifty dollars, to be recovered and applied as aforesaid, and shall also be liable to be punished for forgery.

Penalty on a pedler lending or letting out his license.

V. AND BE IT ENACTED, That if any person shall lend or let out to hire any license to him or her granted as aforesaid, the person lending or letting out to hire such license, and the person trading under colour of the same, shall each

each of them forfeit the sum of one hundred dollars, to be recoverd and applied in the manner herein before prescribed. A. D. 1797.

What sums pedlers are to pay annually to overseers of the poor.

VI. And be it enacted, That no person, to whom a license as aforesaid shall be granted, shall use or exercise the same, or sell or expose to sale, any goods, wares or merchandize, by virtue or colour thereof, (except as herein after is excepted,) until such person shall have first paid to the overseer or overseers of the poor of every precinct or township, where he or she intends to expose to sale any goods, wares or merchandize, the sum or sums of money following; that is to say,

Every person travelling with a waggon, cart, or other carriage, two dollars.

Every person travelling with a horse, mule, or other beast of burden, one dollar and fifty cents.

Every person travelling on foot, sixty cents.

The said sums to be paid yearly and every year.

The duty of the overseers.

VII. And be it enacted, That it shall be the duty of the said overseers for every precinct and township, where any person, to whom a license shall be granted as aforesaid, shall travel for the purpose aforesaid, to receive every year from such person the sum of money hereby directed to be annually paid on such license, and give a receipt for the same, which year shall commence at the time of such person's first coming to and vending goods, wares and merchandize in such precinct or township, and to enter the said time and sum in a book to be kept for that purpose, which book the said overseers shall deliver to their successors in office; and if the said overseers or any of them, shall neglect, omit, or refuse to do the matters and things herein prescribed and enjoined upon them, then he or they so offending, shall for every offence, forfeit and pay the sum of five dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same, in any court of record having cognizance thereof.

Penalty for neglect of duty.

Penalty on pedlers going without a receipt.

VIII. And be it enacted, That if any such licensed person, not having obtained a receipt as aforesaid, shall be found hawking, pedling or travelling from house to house, or place to place, to sell goods, wares or merchandize, as a hawker, pedler or petty chapman, then he or she so offending, if travelling with a waggon, cart or other carriage, shall forfeit the sum of six dollars, and if travelling with horse, mule or other beast of burden, shall forfeit the sum of five dollars, and if travelling on foot, shall forfeit the sum of three dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same, in any court of record having cognizance thereof.

Penalty on pedlers refusing to shew receipts.

IX. And be it enacted, That if such person so trading shall, upon demand made by any person in any precinct or township, where he or she shall so trade, refuse to produce and shew to the said person, his or her receipt for the money ordered to be paid to the said overseer or overseers as aforesaid, then the said person, so offending, shall forfeit, for every offence, the sum of five dollars, to be recovered and applied in the manner prescribed in and by the section next preceding.

This act not to extend to goods sold in public market, or of the growth of this country.

X. Provided always, *and be it further enacted*, That this act shall not be construed to debar or prohibit any person from selling or exposing to sale any goods, wares or merchandize in any public market within this State, or to debar or prohibit any person from carrying about from town to town, or house to house, and selling or exposing to sale any goods, wares or merchandize of the growth, produce or manufacture of this State, or of any other of the United States; but that such person may do therein, as he or she lawfully might have done before the making of this act.

On a dispute respecting the growth, &c. the vender to prove the same.

XI. And be it enacted, That if any dispute shall arise respecting the place of the growth, product, or manufacture of the said goods, wares or merchandize, the person, carrying about or exposing the same to sale in manner aforesaid, shall prove, by his or her own oath or affirmation, or otherwise, before any justice

A. D. 1797.

justice of the peace of the county, where he or she shall carry about or offer the same to sale, whether such goods, wares or merchandize, be of the growth, product, or manufacture of this State, or of any other of the United States; and if such person shall refuse to make such proof as aforesaid, he or she shall thereupon be fined by the said justice, in the sum of five dollars, to be applied to the use of the said county, and in case of non payment thereof, he or she shall be committed to the gaol of the said county.

Suits for offences against this act to be brought within three months.

XII. And be it enacted, That every suit, to be brought for any offence against this act, shall be instituted within three calendar months after the offence shall have been committed.

This act not to affect licenses antecedently granted.

XIII. And be it enacted, That this act shall not be construed to invalidate or affect any license, which has been legally granted, antecedent to the passing hereof, to any hawker, pedler or petty chapman, for the purpose of selling or exposing to sale, any goods, wares or merchandize, in this State; and further, that every such hawker, pedler or petty chapman, shall observe the directions, do the duties, perform the things, and pay the money, or, on failure thereof, be subject to the penalties in this act prescribed.

Former acts repealed.

XIV. And be it enacted, That the act, entitled, "An Act for the preventing of lotteries, and for regulating of pedlers," passed the eighth day of July, in the year of our Lord, one thousand, seven hundred and thirty; and the act, entitled, "An Act to lay certain taxes on hawkers, pedlers or petty chapmen, within this province," passed the thirty first day of July, in the year of our Lord, one thousand, seven hundred and forty, and every clause and part of any act, containing any thing within the purview of this act, be, and they are hereby repealed.

An ACT *concerning the trial of murder in cases, where the stroke and death happen in different counties, and in cases, where either the stroke or death only happens within this State.*

Passed the 7th of March, 1797.

Where a person dies in one county of a stroke or poison given in another, the indictment may be found in the former.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That where any person hereafter shall be feloniously stricken or poisoned in one county, and shall die of the same stroke or poisoning in another county, then an indictment thereof found by jurors of the county, where the death shall happen, whether it shall be found before the coroner upon the view of such dead body, or before the justices of the peace, or other justices or commissioners, who shall have authority to enquire of such offences, shall be as good and effectual in the law, as if the stroke or poisoning had been given, committed or done in the same county, where the party shall die, or where such indictment shall be found; and further, that the justices of oyer and terminer and of general gaol delivery in the same county, where such indictment shall be taken, and the justices of the supreme court, where such indictment shall be taken or removed before them, shall and may proceed upon the same in all points, as they might or could do in case such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, had been committed and happened all in one and the same county.

If the offence of the principal be committed in one county, and the offence of the accessary in another, the indictment against the accessary may be found in the latter.

II. And be it enacted, That where any murder or other offence shall be committed and done in one county, and other person or persons shall be accessary in any manner to any such murder, or other offence, in any other county, then an indictment, found and taken against such accessary or accessaries, upon the circumstance of such matter, before the justices of the peace, or other justices or commissioners, having authority to enquire of such offences, in the county, where the offence of accessary in any manner or wise shall be committed or done, shall be as good and effectual in the law, as if the said principal offence had been committed or done within the same county, where the same indictment against

against such accessary or accessaries shall be found; and the justices of oyer and terminer and of general gaol delivery, or any three of them, of or in such county, where the offence of any such accessary shall be committed and done, upon suit to them made, shall write to the clerk or keeper of the records, where such principal shall be attainted or convicted, to certify them, whether such principal be attainted or convicted, or otherwise discharged of such principal offence, who, upon such writing to them or any of them directed, shall make sufficient certificate, in writing, under his or their seal or seals, to the said justices, whether such principal be attainted, convicted, or otherwise discharged of such offence or not; and after that the said clerk or keeper of the records do certify, that such principal is attainted, convicted, or otherwise discharged of such offence by the law, then the said justices of oyer and terminer or of general gaol delivery, or other justices thereunto authorized, shall proceed against any such accessary or accessaries, in the county they or either of them so became accessary, in such manner and form as if both the principal offence and accessary had been committed and done in the said county, where the said offence of accessary was or shall be committed or done; and further, that every such accessary, and other offenders aforesaid, shall answer upon their arraignments, and have the like defences, advantages and exceptions, and shall receive the like trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as if both the principal offence and accessary had been committed and done in one and the same county.

If a person out of this State of a stroke or poison given out of it, or if he die out of this State of a stroke or poison given in it, in what state may the indictment be found against the principal and accessary.

III. And be it enacted, That where any person shall be feloniously stricken or poisoned upon the sea, or at any place out of the jurisdiction of this State, and shall die of the same stroke or poisoning within the jurisdiction of this State, or where any person shall be feloniously stricken or poisoned within the jurisdiction of this State, and shall die of such stroke or poisoning upon the sea, or at any place out of the jurisdiction of this State, in either of the said cases, an indictment thereof, found by jurors of the county within the jurisdiction of this State, in which such death, stroke or poisoning shall happen respectively as aforesaid, whether it shall be found before any coroner upon view of such dead body, or before the justices of the peace, or other justices or commissioners, who shall have authority to enquire of murders, shall be as good and effectual in the law, as well against the principal or principals in any such murder, as against the accessary or accessaries thereto, as if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessary or accessaries had happened in the same county, where such indictments shall be found; and that the justices of oyer and terminer and of general gaol delivery in the same county, where such indictment shall be found, and also the supreme court, in case such indictment shall be taken or removed before them, shall and may proceed upon the same in all points, as well against the principal or principals in any such murder, as the accessary or accessaries thereto, as they might or could do in case such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessary or accessaries had happened in the same county, where such indictment shall be found; and that every such offender, as well principal as accessary, shall answer upon their arraignments, and have the like defences, advantages and exceptions, and shall receive the like trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as they ought to do if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessary or accessaries had happened in the same county, where such indictment shall be found.

An ACT *for the more equal representation of the counties of Hunterdon, Burlington, Sussex, Cumberland and Cape-May, in the General Assembly of this State.*

Passed the 8th of March, 1797.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the counties of Hunterdon, Burlington, Sussex, Cumberland and Cape-May, shall, on the second Tuesday in October next,

A. D. 1797.

next, and on the second Tuesday in October annually thereafter, choose the following number of persons to represent them in the general assembly of this State, and no more; to wit, the county of Hunterdon four; the county of Burlington four; the county of Sussex four; the county of Cumberland two, and the county of Cape-May one; any law, usage or custom to the contrary thereof notwithstanding.

An ACT *to compel joint tenants and tenants in common to make partition, and for the more easy obtaining partition of lands in coparcenary, joint tenancy, and tenancy in common.*

Passed the 9th of March, 1797.

Joint tenants, and tenants in common, may be compelled to make partition of lands;

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all joint tenants and tenants in common, that now be, or hereafter shall be, of any estate or estates of inheritance, in their own right or in right of their wives, of any lands, tenements or hereditaments within this State, shall and may be compelled, by virtue of this act, to make partition between them of all such lands, tenements or hereditaments, as they now hold, or hereafter shall hold, as joint tenants, or tenants in common, by writ of partition, in that case to be devised in the court of chancery, in like manner and form as coparceners by the common law have been and are compelled to do, and the same writ to be pursued at the common law. PROVIDED ALWAYS, That

and shall have aid of one another.

every of the said joint tenants, or tenants in common, and his, her and their heirs, after such partition made, shall and may have aid of the other, or of his, her or their heirs, to the intent to dereign the warranty paramount, and to recover for the rate as is used between coparceners after partition made, by the order of the common law.

Joint tenants and tenants in common for life or years compellable to make partition.

II. AND BE IT ENACTED, That all joint tenants, and tenants in common, and every of them, who now hold, or hereafter shall hold, jointly or in common, for term of life or lives, year or years, and joint tenants, or tenants in common, where one or some of them have or shall have estate or estates for term of life or lives, or year or years, with the other or others, that have or shall have estate or estates of inheritance or freehold in any lands, tenements or hereditaments, shall and may be compelled from henceforth, by writ of partition, out of the court of chancery, upon his, her or their case or cases, and to be pursued at the common law, to make severance and partition of all such lands, tenements or hereditaments, which they hold jointly or in common, for term of life or lives, year or years, or where one or some of them hold jointly or in common, for term of life or lives, year or years, with another or others, that have an estate or estates of inheritance or freehold. PROVIDED ALWAYS, That no such partition or severance hereafter to be made by force of this clause of this act be, nor shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such as be parties unto the said partition, their executors or assigns.

But such partition shall affect only the parties and their representatives.

If the tenant shall not appear in fifteen days after service of process, the court may examine the demandant's title, give judgment, and award a writ to make partition; upon which, after its return, judgment final shall be entered, and be conclusive.

III. AND BE IT ENACTED, That after process of pone, or attachment, returned upon any writ of partition, between coparceners at the common law or custom, or between joint tenants, or tenants in common, by virtue of this act, affidavit being made, by any credible person, of due notice given of the said writ of partition to the tenant or tenants to the action, and a copy thereof left with the occupier, or tenant or tenants, or if they cannot be found, to the wife, son or daughter, being of the age of twenty one years or upwards, of the tenant or tenants, or to the tenant in actual possession, by virtue of any estate of freehold, or for term of year or years, or uncertain interest, or at will, of the lands, tenements or hereditaments, whereof the partition is demanded, (unless the said tenant in actual possession be demandant in the action,) at least twenty days before the day of the return of the said pone or attachment, if the tenant or tenants to such writ, or any of them, or the true tenant to the messuages, lands, tenements or hereditaments, as aforesaid, shall not in such case, within fifteen days after the return of such writ of pone or attachment, cause an appearance to be entered in such court, where such writ of pone or attachment shall be returnable, then, in default of such appearance, the demandant having entered his declaration, the

court

court may proceed to examine the demandant's title and quantity of his part and purpart, and accordingly as they shall find his right, part and purpart to be, they shall, for so much, give judgment by default, and award a writ to make partition, whereby such proportion, part and purpart may be set out severally; which writ being executed after eight days notice given to the occupier or tenant or tenants of the premises, and returned, and thereupon final judgment entered, the same shall be good and conclude all persons whatsoever, after notice as aforesaid, whatever right or title they have, or may at any time claim to have in any of the messuages, lands, tenements or hereditaments mentioned in the said judgment and writ of partition, although all persons concerned are not named in any of the proceedings, nor the title of the tenants truly set forth. PROVIDED ALWAYS, That if such tenant or person concerned, or either of them, against whom, or his, her or their right or title, such judgment, by default, is given, shall, within the space of one year after the first judgment entered, or in case of infancy, coverture, insane memory, or absence out of the State, within one year after his, her or their return, or the determination of such inability, apply to the court, by motion, where such judgment is entered, and shew good and probable matter in bar of such partition, or that the demandant hath not title to so much as he hath recovered, then, and in such case, the court may suspend or set aside such judgment, and admit the tenant and tenants to appear and plead, and the cause shall proceed according to due course of law, as if no such judgment had been given; and if the court, upon hearing thereof, shall adjudge for the first demandant, then the said first judgment shall stand confirmed, and be good against all persons whatsoever, except such other persons as shall be absent or disabled as aforesaid; and the person or persons so applying shall be awarded thereupon to pay costs; or if, within such time or times aforesaid, the tenants or persons concerned, admitting the demandant's title, parts and purparts, shall shew to the court any inequality in the partition, the court may award a new partition to be made in the presence of all parties concerned, if they will appear, notwithstanding the return and filing upon record of the former; which said second partition returned and filed, shall be good and firm for ever against all persons whatsoever, except as before excepted.

But if the tenant or any person interested shall, within one year after judgment, or, in case of infancy, insanity, coverture, or absence, within one year after the removal of such disability, shew good cause in bar of such partition, the judgment may be set aside, and the party admitted to plead.

IV. AND BE IT ENACTED, That no plea in abatement shall be admitted or received in any suit for partition, nor shall the same be abated by reason of the death of any tenant.

No plea in abatement to be admitted.

V. AND BE IT ENACTED, That when the high sheriff, by reason of distance, infirmity, or any other hindrance, cannot conveniently be present at the execution of any judgment in partition, in such case, the under sheriff, in the presence of two justices of the peace of the county, where the lands, tenements or hereditaments to be divided do lie, shall and may proceed to the execution of any writ of partition, by inquisition in due form of law, as if the high sheriff were then personally present; and the high sheriff thereupon shall, and he is hereby enabled and required to make the same return, as if he were personally present at such execution; and in case such partition be made, returned and filed, he, she or they, that was or were tenant or tenants of any of the said messuages, lands, tenements and hereditaments, or of any part or purpart thereof, before they were divided, shall be tenant or tenants for such part set out severally to the respective landlords or owners thereof, by and under the same conditions, rents, covenants and reservations, where they are or shall be so divided; and the landlords and owners of the several parts and purparts, so divided and allotted as aforesaid, shall warrant and make good to the respective tenants the said several parts severally, after such partition, as they are or were bound to do, by any agreement, lease or grant of their respective parts, before any partition made; and in case any demandant be tenant in actual possession to the tenant to the action, for part and proportion, or any part thereof, in the messuages, lands, tenements and hereditaments, to be divided by virtue of a writ of partition as aforesaid, for any term of life or lives, year or years, or uncertain interest, the said tenant, so in actual possession, shall stand and be possessed of the said purparts and proportions, for the like term, and under the same conditions and covenants, when it is set out severally in pursuance of this act.

In the absence of the high sheriff, in what manner the under sheriff may execute the writ of partition.

The tenant shall hold the part allotted to his landlord, who shall warrant the same as before partition was made.

VI. AND BE IT ENACTED, That the respective sheriffs, their under sheriffs and

A. D. 1797.

Penalty on sheriffs and other officers for neglect of duty in executing writs of partition.

and deputies, and in case of sickness or disability of the sheriff, all justices of the peace, within their respective counties, shall give due attendance to the executing such writ of partition, unless reasonable cause be shewn to the court, upon oath or affirmation, and there allowed of, or otherwise be liable, every of them, to pay unto the demandant such costs and damages as shall be awarded by the court, not exceeding thirty dollars; for which the demandant or plaintiff may bring his action in any court having cognizance thereof, and recover the same, with costs.

Writs of partition to be returnable to the supreme court.

VII. And be it enacted, That all writs of partition, which shall be issued by virtue of this act, shall be made returnable before the supreme court of this State, and no other, which court is hereby declared to have jurisdiction of the same.

Costs to be apportioned among and paid by the parties according to their respective shares.

VIII. And be it enacted, That in all suits of partition, which shall be instituted by virtue of this act, and wherein the demandant shall recover, the costs thereof shall be divided and apportioned by the court, or any justice of the court, among the demandant, defendant, tenant, and others concerned, according to their respective parts and purparts of the lands, tenements and hereditaments as aforesaid; and if such defendant, tenant, or others concerned, shall not forthwith pay his, her or their proportion of such costs, that then the demandant shall have and recover the same by judgment of the court, and execution against the body or bodies, or the goods and chattels, lands and tenements of such defendant, tenant, or others concerned.

This act not to affect the former act for the partition of lands.

IX. And be it enacted, That this act, or any thing herein contained, shall not be construed to repeal, or in any wise to affect the act, entitled, "An Act for the more easy partition of lands held by coparceners, joint tenants and tenants in common," passed the eleventh day of November, in the year of our Lord, one thousand, seven hundred and eighty nine.

An ACT *supplementary to the act, entitled,* "*An Act for the punishment of crimes.*

Passed the 10th of March, 1797.

Certain fines to be appropriated to the use of the poor.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the fines, which hereafter shall be imposed in pursuance of the thirty second section of the act, entitled, "An Act for the punishment of crimes," passed the eighteenth day of March, seventeen hundred and ninety six, shall be paid to the overseers of the poor, for the use of the poor of the township, where the offence may be committed, or to any one of the trustees of the poor of the county, for the use of the poor of the county, where the offence may be committed.

See page 213 of this volume.

A SUPPLEMENT *to the act, entitled,* "*An Act concerning sheriffs.*"

Passed the 10th of March, 1797.

In case of the death, removal, or disability of a sheriff, in what manner another shall be elected.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That where any sheriff, before the expiration of his year, hath died, or removed from out the jurisdiction of the State, or hath otherwise become disabled by law to execute the office, or where any sheriff, before the expiration of his year, shall die, or remove from out the jurisdiction of the State, or otherwise become disabled by law to execute the office, it shall and may be lawful for any one or more of the judges of the court of common pleas of the county, residing in the neigborhood of the said sheriff, and he or they are hereby enjoined and required, where any such death, removal, or other disability hath happened, as soon as may be after the passing of this act, and

A. D. 1797.

and where any such death, removal, or other disability shall happen, as soon as may be after information or knowledge of the happening of the same, to certify such death, removal, or other disability, to the clerk of the court of common pleas, who is hereby authorized and required to advertise a new election for sheriff, in the manner prescribed in and by the nineteenth section of the act, entitled, "An Act to regulate the election of members of the legislative council and general assembly, sheriffs and coroners in this State," passed the twenty second day of February, in the year of our Lord, seventeen hundred and ninety seven.

On the death, removal or disability of a sheriff, the coroner shall serve process till another be elected and sworn into office.

II. And be it enacted, That where any sheriff, before the expiration of his year, hath died, or removed from out the jurisdiction of the State, or hath otherwise become disabled by law to execute the office, or where any sheriff, before the expiration of his year, shall die or remove from out the jurisdiction of the State, or otherwise become disabled by law to execute the office, the coroners of the county, or either of them, shall serve and execute all writs and process, until another sheriff be elected and sworn into office; and the coroners or coroner executing such writs and process shall be answerable for the due execution of the same, during such interval, in like manner as the sheriff would have been.

If a sheriff or coroner, after levying an execution on property shall die, remove, or be disabled to discharge his official duties, how and by whom the said property shall be sold.

III. And be it enacted, That where any sheriff or coroner, or other person, to whom any writ of execution by fieri facias hath heretofore been directed, or shall hereafter be directed, hath levied or shall levy the same execution on the goods and chattels, or on the lands and tenements of the party named therein, and such sheriff, coroner, or other person, hath died or shall die, or hath or shall become disabled by law to discharge the duties of their respective office or appointment, or hath removed, or shall remove himself or themselves from out the jurisdiction of the State, and continue to reside thereout, without discharging the duties of their respective office or appointment, by a sale of the property or estate so levied on them, or in either of the said cases, it shall and may be lawful for the court, in which judgment is or shall be had, to award a special scire facias against the party named in such execution, or the lawful representative of such party, according to the circumstances of the case, to shew cause why the property or estate so levied on should not be sold, or such part thereof as may be sufficient to satisfy the whole or the residue of the monies contained in the said execution, on which scire facias, returned by the proper officer, that he hath given notice to the party therein named, or that the party hath nothing, &c. and the said party shall not appear at the term, to which such scire facias shall be returned, and plead, or shew sufficient matter to the contrary, the said court shall thereupon award a writ, to be directed to the sheriff or coroner, for the time being, of the county, where the levy was made, commanding the said sheriff or coroner to sell the property or estate so levied on, or so much thereof as may be sufficient to satisfy the whole or the residue of the monies due on the said execution; which sale the said sheriff or coroner is hereby authorized and required to make, in as full and ample manner, to all intents and purposes, as if the said execution had been originally directed to such sheriff or coroner, and shall be entitled to the same fees for services done, and liable to all the penalties and consequences of law for neglect of duty, as if the said execution had been originally directed to such sheriff or coroner.

Such sale and the conveyance shall be valid and effectual.

IV. And be it enacted, That the sale to be made by such sheriff or coroner for the time being, in virtue of this act, of any estate, real or personal, and the conveyance to be made by such sheriff or coroner of any real estate so sold, shall be as good and effectual in the law, to all intents and purposes, as if the writ or writs of execution, on which such property or estate was levied, had been originally directed to such sheriff or coroner.

Sheriff to appoint his under sheriff under hand and seal, who shall take an oath of office.

Such appointment and oath to be filed in the clerk's office.

V. And be it enacted, That the appointment of any under sheriff, hereafter to be made, shall be by writing, under the hand and seal of the high sheriff; and further, that every under sheriff, before he intermeddles in such office, shall take and subscribe, before one of the judges of the court of common pleas of the county, an oath or affirmation, well and faithfully to execute the office of under sheriff, according to the best of his skill and judgment; which appointment, with the certificate of the oath or affirmation thereupon endorsed and attested by the

A. D. 1797.

said judge, shall be by such under sheriff carefully filed, and securely kept in the office of the clerk of the court of common pleas in and for the same county; provided that nothing in this section contained shall be construed to prevent the high sheriff from removing his under sheriff at pleasure.

But the sheriff may remove his under sheriff at pleasure.

Acts of under sheriff, before his appointment and oath are filed, shall be void.

VI. And be it enacted, That if any person shall proceed to execute the office of under sheriff, before he shall have received an appointment as aforesaid, and taken the oath or affirmation of office, and filed the same appointment and certificate of such oath or affirmation in the clerk's office as aforesaid, then all such his acts and proceedings done under colour of office shall be absolutely void.

For the act, to which this is a supplement, see page 201 of this volume.

An ACT *the better to promote the impartial administration of justice.*

Passed the 10th of March, 1797.

What circumstances shall preclude a judge from sitting on the trial or argument of a cause.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no justice or judge of any court of record in this State, who shall be related, within the third degree, to either of the parties in any cause depending in such court, or be interested in the event of any such cause, or shall have been attorney on record, or of counsel for either party in any such cause, or shall have given his opinion, in either of the said relations, upon the matter in question in any such cause, shall sit in judgment upon the trial or argument of any point in controversy in any such cause.

Or from nominating or striking a jury.

II. And be it enacted, That no justice or judge of any court of record in this State, who shall be related, within the third degree, to either of the parties in any cause depending in such court, or shall be interested in the event of any such cause, or shall have been attorney on record, or of counsel for either party in any such cause, or shall have given his opinion, in either of the said relations, upon the matter in question in the said cause, shall nominate or strike the jury for the trial of any such cause.

Challenges to a judge, when and how to be made and tried.

III. And be it enacted, That all challenges to a judge or justice, for the causes aforesaid, shall be made previous to the trial or argument, and that the court may try such challenges, or appoint three indifferent persons as triors for that purpose, at the discretion of the court, and that the report of a majority shall be received as the determination of such triors.

An ACT *concerning obligations, and to enable mutual dealers to discount.*

Passed the 1st of November, 1797.

A scroll, or ink, or other device, by way of seal, shall be valid.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That any instrument for the payment of money, to which the person making the same shall affix a scroll, or ink, or other device, by way of seal, shall be taken and adjudged to be of the same force and obligation, as if it were actually sealed with wax.

Assignment of bonds good, and assignee may sue in his own name.

II. And be it enacted, That assignments of bills, bonds and other writings obligatory, for the payment of money, shall be good and effectual in law; and an assignee of any such may thereupon maintain an action of debt in his own name, but shall allow all just set offs or discounts, not only against himself, but against the assignor, before notice of such assignment shall have been given to the defendant.

Persons jointly indebted shall be separately answerable to their creditors.

III. And be it enacted, That all persons, who now are, or hereafter shall be jointly indebted to any other person or persons, for or upon any joint contract, obligation,

obligation, matter or thing, for which a remedy could or might be had at law against such debtors, in case all were or could be taken by process issued out of any court of this State, shall be answerable to their creditors separately for such debts; that is to say, such creditor or creditors may issue process against such joint debtors; and in case any of such joint debtors shall be taken and brought into court, by virtue of such process, such of them so taken and brought into court shall answer to the plaintiff or plaintiffs, and if judgment shall pass for the plaintiff or plaintiffs, he, she or they shall have his, her, or their judgment and execution against such of them so brought into court, and against the other joint debtor or debtors named in the process, in the same manner, as if they had been all taken and brought into court by virtue of the said process.

Representatives of one jointly bound shall be chargeable as in joint and several obligations.

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

In an action upon a bond for non performance of covenants, or with condition other than for payment of money, the plaintiff may assign as many breaches as he pleases.

V. And be it enacted, That in every action upon any bond, or for any penal sum, for non performance of covenants, or agreements contained in any indenture, deed or writing, or upon any bond, with condition, other than for the payment of money, the plaintiff may assign as many breaches as he shall think fit; and the jury, upon trial of such action, shall assess damages for such of the said breaches as the plaintiff shall prove to have been broken, and on verdict therefor, the like judgment shall be entered, as heretofore hath been usually entered in such action.

If judgment be given on demurrer, or by confession, or default, the plaintiff may assign breaches.

VI. And be it enacted, That where judgment on demurrer, or by confession, or default, shall be given for the plaintiff in such action, he may assign as many breaches of the covenants, agreements, or conditions aforesaid, as he shall think fit; upon which a jury shall be summoned to enquire of the truth of such breaches, and to assess the damages, that the plaintiff shall have sustained thereby.

On payment of the damages assessed, with costs, execution to be stayed, or if the same be levied, the defendant to be discharged; but the judgment to remain to answer further breaches; on which the plaintiff or his representatives may have a scire facias.

VII. And be it enacted, That if the defendant, after such judgment entered, and before execution executed, shall pay into the court, where the action is or shall be brought, to the use of the plaintiff, or his executors, or administrators, such damages, so assessed by reason of all or any of the breaches of such covenants, agreements, or conditions, together with costs of suit, a stay of execution of the judgment shall be entered on record; and if by reason of any execution executed, the plaintiff, or his executors or administrators, shall be fully paid or satisfied all such damages so assessed, with costs of suit, and the legal charges for executing the said execution, the body, lands, and goods and chattels of the said defendant shall be thereupon forthwith discharged from the said execution, which shall likewise be entered on record: but in every such case, the said judgment shall, notwithstanding, remain as a security to the plaintiff, his executors and administrators, for any other breaches, which may afterwards happen of such covenants, agreements or conditions; upon which the plaintiff, or his executors, or administrators, may have a scire facias against the defendant, his heirs, devisees, terretenants, executors or administrators, assigning other breaches, to summon him or them respectively to shew cause, why execution should not be had or awarded on the said judgment; and thereupon damages shall be assessed as aforesaid, and execution issued accordingly; and that upon payment or satisfaction, in manner aforesaid, of such future damages, costs and charges as aforesaid, all further proceedings on the said judgment shall be stayed, and so on as often as the same shall happen; and the defendant, his body, lands, goods and chattels, shall be discharged from the said execution.

In an action on single bill or judgment, if the money be paid, the defendant may plead the same in bar.

VIII. And be it enacted, That in any action of debt on single bill, or action of debt, or scire facias, on a judgment, if the defendant hath paid the money due on such bill or judgment, such payment may be pleaded in bar.

In an action on a bond, if the money

IX. And be it enacted, That in any action of debt on a bond, which hath a condition or defeazance to make void the same on payment of a less sum, at a day

A. D. 1797.

day or place certain, if the obligor, his heirs, executors, or administrators, have before the action brought, paid to the obligee, his executors, or administrators the principal and interest due by the condition or defeazance of such bond, though such payment was not made strictly according to the condition or defeazance, yet it may be pleaded in bar, and shall be as effectual a bar of such action, as if the money had been paid at the day and place, according to the condition, or defeazance, and had been so pleaded.

due be paid after the day stipulated for payment, but before action brought, it may be pleaded in bar.

The defendant may, pending an action on a bond, bring the money due, with costs, into court.

X. And be it enacted, That if at any time pending an action on any such bond, with a penalty, the defendant shall bring into the court, where the action shall be depending, all the principal money and interest due on such bond, and all such costs as have been expended in any suit or suits in law or equity upon the said bond, the said money, so brought in, shall be deemed and taken to be in full payment and satisfaction of such bond; and the court shall give judgment to discharge the defendant from the same accordingly.

Mutual dealers may plead payment, and discount.

XI. And be it enacted, That if any two or more dealing together, or having dealt together, be indebted to each other, upon bonds, bills, bargains, contracts, promises, accounts, or the like, and one of them, or his or her executors, or administrators, commence an action against the other or others, his, her, or their executors, or administrators, in any court of this State, if the defendant or defendants cannot gainsay the deed, bargain, contract, or assumption, upon which he, she, or they is or are sued, it shall be lawful for such defendant or defendants to plead payment of all or any part of the debt or sum demanded, giving notice, in writing, with the said plea, of what he, she, or they will insist upon, at the trial, for his, her, or their discharge, and to give any bond, bill, receipt, account, bargain or contract, so given notice of, in evidence, or else be precluded from bringing any action for that which he, she, or they might or ought to have pleaded and given in evidence by virtue of this act: And further, where such suit shall be brought on a bond, bill, or other contract, for the recovery of a penalty, on the non payment of money only, or for a penalty to secure or enforce the payment of money only, and if any bond, bill, or contract, with such penalty as aforesaid, shall be given in evidence for the plaintiff or defendant upon such trial, under the plea of payment, then the sum bona fide, and in equity due, and not the penalty, shall be deemed and taken to be the debt due.

The real sum due, and not the penalty, shall be considered as the debt.

If the debt be paid, the jury shall find for the defendant.

XII. And be it enacted, That if, on such trial, it shall appear, that the debt or sum so demanded is paid or satisfied, the jury shall find for the defendant or defendants, and judgment shall be entered, that the plaintiff or plaintiffs take nothing by his, her, or their writ, bill, or plaint; and unless the plaintiff or plaintiffs prosecute as executors, or administrators, the defendant or defendants shall also recover his, her, or their costs of suit against such plaintiff or plaintiffs.

Jury to discount money paid, and find verdict for balance due.

XIII. And be it enacted, That if, on such trial, it shall appear, that any part of the debt or sum demanded has been paid or satisfied, then such part shall operate as payment, and so far extinguish the said debt or sum, and in such case it shall be the duty of the jury to set off or discount so much as has been paid or satisfied, and to find a verdict for the amount of the residue or balance, upon which the plaintiff shall have judgment, with costs of suit, if costs ought to be awarded, Provided, That in all actions, which shall be brought on any bond or obligation for the payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such bond or obligation, to be discharged by the payment of the principal, or sum found by the verdict, as the case may require, with interest till paid, and costs, where costs ought to be awarded; unless it be proper that such judgment shall stand as a further security to the plaintiff, his executors and administrators.

Judgment shall be entered for the penalty, to be discharged by the payment of the principal, or sum found by the verdict.

If the plaintiff be overpaid, the jury shall find for the defendant to the amount of such surplus.

XIV. And be it enacted, That if, on such trial, it shall appear, that the plaintiff or plaintiffs is or are overpaid, then it shall be the duty of the jury to find a verdict for the defendant or defendants for the sum so overpaid, for which he, she, or they shall have judgment and execution, with costs, unless the plaintiff or plaintiffs prosecute as executors or administrators, in which case, the sum so found by the jury, shall be deemed a debt of record, to be paid in the course of

of administration, and the defendant or defendants, for recovery thereof, shall have an action of debt, or a scire facias, against the plaintiff or plaintiffs, in the said action. A. D. 1797.

XV. And be it enacted, That the act, entitled, "An Act for preventing multiplicity of lawsuits," passed the fifth day of May, in the year of our Lord, one thousand, seven hundred and twenty two, and every act and clause of acts, within the purview of this act, be, and are hereby repealed. A certain act repealed.

An ACT *ascertaining the duties of commissioners of appeal in cases of taxation.*

Passed the 4th of November, 1797.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the commissioners of appeal, in cases of taxation, in and for every township, shall, for the purpose of discharging the duties of their office, convene at the usual place of holding town meeting, and at such times, where it is not otherwise directed by law, as they shall appoint, giving at least eight days previous notice of every such meeting, in writing, under their hands, and fixed up at six or more of the most public places in such township. Commissioners of appeal, where to meet, and how to give notice thereof.

II. And be it enacted, That it shall be the duty of the assessor, who made the assessment appealed from, to attend at the said time and place before the said commissioners, and to offer such reasons as he may think proper in support of the said assessment. The assessor to attend the hearing of appeals.

III. And be it enacted, That the said commissioners, after due examination of the facts and consideration of the case, shall give such judgment as shall be agreeable to the principles of justice; which judgment shall be final and conclusive, and shall be rendered within three days after the hearing of the said appeal. Judgment of commissioners to be rendered within three days, and to be final.

IV. And be it enacted, That it shall be the duty of the said commissioners to give a transcript of their judgment to the appellant, in case such judgment shall pass in his or her favor, which transcript shall be a sufficient voucher to such appellant; and the collector of such township, in collecting the taxes of the same, and every other officer, whom it may concern, is hereby directed to govern himself accordingly. A transcript of the judgment to be given to the appellant, if in his favor.

V. And be it enacted, That such commissioners shall have full power to bring before them, by subpœna or otherwise, any person as a witness on the hearing of such appeal, to whom they are hereby empowered to administer the necessary oath or affirmation. Commissioners may subpœna and swear witnesses.

VI. And be it enacted, That every commissioner of appeal shall be paid out of the public money, in the hands of the collector of such township, the sum of one dollar a day, for every day he shall have attended on the hearing and determining of such appeal, whose receipt shall be a sufficient voucher to such collector for so much of the said money, as shall be paid by him for that purpose. Compensation of the commissioners, and by whom to be paid.

VII. And be it enacted, That all costs accruing on any such appeal shall abide the event thereof, that is to say, if the appellant shall be discharged from the payment of the whole or of any part of the said tax, then the costs to be paid out of the public money in the hands of the collector of such township, by an order signed by the said commissioners; but if no abatement be made in such tax, then the costs shall be paid by the appellant. Costs accruing on appeals, by whom to be paid.

VIII. And be it enacted, That if any of the said commissioners shall neglect or refuse to perform the duties required of him in and by this act, then he shall, for every such neglect or refusal, forfeit and pay ten dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, by Penalty on commissioners for neglect of duty.

A. D. 1797.

the clerk of the township, in which the said commissioner resides, for the use of such township.

Township to include precinct and ward.

IX. And be it enacted, That the term township, made use of in this act, shall be construed to comprehend precinct and ward.

Former act repealed.

X. And be it enacted, That the act, entitled, "An Act to ascertain the duty of commissioners of appeals," passed the fifth day of June, in the year of our Lord, one thousand, seven hundred and seventy seven, be, and hereby is repealed.

An ACT *to prevent suits under a certain sum being brought in the supreme court.*

Passed the 6th of November, 1797.

Plaintiff not to have costs, if he shall not recover above 200 dollars.

To what suits this section shall not extend.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if, in any suit, which shall be instituted in the supreme court of this State, the plaintiff shall not recover above two hundred dollars, exclusive of costs, then such plaintiff shall not be entitled to costs; but this section shall not extend to, or affect any suit, in which the freehold, inheritance, or title to lands, tenements, hereditaments, or other real estate, may in any wise come in question, nor any suit, which may be removed into the said court by the defendant in such suit.

Suits not to be removed by habeas corpus, unless they exceed 200 dollars.

II. And be it enacted, That no suit, which shall be commenced in any of the inferior courts of common pleas, shall be removed by writ of habeas corpus into the said supreme court, unless the debt, damages, matter or thing in controversy shall exceed two hundred dollars.

No writ of habeas corpus to be received after issue joined.

III. And be it enacted, That no writ of habeas corpus, for the removal of a cause, shall be received by the inferior court of common pleas, to which it may be directed, nor shall any cause be removed by such writ, after issue joined upon matter of law or of fact.

Cause once remanded, shall never again be removed.

IV. And be it enacted, That if any cause be removed or stayed by writ of habeas corpus, and afterwards be remanded or sent back by writ of procedendo, or other writ, the same cause shall never again be removed or stayed by any writ of habeas corpus.

Writs of habeas corpus contrary to this act not to be regarded.

V. And be it enacted, That if any writ of habeas corpus, for the removal of a cause, shall be issued out of the supreme court, contrary to the true intent and meaning of this act, then the court, to which such writ shall be directed or offered, shall proceed in the said cause, as though no such writ had been issued or offered.

Certain acts repealed.

VI. And be it enacted, That the act, entitled, "An Act for continuing an act passed in the twenty first year of his late majesty's reign, entitled, an act to prevent actions of fifteen pounds and under being brought into the supreme court of this colony," passed the twenty eighth day of November, in the year of our Lord, one thousand, seven hundred and sixty, and the act, entitled, "An Act for the speedy recovery of debts from six pounds to ten pounds," passed the sixth day of December, in the year of our Lord, one thousand, seven hundred and seventy five, and the fifth section of the act, entitled, "An Act to extend the power of justices of the peace in the several counties of this State, and to prevent actions under fifty pounds being brought in the supreme court, and for other purposes therein mentioned," passed the fifth day of June, in the year of our Lord, one thousand, seven hundred and eighty two, and every act and part of acts, coming within the purview of this act, be, and they are hereby repealed.

An ACT

An ACT *relative to juries and verdicts.*

A. D. 1797.

Passed the 10th of November, 1797.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every venire facias, for the trial of any issue in any action or suit, civil or criminal, in any court of this State, shall be awarded of the body of the proper county, in which such issue is triable; except where a foreign jury shall be deemed necessary, and then the venire facias shall be awarded of the body of the county, from which such foreign jury is directed to come.

Venire facias to be awarded of the body of the county.

II. AND BE IT ENACTED, That every person, who shall be summoned to serve as a grand juror in any court of this State, shall be a citizen of this State, and resident within the county, above the age of twenty one, and under the age of sixty five years, and have a freehold in lands, messuages or tenements in the county, for which he shall be returned; and if any person, not so qualified, shall be summoned to serve as a grand juror, it shall be a good cause of challenge to such juror, who shall be discharged upon such challenge being verified and substantiated according to law, or on his own allegation, and oath or affirmation in support thereof.

Qualifications of grand jurors.

Grand juror, not qualified, may be challenged.

III. AND BE IT ENACTED, That every person, who shall be appointed foreman of a grand jury, shall, from the time of his appointment until his discharge, be empowered to administer the usual oath or affirmation to such witnesses as shall come to give evidence to the grand jury, whereof he is foreman. AND FURTHER, That it shall be the duty of such foreman, before he be discharged, to certify to the proper court, under his hand, the names of such witnesses, as shall have been by him so sworn or affirmed as aforesaid.

Foreman of grand jurors empowered to administer oaths to witnesses.

IV. AND BE IT ENACTED, That in case of the sickness, death, or non attendance of any grand juror or grand jurors, after he or they shall be sworn or affirmed, it shall be lawful for the court, at their discretion, to cause another or others to be sworn or affirmed in his or their stead.

If grand jurors become sick, &c. others may be sworn in their stead.

V. AND BE IT ENACTED, That every summons of any grand juror shall be made by the sheriff, or his lawful deputy, either personally to, or in writing, under his hand, left at the dwelling house of such grand juror, at least six days before the first day of the court.

Grand jurors how to be summoned.

VI. AND BE IT ENACTED, That every person, summoned to appear on a grand jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the court in any sum not exceeding twenty dollars, to the use of the county, where such offence was committed.

Penalty on grand jurors for not attending.

VII. AND BE IT ENACTED, That every petit juror, who shall be returned upon the trial of any indictment, presentment, or pleas of the State, in any court thereof, and every juror, who shall be returned upon trials of issues in the supreme court, or in any of the circuit courts, or before any justice or justices of assize, or in any of the inferior courts of common pleas, shall be a citizen of this State and resident within the county, above the age of twenty one and under the age of sixty five years, and have a freehold in lands, messuages or tenements in the county, for which he shall be returned; and if any person, who is not so qualified, shall be summoned as a juror on the trial of any indictment, presentment, pleas of the State, or issue, in any of the courts in this section specified, it shall be a good cause of challenge to such juror, who shall be discharged upon such challenge being verified and substantiated according to law, or on his own allegation, and oath or affirmation in support thereof. PROVIDED, That no exception against any such juror, on account of his citizenship, estate or age, or any other legal disability, shall be allowed after he is sworn or affirmed.

Qualification of petit jurors.

Petit jurors, not qualified, may be discharged.

VIII. AND BE IT ENACTED, That the summons of every juror, described in the section next preceding, shall be made by the sheriff, or his lawful deputy, either

Petit jurors how to be summoned.

either personally to, or in writing, under his hand, left at the dwelling house of such juror six days, at the least, before the day on which such juror ought to make his appearance at court; and such juror, in case of non attendance, shall, if he does not assign any reasonable excuse, be fined by the court in any sum, not exceeding sixteen dollars, to the use of the county, where such offence was committed.

Penalty for not attending.

What sufficient to be inserted in the mandatory part of the habeas corpora juratorum, or distringas.

IX. And be it enacted, That it shall be sufficient, in the mandatory part of the writ of habeas corpora juratorum, or distringas, to insert the following words: "The bodies of the several persons named in the panel to this writ annexed," or words of the like import, and to annex to the said writ a panel, containing the same names as were returned in the panel to the venire facias juratores.

Penalty on sheriffs and other officers for taking a reward to excuse persons from serving on juries.

X. And be it enacted, That no sheriff, coroner, or other officer, or any deputy of such sheriff, coroner, or other officer, shall, directly or indirectly, take, accept or receive any money, or other reward or thing, to excuse any person from serving, or being summoned or returned to serve on any jury or inquest, or under that colour or pretence, on pain of forfeiting one hundred and fifty dollars for every such offence, the one moiety to the State, and the other moiety to any person, who shall prosecute for the same, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum.

Courts empowered to order views where proper and necessary.

XI. And be it enacted, That it shall be lawful for the supreme court, or inferior court of common pleas, in which any action is or shall be depending, and where it shall appear to the court to be proper and necessary, that the jurors, who are to try the issue in the said action, should have a view of the messuages, lands or place in question, in order to their better understanding the evidence that will be given on the trial of such issue, to order a special writ of distrangas, or habeas corpora juratorum, to issue, by which the sheriff or other officer, to whom the same shall be directed, shall be commanded to have six or more of the first twelve of the jurors, named in the panel to such writ annexed, at the place in question, not less than six days prior to the first day of the court, who then and there shall have the matters in question shewn to them, by two persons, in the said writ named, to be appointed by the court; and the sheriff, or other officer, who is to execute the said writ, shall, by a special return on the same, certify, under his hand, that the view hath been had according to the command of the said writ.

Expense of view, how to be paid.

No evidence to be given at the taking thereof.

If no view, &c. be had, the trial shall proceed.

XII. And be it enacted, That the expenses of taking the said view shall be equally borne by both parties, and that no evidence shall be given on either side at the time of taking thereof. Provided always, *and be it further enacted*, That in case no view shall be had, or if a view shall be had by any of the said jurors, whether they shall happen to be any of the twelve jurors, who shall be first named in the said writ or not, yet the said trial shall proceed; and no objection shall be made on either side for want of a view, or that a view was not had by any of the twelve jurors first named, or for that it was not had by any particular number of the jurors named in the said writ, or for want of a proper return to the said writ.

Sheriff annually to procure a list of persons qualified to serve as jurors.

XIII. And be it enacted, That it shall be the duty of the respective sheriffs of the several counties in this State, at their own expense, to procure, yearly and every year, a list of the names of the persons, who, in their respective counties, are qualified to serve as jurors on trials.

The supreme courts, and courts of common pleas and sessions of the peace empowered to order struck juries.

XIV. And be it enacted, That it shall and may be lawful for the supreme court, the courts of common pleas, and the courts of general quarter sessions of the peace, respectively, on motion, in behalf of this State, or of any prosecutor or defendant in any indictment, or information in nature of a quo warranto, or on motion, in behalf of this State, or of any plaintiff, demandant, avowant, tenant, or defendant, in any action or suit, depending or to be depending before them, and triable by a jury of twelve men, to order a jury to be struck for the trial thereof; but this clause shall not extend to any indictment for any offence, where the party is entitled to challenge peremptorily, or without cause shewn.

Mode of striking a jury.

XV. And be it enacted, That it shall be the duty of the sheriff of the proper county, or other officer, who ought to empanel the jury in such case,

to

A. D. 1797.

to deliver at a certain day and place, to the judge of the court, before whom the jury is to be struck, a book containing the names of the several persons in his county, qualified to serve as jurors on such trial, with their places of abode; and the party applying for such struck jury, or his attorney, shall give eight days previous notice to the adverse party, or his attorney, and to the judge, sheriff, or other officer aforesaid, of the time and place of striking the said jury; at which time and place the said judge shall, in the presence of the parties, or their agents, or attornies, or such of them as shall attend for that purpose, select and transcribe from the said book the names of forty eight such persons, with their places of abode, as he shall think most impartial and indifferent between the parties, and best qualified as to talents, knowledge, integrity, firmness and independence of sentiment, to try the said cause; and thereupon the party applying for such jury, his agent or attorney, shall first strike out one of the said names, and then the adverse party, his agent or attorney, shall strike out another, and so on, alternately, until each shall have stricken out twelve; but if the adverse party shall not attend such striking, nor any person in his behalf, then the said judge shall strike for him; and when each shall have stricken out twelve, as aforesaid, the remaining twenty four shall be the jury to be returned to try the said cause; and the said judge shall thereupon make a fair copy of the names of the remaining twenty four persons, with their places of abode, and certify the same under his hand to be the list of jurors struck, as aforesaid, for the trial of the said cause; which list shall be delivered to the sheriff, or other officer, who ought to summon such jury, together with the venire facias; and such sheriff, or other officer shall thereupon annex the same list to the said venire facias, and return the same as the panel of the jury to try the said cause, and summon them according to the command of the said writ.

Fees for striking a jury to be paid by the applicant.

XVI. And be it enacted, That the party applying for such struck jury shall pay the fees for striking the same, and shall not have any allowance therefor upon the taxation of costs.

Challenges in behalf of the State, how to be decided.

XVII. And be it enacted, That if the attorney general, or any other person prosecuting for this State, shall, in behalf of the State, challenge any juror, he shall immediately assign the cause of such challenge, and the truth thereof shall be enquired into and decided upon in the same manner as the challenges of other parties are by law enquired into and decided upon.

Juries shall not be compelled to give a general verdict.

XVIII. And be it enacted, That no jury shall in any case be compelled to give a general verdict, so that they find a special verdict, and shew the truth of the fact, and require the aid of the court; but if, of their own will, they give a general verdict, the same shall be received at their peril.

Jurors how to give evidence.

XIX. And be it enacted, That jurors, who know any thing relative to the point in issue, shall, during trial, disclose the same in open court.

Jury may take with them papers, though not under seal.

XX. And be it enacted, That papers read in evidence, though not under seal, may be carried from the bar by the jury.

Where one of several counts is bad, and general damages given, the verdict shall be good.

XXI. And be it enacted, That where there are in a declaration several counts, some of which are faulty or bad, and others not, and entire damages are given, the verdict shall be good and effectual in law; but the defendant may apply to the court to instruct the jury to disregard such faulty or bad counts.

If the verdict in detinue omit price or value, a writ of enquiry may be awarded.

XXII. And be it enacted, That if, in detinue, the verdict shall omit price or value, the court may, at any time, award a writ of enquiry to ascertain the same.

If no verdict be found for part of the things in one count in detinue, it shall not be error.

XXIII. And be it enacted, That if, on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error; but the plaintiff shall be barred of his title to the things omitted.

A. D. 1798.

An ACT *enabling grantees of reversions and lessees mutually to avail themselves of covenants and conditions.*

Passed the 10th of November, 1797.

Grantees of lands or of reversions to enjoy the same benefits as the original lessors.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all persons and bodies politic and corporate, being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof from any person or persons, and the heirs, executors, administrators, successors and assigns, of such grantees or assignees, shall have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non payment of rent, or for waste or other forfeitures; and also shall have and enjoy all the covenants, conditions, and agreements, contained in the indentures of their said leases, demises or grants, against the said lessees, their executors, administrators and assigns, as the said lessors themselves, or their heirs, ought or might have had or enjoyed at any time or times.

Lessees of lands to have the same advantages against the grantees of reversions as against the original lessors.

II. AND BE IT ENACTED, That all lessees of any lands, tenements or hereditaments, for a term of years, life or lives, their executors, administrators and assigns, shall have the like action and advantage against all persons, and bodies politic and corporate, their heirs, successors, and assigns, who have or shall have any gift or grant of the reversion of the said lands, tenements or hereditaments, so let, or any part thereof, for any condition, covenant or agreement, contained in the indentures of their lease or leases, as the same lessees, or any of them, ought or might have had against the said lessors and their heirs; all benefit and advantage of recoveries in value, by reason of any warranty in deed or in law, only excepted.

An ACT *for the preservation of oysters.*

Passed the 26th of January, 1798.

When oysters shall not be taken.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That from and after the first day of May until the first day of September, yearly and every year, no person, under pretence of taking clams, or other shell fish, or under any other pretence whatsoever, shall rake on any oyster banks or beds in this State, or gather any oysters or shells on any banks or beds within the same; and if any person shall so do, whether oysters be taken or not, he shall, for every offence, forfeit and pay four dollars, to be recovered, with costs, by action of debt, by any person, who shall prosecute for the same in any court of record of this State having cognizance of that sum.

The penalty, and how to be recovered.

Justice of the peace to issue his warrant against offenders.

II. AND BE IT ENACTED, That it shall be the duty of every justice of the peace, upon his own view, or the information of any person on oath or affirmation, to issue his warrant to one or more constable or constables in his county, commanding him or them to require such and so many persons, as he or they shall deem necessary, to aid and assist him or them in apprehending every person, offending against the preceding section in any of the bays, rivers or waters of this State, and forthwith to bring such offender, when apprehended, before the said justice, or any other justice of the peace, to be proceeded against in the manner herein before directed.

Penalty for offering oysters for sale, between the 1st of May and 1st of September.

III. AND BE IT ENACTED, That if any person shall offer oysters for sale between the first day of May and the first day of September aforesaid, such person shall, for every offence, forfeit and pay four dollars, to be recovered and applied in the manner directed in and by the first section of this act.

Penalty for burning oysters for lime.

IV. AND BE IT ENACTED, That if any person shall at any time rake or gather oysters in any of the rivers, bays, or waters of this State, for the purpose of burning and converting them into lime only, he shall, for every offence, forfeit and pay

pay six dollars, to be recovered and applied in the manner directed in and by the first section of this act. A. D. 1798.

V. And be it enacted, That no person, not residing in this State, shall rake or gather oysters or shells in the same, and put them on board of any canoe, flat, scow, boat or other vessel, not wholly belonging to and owned by some person or persons, who live in this State, under the penalty of forfeiting such canoe, flat, scow, boat or vessel, together with all the oysters, shells, oyster rakes, tongs, tackle, furniture and apparel in and belonging to the same.

None but persons residing in this State to rake and gather oysters in the same.

VI. And be it enacted, That any person, who shall seize and secure any such canoe, flat, scow, boat or other vessel aforesaid, shall immediately thereupon give information thereof to any two justices of the peace of the county, where such seizure shall have been made, who are hereby empowered and required to meet at such time and place, as they shall appoint, for the trial thereof; and the same, if condemned, shall, with all things thereunto belonging, be sold by the order and under the direction of the said justices, who, after deducting all legal costs and charges, shall pay the one moiety of the proceeds to the collector of the said county, for the use of the county, and the other moiety to the person, who seized and prosecuted the same.

Seizure of vessels, how to be prosecuted, and the proceeds thereof, how to be applied.

VII. And be it enacted, That if any person or persons, on board of any such canoe, flat, scow, boat, or other vessel aforesaid, shall refuse and not suffer to enter, or resist before or after entering, any of the said officers, or otherwise resist them or any of them in the execution of their office, then every person, so offending, shall forfeit and pay thirty dollars, to be recovered, with costs, by action of debt, by such officer, in any court of record of this State having cognizance of that sum; the one moiety to the use of such prosecutor, and the other moiety to the collector of the county, where the offence was committed, for the use of such county.

Penalty for resisting the officers.

VIII. And be it enacted, That the act, entitled, "An Act for the preserving of oysters in the province of New-Jersey," passed the twenty seventh day of March, in the year of our Lord, one thousand, seven hundred and nineteen, and every other act, clause, or parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Certain acts repealed.

An ACT *for the relief of insolvent debtors.*

Passed the 26th of January, 1798.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An Act for the relief of persons imprisoned for debt," passed the eighteenth day of March, in the year of our Lord, seventeen hundred and ninety five, shall be, and the same is hereby revived and extended, and every matter and clause thereof, to all persons now in actual confinement in any of the prisons in this State.

Former act revived and extended to persons now in actual confinement.

II. And be it enacted, That the above recited act, and every matter, clause and thing therein contained, shall be, and the same is hereby revived and continued in force, so far as to extend to all persons, who shall hereafter be imprisoned for any debts or contracts entered into from and after the fourth day of July next.

And to persons, who shall be imprisoned for debts contracted after the 4th of July, 1798.

See page 184 of this volume, for the original act, which is revived and extended by this act.

An ACT

A. D. 1797.

An ACT *for the further division of the township of Newton, in the county of Sussex.*

Passed the 5th of February, 1798.

Preamble.

WHEREAS a number of the inhabitants of the township of Newton, in the county of Sussex, by their petition, have set forth, that they labor under many and great disadvantages, by reason of the great extent of the said township; for remedy whereof,

Bounds of the new townships.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Newton lying to the south of the following line; to wit, beginning in the road that leads from the red meeting house, on the Wallkill, to Sussex court house, where the line between Hardyston and Newton crosses said road, from thence along the top of the ridge of mountains, northwesterly side of the Long meadows, which is a southwesterly course, to the height of said mountain, between Nathan Whitehead's and Herman Milheim's, from thence a straight line to within one chain of the southeasterly side of the place known by the name of, the Narrows, on the road leading from Newton, Sussex court house, to Morristown, from thence the same course to the Independence line, shall be, and the same is hereby set off from the township of Newton, and the same is hereby established a separate township, to be called by the name of, "Byram."

Its name.

An ACT *for the division of the township of Roxbury, in the county of Morris.*

Passed the 12th of February, 1798.

Preamble.

WHEREAS a number of the inhabitants of the township of Roxbury, in the county of Morris, by their petition, have set sorth, that they labor under many disadvantages by reason of the great length of the said township; for remedy thereof,

Bounds of the new township.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Roxbury, in the county of Morris, lying within the following boundaries; to wit, beginning in the line of Somerset county, near the rock school house, in the barrens, near David Ommerman's house, from thence a straight course to the school house, near Nicholas Emmans's dwelling house, from thence a straight course to Skinner's and Emmans's forge, thence up the river to Elias Howell's mill, thence a straight course to Robert Carlisle's, junior, house, from thence a straight course to the house where Daniel Stewart lately lived, formerly called James Eaton's, from thence along the great road up Schooley's mountain, by William Wire's house, thence along the most direct road to Hackets town bridge, thence down the river to Hunterdon county line, thence along the lines of Hunterdon and Somerset to the place of beginning, shall be, and the same is hereby set off from the township of Roxbury, and the same is hereby established a separate township, to be called by the name of, "The Township of Washington."

Its name.

An ACT *for dividing the township of Great Egg-Harbour, in the county of Gloucester, into two separate townships.*

Passed the 12th of February, 1798,

Preamble.

WHEREAS a number of the inhabitants of the township of Great Egg-Harbour, in the county of Gloucester, by their petition, have set forth, that they have long labored under many and great difficulties by reason of the extent of the said township; for remedy whereof,

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all that part of the township of Great Egg-Harbour,

Egg-Harbour, lying to the west and southwest of the said Great Egg-Harbour river; to wit, beginning at the mouth of Turkeyhoe river, thence up the middle of Great Egg-Harbour river until it meets the line of Deptford township, thence along the said line to the line between Cumberland and Gloucester county, thence down said line till it intersects the line between Gloucester and Cape-May, thence down the middle of Turkeyhoe river to the place of beginning, shall be, and the same is hereby set off from the township of Great Egg-Harbour, and the same is hereby established a separate township, to be called by the name of, "Weymouth."

A. D. 1798.

Bounds of the new township.

Its name.

An ACT *to incorporate the chosen freeholders in the respective counties of the State.*

Passed the 13th of February, 1798.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the chosen freeholders of the several townships, precincts, and wards in the respective counties of this State, and their successors, shall be, and they are hereby constituted a body politic and corporate in law by the following names; that is to say,

Chosen freeholders of the respective counties incorporated.

That the said freeholders, in and for the county of Bergen, shall be styled and known by the name of, "The board of chosen freeholders of the county of Bergen."

Names of the several boards of freeholders.

That the said freeholders, in and for the county of Essex, shall be styled and known by the name of, "The board of chosen freeholders of the county of Essex."

That the said freeholders, in and for the county of Middlesex, shall be styled and known by the name of, "The board of chosen freeholders of the county of Middlesex."

That the said freeholders, in and for the county of Monmouth, shall be styled and known by the name of, "The board of chosen freeholders of the county of Monmouth."

That the said freeholders, in and for the county of Somerset, shall be styled and known by the name of, "The board of chosen freeholders of the county of Somerset."

That the said freeholders, in and for the county of Burlington, shall be styled and known by the name of, "The board of chosen freeholders of the county of Burlington."

That the said freeholders, in and for the county of Gloucester, shall be styled and known by the name of, "The board of chosen freeholders of the county of Gloucester."

That the said freeholders, in and for the county of Salem, shall be styled and known by the name of, "The board of chosen freeholders of the county of Salem."

That the said freeholders, in and for the county of Cape-May, shall be styled and known by the name of, "The board of chosen freeholders of the county of Cape-May."

That the said freeholders, in and for the county of Hunterdon, shall be styled and known by the name of, "The board of chosen freeholders of the county of Hunterdon."

That the said freeholders, in and for the county of Morris, shall be styled and known

A. D. 1798.

known by the name of, "The board of chosen freeholders of the county of Morris."

That the said freeholders, in and for the county of Cumberland, shall be styled and known by the name of, "The board of chosen freeholders of the county of Cumberland."

That the said freeholders, in and for the county of Sussex, shall be styled and known by the name of, "The board of chosen freeholders of the county of Sussex."

Such corporations may hold property, have a common seal, may sue and be sued, and make by-laws.

II. And be it enacted, That the said boards of chosen freeholders, in and for their respective counties, and their successors, shall be able and capable to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, goods and chattels, in trust to and for the use of their said counties respectively, and for such other uses as are or may be designated by law; to sue or be sued, implead or be impleaded, to make and use a common seal, and the same to alter and renew at their pleasure, and to ordain, establish, and put in execution such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of their respective corporations; provided the same are not contrary to the constitution or laws of this State.

Process against them, how to be served.

III. And be it enacted, That when any suit shall be instituted against any of the said corporations, a copy of the summons, precept, or such other legal process, as may be issued against the same, shall be left with the director of the board, or clerk thereof, thirty days at least before the session of the court, to which such process shall be returnable.

In what cases such corporations are authorized to grant and raise money.

IV. And be it enacted, That it shall be the duty of every such corporation, at their stated annual meeting, or at any other meeting duly held for the purpose, to vote, grant and raise such sum or sums of money for the building, purchasing, or repairing of poor houses, gaols, court houses and bridges, the surveying and ascertaining the lines, the prosecuting and defending the rights, defraying the public and other necessary charges, and doing, fulfilling and executing all the legal purposes, objects, business and affairs of such county, as they or the major part of them shall deem adequate or proper; all which monies, so raised, shall be applied, paid and expended under the direction and management of the said corporation.

May adjourn, &c.

V. And be it enacted, That it shall and may be lawful for such corporation, at their annual or other legal meetings to adjourn from time to time as they shall judge necessary.

Time and place of their annual stated meetings.

VI. And be it enacted, That there shall be a stated meeting of every such corporation at the place of holding the court of common pleas in and for such county, at the hour of eleven in the forenoon of the second Wednesday in the month of May, annually.

Director of the board to be elected.

VII. And be it enacted, That it shall and may be lawful for every such corporation to elect, annually, one of their own members to preside at their meetings, who shall be called, the director of the board; and in case of his absence or refusal to act, then such corporation shall proceed to the election of another.

Clerk to be elected, his pay and duty.

VIII. And be it enacted, That the said corporation shall annually elect some fit person, being a freeholder and resident in the county, and not a member of such corporation, for their clerk, who shall be entitled to the sum of one dollar and a half, for every day he shall be employed in the duties of his office, and whose duty it shall be to keep the minutes, and enter the orders and proceedings of the corporation in a book to be kept for the purpose, and who shall have the custody of the common seal, and the papers, deeds, writings, documents, and books relating to the said corporation; which clerk shall, before he enters upon the execution of his office, take and subscribe an oath or affirmation before the

the director of the board, who is hereby authorized to administer the same, that he will well and faithfully discharge all the duties appertaining to the said office.

On the death or expiration of the office of clerk, the common seal, books, &c. to be delivered to the successor. Forfeiture in case of refusal or neglect.

IX. And be it enacted, That upon the death or expiration of the office of clerk of any of the said corporations, the common seal, and all the minutes, papers, deeds, writings, documents, and books of or belonging to such corporation, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or, in case of his death, on the oath or affirmation of his executors or administrators; and if any such clerk, his executors or administrators, shall refuse or neglect to deliver the same on oath or affirmation as aforesaid, being lawfully demanded, then every such person shall forfeit one hundred dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the said corporation.

Special meetings, how to be convened.

X. And be it enacted, That it shall be the duty of the director of the board, or, in case of his absence, inability, or death, then of the clerk thereof, on application in writing, subscribed by any three of the said chosen freeholders, and specifying the business, object and purpose of calling the said board, to convene special meetings of the said corporation, by writing under his hand, directed to the respective members thereof, and left at their respective places of abode, at least fourteen days prior to the day of meeting, mentioning therein the time, and business, object, or purpose of such meeting; and further, that all special meetings shall be held at the place of holding the annual stated meeting. And if any such director or clerk shall, on application as aforesaid, refuse or neglect to call or convene such special meeting of the said corporation, then he shall forfeit one hundred dollars, to be recovered, with costs, by action of debt, in any court having cognizance of the same, in the name and for the use of the said corporation.

Penalty on any member not attending the meetings of the corporation.

XI. And be it enacted, That if any of the members of the said corporation shall neglect or refuse to attend at the annual stated meeting, or at any special meeting as aforesaid of such corporation, then such member shall forfeit eight dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the said corporation.

When such corporation shall pass a grant for any money, how the same is to be assessed and raised.

XII. And be it enacted, That when any of the said corporations shall pass an order or grant, for the raising of any sum or sums of money for any purpose specified in this or any other act, it shall be the duty of such corporation to direct, in writing, the assessors of the respective townships in the said county, to assess the said sum or sums on the inhabitants and their estates, agreeably to the law for the time being for the raising of money by taxation for the use of the State; and further, that it shall be their duty also to direct, in writing, the time and place of the meeting of the said assessors, to adjust and ascertain the proportion of the said sum or sums to be levied on each township, and the time for collecting the same; which proportion, so adjusted and fixed, shall be assessed and collected by the respective assessors and collectors of the several townships in such county.

The duties, penalties and compensations of assessors and collectors.

XIII. And be it enacted, That when any of the said corporations shall at any time consider a tax, for any of the purposes specified in this or any other act, necessary to be raised at a time different from the State tax, then the said assessors and collectors shall perform the like duties, be allowed the like compensation for their services in the premises, be liable to the like fines and penalties, to be recovered by the same persons, and in like manner, and in all things be governed by the like regulations, as are prescribed and enjoined in and by the law for the time being for the assessing, levying, and collecting money by taxation for the use of the State; except so far as relates to the time of assessing and collecting, which shall be ascertained in the manner mentioned in the section next preceding; and except also, that the fines and penalties shall, when recovered, be paid to the director of such corporation, and applied to such county uses and purposes, as the said corporation shall direct. Provided always, That when the said tax shall be ordered to be raised at the same time with the State tax, one half of the usual fees, and no more, shall be allowed to the said assessor and collector.

Appeal allowed.

XIV. And be it enacted, That if any person shall think himself or herself aggrieved by any such assessment, he or she may appeal to the commissioners of appeal

A. D. 1798.

appeal in and for the township or precinct, agreeably to the act, entitled, "An Act ascertaining the duties of commissioners of appeal in cases of taxation."

When township collector shall return the names of delinquents to a justice of the peace;

XV. And be it enacted, That in case of non payment of the assessment of any tax, which shall be due at any time different from that fixed for the payment of the State tax aforesaid, for the space of twenty days after demand thereof, the collector of such township shall make out a list of the names of such delinquents, with the sums due from them, respectively, thereto annexed, and forthwith deliver the same to some justice of the peace residing in such township, or, if necessary, to any other justice of the peace of the said county, and shall, within one week after the expiration of the said twenty days, pay the taxes by him received to the collector of the county.

and when pay the tax to the county collector.

Township collector to make oath to the truth of his return.

XVI. And be it enacted, That it shall be the duty of the said justice of the peace, on receiving a list of the names of such delinquents, mentioned in the preceding section, to administer an oath or affirmation to the said collector, that the monies in the said list mentioned had been duly demanded, or due notice thereof given to or left at the usual place of abode of each delinquent, who may then reside in such township; and thereupon shall give to the collector a receipt for such list, certifying therein the names of such delinquents, and the sums at which they were respectively assessed; and further, that the said township collector shall not be charged by the county collector with the sums in such list contained, until he receive the same from the constable.

How justices of the peace are to proceed against delinquents.

XVII. And be it enacted, That when any list of the names of delinquents as aforesaid shall be received by any justice of the peace for prosecution, it shall be the duty of such justice to proceed thereon in the manner prescribed by the then existing law for the recovery from the delinquents of taxes directed to be raisd for the use of the State.

Constables how to proceed in the exercise of their office.

XVIII. And be it enacted, That it shall be the duty of every constable to execute every warrant, precept, or other process, to him directed and delivered against such delinquents, respectively, or their estates, in the manner prescribed in and by the law for the time being, in cases of the like kind, where taxes are to be raised for the use of the State.

County collector when, and by whom to be elected, &c.

XIX. And be it enacted, That each of the said corporations shall, at their annual stated meetings, elect some fit person, being a freeholder and resident in such county, and not a member of such corporation, to the office of county collector, who shall, before he enters upon the execution of his office, give bond, with two sureties, being freeholders and residents in the county, to the said corporation in such penal sum as they shall think proper, conditioned for the faithful performance of the duties of his said office as collector of such county according to law.

To give bond.

If county collector die, &c. another to be elected.

XX. And be it enacted, That if the person, so chosen to the office of county collector, shall die, or remove out of the county, or become incapable of serving, or shall refuse to serve, or neglect or refuse to give such bond, as aforesaid, then it shall be lawful for the said corporation to elect another in his room.

In what cases such corporations are empowered to call to account and prosecute officers, having State or county monies in their hands.

XXI. And be it enacted, That the said corporations shall be, and they hereby are severally empowered, from time to time, and as they shall judge proper, to require all public officers in and for their respective counties, and others, to render unto them a true account of all the monies or other property, which they have heretofore received, or shall hereafter receive, or be entrusted with, by virtue of this or any other act, for the use of the said corporations, or their respective counties, and to institute, at law or in equity, such suit or suits against such officers and persons, or any of them, or their or any of their legal representatives, for such monies or other property as aforesaid, or any part thereof, as shall be necessary or proper. And further, That the said corporations are hereby also severally empowered to require such officers and others, to render unto them, from time to time, a true account of all monies or other property belonging to this State, which such officers or others have received, or may receive, and for which they are responsible to, and liable to be sued by, the said State or its treasurer,

surer, or other person in behalf of the State ; and also to institute such suit or suits as aforesaid for the same, as they shall judge proper. A. D. 1798.

Penalty on county collectors neglecting or refusing to account.

XXII. And be it enacted, That if any county collector shall neglect or refuse to account as aforesaid to and with such corporation, when thereunto lawfully required, he shall, for every such neglect or refusal, forfeit three hundred dollars, to be recovered, with costs, by action of debt, in any court having jurisdiction of that sum, by and in the name of such corporation, and the same, when recovered, shall be appropriated to such county uses and purposes as the said corporation shall direct ; and the said county collector shall also be liable to be prosecuted in the manner prescribed in the section next preceding.

Times of paying forward tax monies received.

XXIII. And be it enacted, That it shall be the duty of every constable to pay the tax money, which he shall raise from every delinquent on any warrant, precept or other process, to him directed for that purpose, to the collector of the township, within eight days after he shall have made the same. And further, That it shall be the duty of such collector to pay such tax money, so by him received from the said constable, to the county collector, within two weeks after receiving the same.

Township liable for deficiency or loss of money occasioned by the waste, insolvency, &c. of the collector of such township.

XXIV. And be it enacted, That if the collector of any township shall squander, waste, embezzle, or become insolvent and unable to pay any tax monies or other monies, or property belonging to the said corporation, or their respective counties, and by him received, then the said township, for which such collector was chosen or appointed, shall be liable for, and make good such deficiency or loss, by adding the same to the quota of such township in, the next assessment to be made therein by the authority of the corporation of such county, and which the assessor of such township is hereby required to assess, under the like penalties as are herein before referred to for neglect of duty.

Township Collector and constable to account, and pay surplus money on assessments to the township.

XXV. And be it enacted, That the collector and constable of every township is hereby directed to render a true account to the inhabitants of such township, at their annual or other meeting, of all monies, which he shall receive on any assessment to be made in such township by the authority of the corporation of such county ; and if there be any overplus money remaining in his hands, he shall pay the same to such person or persons as may be appointed to receive the same by the inhabitants of such township, who, at their annual meeting, shall appropriate it to such township uses, as they shall think proper to direct ; and in case such collector or constable shall not so account and pay as aforesaid, then the inhabitants of the said township are hereby empowered to prosecute him for the same.

County collector to pay tax money to the order of the corporation.

XXVI. And be it enacted, That the collector of the county shall, from time to time, pay the money by him received, in pursuance of any assessment made by the corporation of such county, to the order of the corporation, signed by the director for the time being.

Penalty on county collector for neglect of duty.

XXVII. And be it enacted, That if any county collector shall neglect or refuse to pay such tax or other monies, by him received as aforesaid, to the order of such corporation, or shall neglect or refuse to perform any of the duties enjoined on him by law, where taxes are to be assessed, levied, raised and collected by the authority of the corporation of the said county, he shall, for every such offence, forfeit and pay three hundred dollars, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum, by the corporation of the same county, to be applied, on recovery, to such county uses as they shall direct.

His compensation.

XXVIII. And be it enacted, That the county collector shall be allowed after the rate of two cents on every dollar for all tax and other monies, which he shall receive and pay to the order of such corporation.

Duties, compensation and penalties of justices and constables under this act.

XXIX. And be it enacted, That the justices of the peace and constables shall severally perform the like duties, be allowed the like compensation for their services in the premises, be liable to the like fines and penalties, to be recovered by

A. D. 1798.

by the same persons, and in like manner, and in all things be governed by the like regulations, as are prescribed and enjoined in and by the law for the time being for the assessing, levying and collecting money by taxation for the use of the State, except so far as is herein otherwise directed, and except also, that the fines and penalties shall, in cases of assessments made by authority of the corporation of any county, be paid, when recovered, to the director of such corporation, and applied to such county uses and purposes as the said corporation shall direct.

Corporation may purchase or build a poor house;

XXX. AND BE IT ENACTED, That it shall and may be lawful for the board of chosen freeholders of every county in this State, if they shall deem it necessary, to purchase or build a poor house, at such place in the county, as the said corporation shall appoint.

Which shall be under their direction.

XXXI. AND BE IT ENACTED, That the said poor house, when built or purchased, shall be under the direction, superintendence, and government of the said corporation, who are hereby authorized to appoint such officers, hire such servants, and to make such regulations, ordinances, and by-laws respecting the same, as they shall from time to time deem necessary or convenient.

Poor to be kept in such poor house at the expense of the county.

XXXII. AND BE IT ENACTED, That the poor of the county shall be sent to and kept in such poor house, when built or purchased agreeably to law, at the charge and expense of the county; and the said corporation are hereby empowered to procure such articles, materials and things for their employment, and to put them to such work, as they or the officers by them appointed shall, from time to time, direct; and the money necessary to be expended for the purposes specified in this and the preceding section shall be granted and raised by the order of the said corporation, in the like manner as money for other county purposes is directed to be granted, assessed, collected and raised by virtue of this act.

Two or more counties empowered to unite in building or purchasing a poor house.

XXXIII. AND WHEREAS it may be convenient and economical for two or more counties to unite in building or purchasing a poor house; *Be it therefore enacted*, That the boards of chosen freeholders of any two or more counties are hereby authorized to join in building or purchasing a poor house in common for the said counties, at such place as they shall agree upon, and which, when built or purchased, shall be under the joint direction, superintendence and government of the said corporations, whose duty it shall be to elect such officers, hire such servants, and make such regulations, ordinances and by-laws respecting the same, as they shall, from time to time, deem necessary or convenient.

The corporations of such counties to procure materials for the employment of the poor.

XXXIV. AND BE IT ENACTED, That the said corporations, so uniting in building or purchasing the poor house last mentioned, are hereby empowered to procure such articles, materials and things for the employment of the poor, that may be sent to and kept therein, and to put them to such work and service, as they or the officers by them appointed shall think proper to direct.

Expenses of such poor house &c. how to be adjusted and paid.

XXXV. AND BE IT ENACTED, That the monies necessary to be expended for building, purchasing, or repairing the said poor house, maintaining the poor therein, procuring articles, materials and things for their employment, compensating the said officers and servants, and for other incidental expenses, shall be adjusted and apportioned by the said corporations between their respective counties in equal moieties, or by the rates of tax, which each shall be assessed to pay for the support of government, or in such other proportion, as the said corporations shall deem just and proper; and the sum, so ascertained and agreed upon to be paid by each county, shall be granted and raised by the order of the corporation of such county, in the same manner as money for other county purposes is directed to be granted, assessed, collected, and raised by virtue of this act.

Allowance to the members of such corporations.

XXXVI. AND BE IT ENACTED, That each of the members of the respective boards of chosen freeholders shall have and receive, out of the monies raised by order of such boards, one dollar for each day he shall be necessarily employed in discharging the duties enjoined on him by this act.

XXXVII. AND

A. D. 1798.

XXXVII. And be it enacted, That the term, "township," made use of in this act, shall be understood to comprehend precinct and ward.

Township to include precinct and ward.

XXXVIII. And be it enacted, That the act, entitled, "An Act for raising of money for building and repairing of gaols and court houses within each respective county of this province," passed the twenty eighth day of February, in the year one thousand, seven hundred and thirteen---fourteen; the act, entitled, "An Act for the more regular choosing and electing assessors and collectors in the respective towns and counties in this province," passed the twenty sixth day of January, one thousand, seven hundred and sixteen---seventeen; the act, entitled, "An Act to prevent mistakes and irregularities by assessors and collectors," passed the twenty eighth day of March, one thousand, seven hundred and nineteen; the act, entitled, "An Act to enable the freeholders, in conjunction with three justices of the peace, to choose a collector for each respective county within this province," passed the thirty first day of July, one thousand, seven hundred and forty; the act, entitled, "An act to empower the freeholders chosen in each county of this colony, or the major part of them, in conjunction with three justices of the peace, to direct the method of assessing the inhabitants of each county, and to restrain the unnecessary meetings of said freeholders," passed the second day of December, one thousand, seven hundred and forty three; the act, entitled, "An Act to empower the justices and freeholders of each county to adjourn, and to remedy the neglect of choosing county collectors," passed the fifth day of December, one thousand, seven hundred and sixty; the first section of the act, entitled, "An Act for raising the penalties on delinquent freeholders, and on persons refusing to serve as constables," passed the eighth day of June, one thousand, seven hundred and eighty one; the act, entitled, "An Act incorporating the justices and chosen freeholders in the several counties in this State, for the purpose of taking titles for lots of land, on which the court houses, gaols and other public buildings belonging to the said respective counties, are now or hereafter may be erected," passed the third day of March, one thousand, seven hundred and eighty six; and the act, entitled, "An Act more effectually to empower the justices and chosen freeholders in the several counties in this State, to call to account county collectors for money and other public property by them received," passed the first day of June, one thousand, seven hundred and eighty six; and every act and part of acts, coming within the purview of this act, be, and the same are hereby repealed. Provided always, That such repeal shall not extend to or affect any suit, which hath been instituted before the passing of this act, under or by virtue of the acts in this section mentioned, or any of them; but such suit shall be proceeded upon, and prosecuted to effect, in the same manner as if this act had not been made.

Former laws repealed.

An ACT *making provision for carrying into effect the "Act for the punishment of crimes."*

Passed the 15th of February, 1798.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every person sentenced to hard labor and imprisonment, agreeably to the directions of the "Act for the punishment of crimes," for a longer time than six months, shall, within twenty days after his or her conviction, be transported, at the expense of the State, to the State prison, by the sheriff of the county, where such conviction may be had, or his lawful deputy, and there delivered into the custody of the keeper of said prison, with a copy of the sentence of the court ordering such punishment, together with the costs of prosecution against such offender, certified under the hand and seal of the clerk of said court, to be there safely kept until the term of his or her confinement shall have expired, and until the fine or fines, and costs of prosecution shall be paid, or until he or she shall be discharged by due course of law; for which service the said sheriff or his deputy shall receive the sum of ten cents per mile going to, and ten cents per mile returning from the said prison, to be calculated from the gaol of the county, in which the conviction was had, for his time and expenses, together with all reasonable expenses for sustaining, transporting and securing such offender while on his way to the said prison; all which sums shall be certified by two or more of the inspectors herein after mentioned, and paid on their order by the treasurer of this State, out of any monies in his hands belonging

Persons, sentenced to hard labor for a longer time than six months, to be sent to the State prison.

A. D. 1798.

ing to the State. PROVIDED ALWAYS, *and be it enacted*, That every person sentenced to imprisonment, agreeably to the act aforesaid, for any time not exceeding six months, shall be confined in the common gaol of the county, where the conviction was had, there to be safely kept until the term of his or her confinement shall have expired, and until fine or fines, and costs of prosecution shall be paid, or until he or she shall be discharged by due course of law.

When to be received among the other prisoners.

II. AND BE IT ENACTED, That every person, sentenced to hard labor and imprisonment as aforesaid, shall be separately washed, cleansed and lodged, and shall continue in such separate lodging, until it shall be certified by some physician, that he or she is fit to be received among the other prisoners; and the clothes, in which the said person shall then be clothed, shall either be burnt, baked, fumigated, or carefully laid by, at the discretion of any two of the inspectors appointed as herein after mentioned, until the expiration of the term of confinement of such offender, to be then returned to him or her.

Offenders how to be clothed, fed, and employed.

III. AND BE IT ENACTED, That all such offenders shall, at the expense of the State, during the term of their confinement, be clothed in habits of coarse materials, uniform in colour and make, and the males shall have their hair cut short once every month, and their beards close shaven at least once in every week, and all the said offenders shall, during the said term, be sustained upon inferior food, at the discretion of the said inspectors, and shall be kept, as far as may be consistent with their sex, age, health and ability, to labor of the hardest and most servile kind, in which the work is least liable to be spoiled by ignorance, neglect or obstinacy, and where the materials are not easily embezzled or destroyed; and if the work to be performed is of such a nature as may require previous instruction, proper persons for that purpose, to whom a suitable allowance shall be made, shall be provided by order of any two of the said inspectors, during the time of which labor the said offenders shall be kept separate and apart from each other, if the nature of their several employments will admit thereof, and where the nature of such employment requires two or more to work together, the keeper of the said prison, or one of his deputies, shall, if possible, be constantly present.

Hours of labour.

IV. AND BE IT ENACTED, That such offender, unless prevented by ill health, shall be employed in work every day in the year, except Sundays, and the hours of work of each day shall be as many as the season of the year will permit, but not exceeding eight hours in the months of November, December, and January, nine hours in the months of February and October, and ten hours in the rest of the year; and when in each day such hours of work are passed, the working tools, implements and materials, or such of them as will admit of daily removal, shall be removed to places proper for their safe custody until the hour of labor shall return.

Stock and materials, working tools, and implements, clothing and diet for offenders, how to be procured.

V. AND BE IT ENACTED, That the keeper of the said prison shall, from time to time, with the approbation of any two of the inspectors, appointed as herein after mentioned, provide a sufficient quantity of stock and materials, working tools and implements for such offenders; for the expense of which, the said inspectors, or any two of them, shall be, and they are hereby authorized to draw orders, to be countersigned by the auditor of the State, on the treasurer of the State, if necessary, specifying in such orders the quantity and nature of the materials, tools or implements wanted; which orders the said treasurer is hereby required to discharge out of the monies in his hands; for which materials, tools and implements, when received, the said keeper shall be accountable; and the said keeper shall, with the approbation of any two of the said inspectors, have power to make contracts with any persons whatever for the clothing, diet and all other necessaries for the maintenance and support of such offenders, and for the implements and materials of any kind of manufacture, trade or labor, in which such offenders shall be employed, and for the sale of such goods, wares and merchandizes, as shall be there wrought and manufactured; and the said keeper shall cause all accounts concerning the maintenance of such offenders to be entered regularly in a book or books, and shall also keep separate accounts of the stock and materials so wrought, manufactured, sold and disposed of, and the monies for which the same shall be sold, and when sold and to whom, in books to be provided for those purposes; all

The keeper of the State prison to keep an account of the expenditures and receipts of monies, &c. and lay the same before the legislature.

which

which books and accounts shall be at all times open for the examination of the said inspectors, and shall beregularly laid before them, at their quarterly or other meetings, as herein after is directed, for their approbation and allowance ; and an abstract of the expenditures and receipts of monies, the account of labor, the purchase of raw materials, and sale of articles manufactured, shall be laid before the legislature at their annual meeting, and at such other times as the legislature shall direct and require.* A. D. 1798

VI. And be it enacted, That if the said inspectors, at their quarterly or other meetings, shall suspect any fraudulent or improper charges, or any omission in any such accounts, they may examine, upon oath or affirmation, the said keeper, or his deputy, or any of his assistants, or servants, or any persons, of whom any necessaries, stock, materials or other things have been purchased for the use of the said prison, or any persons, to whom any stock or materials, wrought or manufactured therein, have been sold, or any of the offenders confined in such prison, or any other person or persons, concerning any of the articles contained in such accounts, or any omission thereout.

In what cases it shall be the duty of the inspectors to examine the said keeper, or other persons relative to his accounts.

VII. And be it enacted, That in order to encourage industry, as an evidence of reformation, separate accounts shall be opened in the said books for all persons sentenced to hard labor and imprisonment, in which such persons shall be charged with the expenses of their clothing and subsistence, and such proportionable part of the expenses of the raw materials, upon which they shall be employed, as the inspectors, at their quarterly or other meetings, shall think just, and shall be credited with the sum or sums, from time to time, received by reason of their labor, and if the same shall be found to exceed their expenses, one half of the said excess shall be laid out in decent raiment for such persons at their discharge, or otherwise applied to their use and benefit, as the said inspectors shall, upon such occasions, direct ; and if such offender, at the end or other determination of his term of confinement, shall labor under any acute or dangerous distemper, he shall not be discharged, unless at his own request, until he can be safely discharged.

Separate accounts to be opened against the offenders respectively.

VIII. And be it enacted, That no person whatever, except the keeper, his deputy, assistants or servants, the said inspectors, officers and ministers of justice, counsellors or attornies at law employed by a prisoner, ministers of the gospel, or persons producing a written license, signed by one of the said inspectors, shall be permitted to enter within the walls, where such offenders shall be confined ; and that the doors of all the lodging rooms and cells in the said prison shall be locked, and all lights extinguished at the hour of nine, and one or more watchmen shall patrol the said prison at least twice in every hour, until the return of time of labor in the morning of the next day.

What persons shall have access, and how, to the said offenders.

When the doors of the rooms and cells shall be locked, and the lights extinguished.

IX. And be it enacted, That the walls of the cells and apartments in the said prison shall be whitewashed with lime and water at least twice in every year, and the floors of the said cells and apartments shall be washed once every week, or oftner, if the said inspectors shall so direct, by one or more of the said prisoners, in rotation, who, at the discretion of the said keeper, shall have an extra allowance of diet for so doing ; and the said prisoners shall be allowed to walk and air themselves for such stated time as their health may require, and the said keeper shall permit ; and if proper employment can be found, such prisoners may also be permitted, with the approbation of two of the said inspectors, to work in the yard, provided such working and airing be in the presence or within the view of the said keeper, or his deputy or assistants.

The apartments to be whitewashed twice a year, and the floors washed once a week, or oftner.

X. And be it enacted, That one or more of the apartments in the said prison shall be fitted up as an infirmary ; and in case any offender, being sick, shall, upon examination by a physician, be found to require it, he or she shall be removed to the infirmary, and his or her name shall be entered in a book to be

One or more of the apartments to be fitted up as an infirmary.

* That part of this section, which directs, that the orders of the inspectors shall be countersigned by the auditor, was repealed the 6th of November, 1798, by the fourth section of the act for the safe keeping of the books and papers of the auditor's office.

A. D. 1798.

kept for that purpose ; and when such physician shall report to the said keeper, that the said offender is in a proper condition to quit the infirmary and return to his or her employment, such report shall be entered by the said keeper in a book to be kept for that purpose, and the said keeper shall order him or her back to his or her former labor, so far as the same shall be consistent with his or her state of health.

In what cases, it shall be the duty of the keeper to punish the offenders.

XI. And be it enacted, That the keeper of the said prison shall have power to punish all such offenders guilty of assaults within the said prison, when no dangerous wound or bruise is given, profane cursing or swearing, or indecent behaviour, idleness or negligence in work, or wilful mismanagement of it, or disobedience to the orders and regulations herein after directed to be made, by confining such offenders in the cells or dungeons of the said prison, and by keeping them upon bread and water only, for any time not exceeding two days ; and if any such prisoner shall be guilty of any offence within the said prison, which the said keeper is not hereby authorized to punish, or for which he shall think the said punishment is not sufficient, by reason of the enormity of the offence, he shall report the same to two of the inspectors, who, if upon enquiry they shall think fit, shall order such offender to be punished by close confinement in the said cells or dungeons, with bread and water for sustenance, for any time not exceeding six days.

Inspectors to appoint a keeper of the State prison, who shall be allowed an annual salary.

XII. And be it enacted, That it shall be lawful for the said inspectors to appoint a suitable person to be keeper of the said prison, who shall be liable to be removed by the said inspectors, when occasion may require ; in which case another shall, from time to time, be appointed in like manner, who shall receive as a full compensation for his services, in lieu of all fees and gratuities, by reason or under colour of the said office, so much by the year, as the said inspectors, at the time of appointment shall direct, to be paid, in quarterly payments, by orders drawn on the treasurer of the State by any two of the said inspectors ; and also five per centum on the sales of all articles manufactured by the said offenders ; and such keeper shall have power, with the approbation of the inspectors aforesaid, to appoint a deputy, and also a suitable number of assistants, at such reasonable allowances as the said inspectors shall think just and proper ; which allowances shall be paid, quarterly, in like manner : and before such keeper shall exercise any part of said office, he shall give bond to the treasurer of the State, with two sufficient sureties, to be approved of by the said treasurer, in the sum of one thousand dollars, upon condition, that he, his deputy, and assistants, shall well and faithfully perform the trusts and duties in them reposed ; which bond, the due execution thereof being proved before, and certified by, any one of the justices of the supreme court, or any one of the judges of the county, wherein it may be executed, shall be recorded in the office of the secretary of the State, and copies thereof, legally exemplified by the said secretary, shall be legal evidence in all courts of law in any suit against such keeper or his sureties.

By whom a deputy and assistants shall be appointed.

Keeper to give security to the treasurer before he enters on the duties of his office.

Eight inspectors to be annually appointed by the legislature.

XIII. And be it enacted, That at the first joint meeting of the legislature after passing this act, eight suitable persons shall be chosen as inspectors of the said prison, who shall continue in office for one year, and until others are chosen in their stead, and at the first joint meeting, which shall happen after every annual meeting of the legislature thereafter, the said inspectors shall be re-elected, or others chosen in their stead, who shall likewise continue in office for one year, and until others are appointed in their stead ; and if any vacancy shall happen by the death, removal, resignation or other inability of any of the inspectors, in the recess of the legislature, it shall and may be lawful for the person, administering the government, to appoint a person or persons to fill such vacancy until the next joint meeting of the legislature.

XIV. Executed.

Inspectors when to attend, and their powers and duties.

XV. And be it enacted, That the said inspectors, five of whom shall be a quorum, shall meet once in three months, in an apartment to be provided for that purpose in the said prison, and may be specially convened by the two acting inspectors, who shall continue such for such time as shall be directed by a majority of said inspectors when met together ; and the acting inspectors shall attend at the said

said prison at least once in every week, and shall examine into and inspect the management of said prison, and the conduct of the said keeper, his deputy and assistants, so far as respects the offenders employed at hard labor and the directions of this act, and shall do and perform the several matters and things herein before directed by them to be performed.

The board of inspectors to make orders and regulations for the government of the prison.

XVI. And be it enacted, That the board of inspectors, at their quarterly or other meetings, shall make such orders and regulations for the purpose of carrying this act into execution, and for the good government of the said prison, not repugnant to the laws of the State, as they shall deem necessary; and such orders and regulations shall be hung up in at least six of the most conspicuous places in the said prison; and if the said keeper, his deputy, or any of his assistants, shall obstruct or resist the said inspectors, or any of them, in the exercise of the powers and duties vested in them by this act, such person shall forfeit and pay the sum of thirty dollars, to be recovered by any one of the inspectors, in any court having cognizance of the same, and applied to the use of the said prison, and moreover shall be liable to be removed in manner aforesaid from his office or employment in the said prison.

Penalty on the keeper, his deputy, or assistants for obstructing the inspectors in the exercise of their powers and duties.

Powers of the sheriffs and their deputies in conveying offenders to the State prison.

XVII. And be it enacted, That the sheriffs of the several counties in this State, and their lawful deputies, during the time that they or either of them shall, agreeably to the directions of this act, be employed in conveying to the said prison any person or persons sentenced to hard labor and imprisonment as aforesaid, shall have the same power and authority to secure him, her, or them in any gaol of this State, and to demand the assistance of any sheriff, gaoler, or other person within the State, in securing all such offenders, as if such sheriff were in his own proper county; and all sheriffs, gaolers, and other persons aforesaid, shall be aiding and assisting such sheriff, or his lawful deputy, under the same penalties as if such officer was in his proper county.

Allowance for taking up offenders, who have escaped.

XVIII. And be it enacted, That any constable or other person, who shall take up and convey to the said prison any offender, who shall escape from his confinement, shall be allowed mileage, going and returning, at the rate of ten cents per mile, and such additional sum as the said inspectors shall think reasonable for the necessary expenses incurred, to be paid by the treasurer of the State, on orders drawn by the said inspectors, or any two of them.

No spirituous liquors to be given or sold in the prison.

XIX. And be it enacted, That if any keeper or other person whatsoever shall introduce into, or give away, barter or sell, within the said prison, any vinous, spiritous or fermented liquors, excepting only such as the keeper shall make use of in his own family, or such as may be required for any prisoner in a state of ill health, and for such purpose prescribed by an attending physician, and delivered into the hands of such physician, or other person appointed to receive them, every person so offending shall forfeit and pay the sum of thirty dollars, to be recovered and applied in the manner herein before directed.

Costs of prosecution against persons sentenced to hard labor, how to be paid.

XX. And be it enacted, That the costs of prosecution against any person, sentenced to hard labor and imprisonment, shall be paid by the inspectors, out of the first monies arising from the net profits of the labor of such offenders.

Physician to be employed.

XXI. And be it enacted, That the inspectors of the said prison shall and may, from time to time, employ a physician to attend said prison, who shall receive a compensation for the services by him to be performed, to be determined by the said inspectors.

Funds to be applied for paying expenses.

XXII. And be it enacted, That when funds shall be in the hands of the inspectors of said prison sufficient to discharge any of the expenses, which are by this act directed to be discharged by the treasurer of the State, it shall and may be lawful for the said inspectors to discharge the said expenses out of any monies so in their hands, and insert the same in their accounts, to be laid before the legislature.

An ACT

A. D. 1798.

An ACT *for dividing the townships of Newark and Acquackanunck, in the County of Essex, into three separate townships.*

Passed the 16th of February, 1798.

Preamble.

WHEREAS it hath been represented to the legislature by the petitions of sundry inhabitants of the townships of Newark and Acquackanunck, in the county of Essex, that it would greatly tend to promote the convenience of the said townships, to have the same divided into three separate townships; therefore,

Bounds of the new township.

Its name.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all that part of the said townships of Newark and Acquackanunck, lying and being within the following limits, to wit, beginning at Cook's bridge, on Passaick river, thence running down the old Canoe brook road, along the Springfield line, until it comes to where said line turns off to Keen's mills, from thence on a straight line to within five chains to the west of Joel Condict's quarry, on the Swinefield road, near the top of the second mountain, thence north, fifteen degrees east, twenty chains along said mountain, thence on a straight line to the top of the first mountain to where a certain road laid out along the line of the lands of Stephen Crane, deceased, intersects the top of said mountain, thence along the top of the same until it comes to the Paterson line, thence along the said line to Passaick river, thence up the middle of the stream the several courses of the same to the place of beginning, to be called and known by the name of, "The Township of Caldwell."

An ACT *incorporating the inhabitants of townships, designating their powers, and regulating their meetings.*

Passed the 21st of February, 1798.

The inhabitants of every township constituted a body politic.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the inhabitants of every township, precinct and ward within this State be, and they hereby are constituted a body politic and corporate in law, by the following names, that is to say,

Names of such corporations in Bergen.

That the inhabitants of the township of New-Barbadoes, in the county of Bergen, shall be styled and known by the name of, "The inhabitants of the township of New-Barbadoes, in the county of Bergen."

That the inhabitants of the township of Bergen, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bergen, in the county of Bergen."

That the inhabitants of the township of Hackinsack, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hackinsack, in the county of Bergen."

That the inhabitants of the township of Harrington, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Harrington, in the county of Bergen."

That the inhabitants of the township of Saddle-River, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Saddle-River, in the county of Bergen."

That the inhabitants of the township of Franklin, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Franklin, in the county of Bergen."

That the inhabitants of the township of Pompton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pompton, in the county of Bergen."

That

That the inhabitants of the township of Newark, in the county of Essex, shall be styled and known by the name of, "The inhabitants of the township of Newark, in the county of Essex." A. D. 1798. In Essex.

That the inhabitants of the township of Acquackanunck, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Acquackanunck, in the county of Essex."

That the inhabitants of the township of Elizabeth, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Elizabeth, in the county of Essex."

That the inhabitants of the township of Springfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Springfield, in the county of Essex."

That the inhabitants of the township of Westfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Westfield, in the county of Essex."

That the inhabitants of the township of Caldwell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Caldwell, in the county of Essex."

That the inhabitants of the North Ward of Perth-Amboy, in the county of Middlesex, shall be styled and known by the name of, "The inhabitants of the township of Perth-Amboy, in the county of Middlesex." In Middlesex.

That the inhabitants of the South Ward of Perth-Amboy, in the said county, shall be styled and known by the name of, "The inhabitants of the township of South-Amboy, in the county of Middlesex."

That the inhabitants of the township of Woodbridge, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Woodbridge, in the county of Middlesex."

That the inhabitants of the township of Piscataway, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Piscataway, in the county of Middlesex."

That the inhabitants of the North Ward of New-Brunswick, in the said county, shall be styled and known by the name of, "The inhabitants of the township of North Brunswick, in the county of Middlesex."

That the inhabitants of the South Ward of New-Brunswick, in the said county, shall be styled and known by the name of, "The inhabitants of the township of South Brunswick, in the county of Middlesex."

That the inhabitants of the township of East Windsor, in the said county, shall be styled and known by the name of, "The inhabitants of the township of East Windsor, in the county of Middlesex."

That the inhabitants of the township of West Windsor, in the said county, shall be styled and known by the name of, "The inhabitants of the township of West Windsor, in the county of Middlesex."

That the inhabitants of the township of Middletown, in the county of Monmouth, shall be styled and known by the name of, "The inhabitants of the township of Middletown, in the county of Monmouth." In Monmouth.

That the inhabitant of the township of Shrewsbury, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Shrewsbury, in the county of Monmouth."

A. D. 1798.

That the inhabitants of the township of Freehold, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Freehold, in the county of Monmouth."

That the inhabitants of the township of Upper Freehold, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Upper Freehold, in the county of Monmouth."

That the inhabitants of the township of Stafford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Stafford, in the county of Monmouth."

That the inhabitants of the township of Dover, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Dover, in the county of Monmouth."

In Somerset.

That the inhabitants of the Eastern Precinct, in the county of Somerset, shall be styled and known by the name of, "The inhabitants of the township of Franklin, in the county of Somerset."

That the inhabitants of the Western Precinct, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Montgomery, in the county of Somerset."

That the inhabitants of the township of Bridgewater, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bridgewater, in the county of Somerset."

That the inhabitants of the township of Bedminster, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bedminster, in the county of Somerset."

That the inhabitants of the township of Bernard, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bernard, in the county of Somerset."

That the inhabitants of the township of Hillsborough, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hillsborough, in the county of Somerset."

In Burlington.

That the inhabitants of the township of Burlington, in the county of Burlington, shall be styled and known by the name of, "The inhabitants of the township of Burlington, in the county of Burlington."

That the inhabitants of the township of Chesterfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Chesterfield, in the county of Burlington."

That the inhabitants of the township of Nottingham, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Nottingham, in the county of Burlington."

That the inhabitants of the township of Little Egg-Harbour, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Little Egg-Harbour, in the county of Burlington."

That the inhabitants of the township of Evesham, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Evesham, in the county of Burlington."

That the inhabitants of the township of New-Hanover, in the said county, shall be styled and known by the name of, "The inhabitants of the township of New-Hanover, in the county of Burlington."

That

That the inhabitants of the township of Chester, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Chester, in the county of Burlington." A. D. 1798.

That the inhabitants of the township of Springfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Springfield, in the county of Burlington."

That the inhabitants of the township of Northampton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Northampton, in the county of Burlington."

That the inhabitants of the township of Mansfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Mansfield, in the county of Burlington."

That the inhabitants of the township of Willingborough, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Willingborough, in the county of Burlington."

That the inhabitants of the township of Gloucester, in the county of Gloucester, shall be styled and known by the name of, "The inhabitants of the township of Gloucester, in the county of Gloucester." In Gloucester.

That the inhabitants of Gloucester town, in the said county, shall be styled and known by the name of, "The inhabitants of Gloucester town, in the county of Gloucester."

That the inhabitants of the township of Waterford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Waterford, in the county of Gloucester."

That the inhabitants of the township of Newton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Newton, in the county of Gloucester."

That the inhabitants of the township of Deptford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Deptford, in the county of Gloucester."

That the inhabitants of the township of Greenwich, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Greenwich, in the county of Gloucester."

That the inhabitants of the township of Woolwich, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Woolwich, in the county of Gloucester."

That the inhabitants of the township of Egg-Harbour, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Egg-Harbour, in the county of Gloucester."

That the inhabitants of the township of Galloway, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Galloway, in the county of Gloucester."

That the inhabitants of the township of Weymouth, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Weymouth, in the county of Gloucester."

That the inhabitants of the township of Mannington, in the county of Salem, shall be styled and known by the name of, "The inhabitants of the township of Mannington, in the county of Salem." In Salem.

That

A. D. 1798.

That the inhabitants of the township of Salem, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Salem, in the county of Salem."

That the inhabitants of the township of Elsingborough, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Elsingborough, in the county of Salem."

That the inhabitants of the township of Lower Alloway's Creek, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Lower Alloway's Creek, in the county of Salem."

That the inhabitants of the township of Upper Alloway's Creek, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Upper Alloway's Creek, in the county of Salem."

That the inhabitants of the township of Pittsgrove, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pittsgrove, in the county of Salem."

That the inhabitants of the township of Pilesgrove, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pilesgrove, in the county of Salem."

That the inhabitants of the township of Upper Penn's Neck, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Upper Penn's Neck, in the county of Salem."

That the inhabitants of the township of Lower Penn's Neck, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Lower Penn's Neck, in the county of Salem."

In Cape-May.

That the inhabitants of the Upper Precinct, in the county of Cape-May, shall be styled and known by the name of, "The inhabitants of the Upper Township, in the county of Cape-May."

That the inhabitants of the Lower Precinct, in the said county, shall be styled and known by the name of, "The inhabitants of the Lower Township, in the county of Cape-May."

That the inhabitants of the Middle Precinct, in the said county, shall be styled and known by the name of, "The inhabitants of the Middle Township, in the county of Cape-May."

In Hunterdon.

That the inhabitants of the township of Trenton, in the county of Hunterdon, shall be styled and known by the name of, "The inhabitants of the township of Trenton, in the county of Hunterdon."

That the inhabitants of the township of Maidenhead, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Maidenhead, in the county of Hunterdon."

That the inhabitants of the township of Hopewell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hopewell, in the county of Hunterdon."

That the inhabitants of the township of Amwell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Amwell, in the county of Hunterdon."

That the inhabitants of the township of Readington, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Readington, in the county of Hunterdon."

That

A. D. 1798.

That the inhabitants of the township of Kingwood, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Kingwood, in the county of Hunterdon."

That the inhabitants of the township of Bethlehem, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bethlehem, in the county of Hunterdon."

That the inhabitants of the township of Alexandria, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Alexandria, in the county of Hunterdon."

That the inhabitants of the township of Lebanon, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Lebanon, in the county of Hunterdon."

That the inhabitants of the township of Tewksbury, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Tewksbury, in the county of Hunterdon."

In Morris.

That the inhabitants of the township of Morris, in the county of Morris, shall be styled and known by the name of, "The inhabitants of the township of Morris, in the county of Morris."

That the inhabitants of the township of Hanover, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hanover, in the county of Morris."

That the inhabitants of the township of Pequanack, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pequanack, in the county of Morris."

That the inhabitants of the township of Mendham, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Mendham, in the county of Morris."

That the inhabitants of the township of Roxbury, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Roxbury, in the county of Morris."

That the inhabitants of the township of Washington, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Washington, in the county of Morris."

In Cumberland.

That the inhabitants of the precinct of Greenwich, in the county of Cumberland, shall be styled and known by the name of, "The inhabitants of the township of Greenwich, in the county of Cumberland."

That the inhabitants of the precinct of Hopewell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hopewell, in the county of Cumberland."

That the inhabitants of the precinct of Stow Creek, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Stow Creek, in the county of Cumberland."

That the inhabitants of the precinct of Fairfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Fairfield, in the county of Cumberland."

That the inhabitants of the precinct of Deerfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Deerfield, in the county of Cumberland."

A. D. 1798.

That the inhabitants of the precinct of Maurice River, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Maurice River, in the county of Cumberland."

That the inhabitants of the township of Downe, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Downe, in the county of Cumberland."

In Sussex.

That the inhabitants of the precinct of Greenwich, in the county of Sussex, shall be styled and known by the name of, "The inhabitants of the township of Greenwich, in the county of Sussex."

That the inhabitants of the precinct of Oxford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Oxford, in the county of Sussex."

That the inhabitants of the precinct of Mansfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Mansfield, in the county of Sussex."

That the inhabitants of the precinct of Knowlton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Knowlton, in the county of Sussex."

That the inhabitants of the precinct of Sandyston, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Sandyston, in the county of Sussex."

That the inhabitants of the precinct of Wantage, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Wantage, in the county of Sussex."

That the inhabitants of the precinct of Hardyston, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hardyston, in the county of Sussex."

That the inhabitants of the precinct of Montague, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Montague, in the county of Sussex."

That the inhabitants of the precinct of Walpack, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Walpack, in the county of Sussex."

That the inhabitants of the precinct of Newton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Newton, in the county of Sussex."

That the inhabitants of the precinct of Hardwick, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hardwick, in the county of Sussex."

That the inhabitants of the township of Independence, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Independence, in the county of Sussex."

That the inhabitants of the township of Vernon, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Vernon, in the county of Sussex."

That the inhabitants of the township of Byram, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Byram, in the county of Sussex."

That

That the inhabitants of the township of Frankford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Frankford, in the county of Sussex." A. D. 1798.

II. And be it enacted, That when any suit shall be instituted against any township, a copy of the summons, precept, or such other legal process as may be issued against the said township, shall be left with the clerk thereof thirty days at least before the session of the court to which the same shall be returnable. Process against a township, how to be served.

III. And be it enacted, That the freeholders and inhabitants, who are or shall be qualified by law to vote at town meetings, shall have full power, and they are hereby directed and required, to assemble and hold town meetings in the respective townships, in the counties of Burlington, Monmouth, Salem, Cumberland and Cape-May, on the second Tuesday in March, annually; in the respective townships, in the counties of Bergen, Essex, Somerset, Middlesex, Hunterdon, Morris and Sussex, on the second Monday in April, annually, and in the respective townships, in the county of Gloucester, on the second Wednesday in March, annually. Town meetings, when to be held,

IV. And be it enacted, That the first town meeting, in each of the said townships, after the passing of this act, shall be held at the place, in the respective townships, where such meeting in the same ought to have been held, if this act had not been made; and that all town meetings thereafter shall be held at such place in the townships respectively, as the electors of such township, at their annual town meetings, shall from time to time direct and appoint. and where.

V. And be it enacted, That every white male person, being a citizen of this State and of the age of twenty one years, who shall have resided in any township six calendar months next preceding such town meeting, and paid taxes within the same, or who shall be seized of a freehold, or shall have rented a tenement of the yearly value of five dollars, for the term of one year, within the same, shall be entitled to vote at such meeting, and no other person. What persons entitled to vote at town meetings.

VI. And be it enacted, That between the hours of eleven and twelve of the day of holding the town meetings in the several townships of this State, the electors of every township, so assembled, shall choose, by plurality of votes, some fit person to preside at and superintend such meeting, who shall take care that the business thereof be conducted in a regular and orderly manner, and shall, in case of dispute, determine, who have and who have not a right to vote at such meeting according to law. Electors to choose some fit person to preside at such meetings.

VII. And be it enacted, That no person shall behave in a disorderly manner, or interrupt the person speaking at any town meeting by unnecessary noise or conversation; and if any person shall, after notice from the presiding officer, persist in his disorderly behaviour, then it shall be lawful for the said presiding officer to direct such disorderly person to withdraw from the meeting, and moreover, such person shall forfeit one dollar for such offence; and such disorderly person, if he refuse or neglect to withdraw, shall, by direction of the said presiding officer, be carried out of the meeting by some of the constables of the said township, and put into a place of confinement, where he shall be detained until such meeting shall be ended: And further, that the fines specified in this section, shall be sued for, and may be recovered, with costs, by action of debt, in the name of the clerk of the township, before any justice of the peace of the said county; and that any elector or inhabitant of the said township shall be admitted as a witness in support of such action, notwithstanding his being a member of such corporation, or interested in the appropriation of the said fine in manner aforesaid. Penalty for disorderly behaviour at town meetings.

VIII. And be it enacted, That the persons, qualified to vote at town meetings, shall, at their annual meetings, or at any other meeting duly held for that purpose, make and ordain such regulations and by-laws, as the majority of them, so assembled, shall, from time to time, judge necessary or proper, for improving their common lands in tillage, pasturage, or any other way, and directing the use and management, and the times and manner of using their common lands, for making and maintaining such and so many pounds, and at such places as may be necessary or convenient, and to impose such penalties on the offenders against Town meetings may make by-laws.

such

A. D. 1798.

such regulations and by-laws, as they shall deem expedient, not exceeding twelve dollars for each offence, to be recovered, with costs of suit, by and in the name of the clerk of the township, where the offence shall be committed, by action of debt, before any justice of the peace or any other competent authority, in any other township in the said county, or elsewhere; and no such action shall be abated or discontinued by the death or expiration of the office of the said clerk, but may be continued and prosecuted to effect by his successor in office; and all such penalties, when recovered, shall be applied to the use of the township, where the offence shall have been committed, in such manner and for such purposes, as, at their town meetings, shall, from time to time, be directed and appointed.

By-laws to be recorded by the clerk.

IX. And be it enacted, That all such regulations and by-laws shall be entered and recorded by the clerk of such township, in a book by him to be provided for that purpose, and shall remain and be in force until the same shall be revoked or altered, or new made and ordained at some subsequent town meeting; all which alterations, new regulations, and by-laws shall also, from time to time, be entered and recorded as aforesaid, and shall continue in force until revoked, altered, or made and ordained anew, as aforesaid.

Town meetings may make provision for destroying noxious animals and birds.

X. And be it enacted, That the persons, qualified to vote at town meetings, are hereby authorized, at their annual meetings, or any other meeting duly held for that purpose, to make such provisions and allow such rewards for the destruction of wolves, wild-cats, foxes, crows, black-birds, and other noxious wild animals and birds, as they or the major part of them, so assembled, shall deem necessary or proper.

For what purposes town meetings may grant and raise money.

XI. And be it enacted, That the persons, qualified to vote at town meetings, shall be and they are hereby empowered, at their annual meetings, or at any other meeting duly held for the purpose, to vote, grant, and raise such sum or sums of money for the maintenance and support of the poor, the building and repairing of pounds, the opening, making, working and repairing of roads, and keeping them in order, in such townships as are authorized to repair their highways by hire, the destruction of noxious wild animals and birds, for running and ascertaining the lines, and prosecuting or defending the common rights of such township, and for other necessary charges, and legal objects and purposes thereof, as they, or the major part of them, so assembled, shall deem proper or necessary; which money, so voted and granted, shall be assessed, levied and collected by the same persons, in the same manner, and under the like fees, fines and penalties, as the money raised in such township by the board of chosen freeholders of the county shall be assessed, levied and collected, and at such times and in such proportions as the said town meetings respectively shall direct and appoint. Provided, That the said fines and penalties shall, when recovered, be paid to the clerk of the said township, and be applied to the use of the said township, in such manner as shall, from time to time, be directed and appointed at their annual meetings.

What officers to be elected at town meetings.

XII. And be it enacted, That the persons, qualified to vote at town meetings, shall have full power and authority, at their respective annual meetings, to elect, for such township, by a majority of votes, one clerk, one or more assessor or assessors, provided no such township shall be thereby entitled to more than one vote in the board of assessors of the county, one or more collector or collectors, three or more judicious freeholders of good character to hear and finally determine all appeals relative to unjust assessments in cases of taxation, two freeholders, commonly called, chosen freeholders, two surveyors of the highways, one or more overseer or overseers of the poor, one or more constable or constables, and so many overseers of the highways and pound keepers as they shall deem necessary or convenient, and one reputable freeholder as a judge of elections; which said several officers shall hold their respective offices for one year, and until others shall be chosen and legally qualified in their stead; and that in addition to the before mentioned officers, the electors of every corporation, at their respective annual meetings as aforesaid, shall have full power and authority to elect five judicious freeholders, resident within the township, who shall be denominated the township committee, a majority of whom shall be a quorum, and shall continue in office one year, and until others are chosen in their stead; which committee shall have authority, and it is hereby rendered their duty, to examine, inspect, and

and report to the annual or other town meetings the accounts and vouchers of the township officers, and to superintend the expenditure of any monies raised by tax for the use of the township, or which may arise from the balance of the accounts of any of the township officers.

In case of death, removal, &c. of any officer, electors to be convened, and choose another.

XIII. And be it enacted, That if any township shall neglect, at their annual town meeting, to choose any of the officers directed by law to be chosen, or if any of the officers, so chosen in any township, shall refuse to serve, or die, or remove out of the said township, or become incapable of serving before the next annual meeting, then it shall be lawful for the persons qualified to vote at town meetings to assemble together, from time to time, and hold town meetings for the purpose of supplying such vacancies; and in case of neglect of the electors, for fifteen days after such omission, to choose, or after the death, removal, refusal to serve, or inability of any township officer, the township committee shall, by writing under their hands and seals, appoint a person to fill such vacancy until the next annual town meeting.

The clerk to give notice of such death, &c. and of the time of electing another.

XIV. And be it enacted, That the clerk of the township, upon notice of any such omission, refusal, removal, incapacity or death, or if the office of clerk be vacant, then any justice of the peace of the county, residing in the said township, upon notice thereof, shall give notice, in the manner mentioned in the following section, of a town meeting to be held in the same township for the purpose aforesaid.

Mode of calling special town meetings.

XV. And be it enacted, That whenever it shall be necessary, in the opinion of the township committee, to hold a town meeting for any of the purposes specified in this or any other act, at any time between the annual meetings, it shall be the duty of the clerk of such township, to give notice thereof in writing under his hand, mentioning the time, place, and object or purpose of such meeting, to be fixed up at four or more of the most public places in the said township, at least eight days before the time therein appointed for holding such meeting.

Proceedings of town meetings to be entered in a book.

XVI. And be it enacted, That the clerk of every township shall enter, in a book to be kept for the purpose, the names of the persons and the offices, to which they are elected at town meetings, and the proceedings of such meetings; which shall be signed by the presiding officer of the meeting, and attested by the clerk.

List of the names of town officers to be sent to the clerk of the court of common pleas; and also to be set up in three of the most public places.

XVII. And be it enacted, That the clerk of such township shall, within ten days after every election, transmit to the clerk of the court of common pleas of the county, a certified list of the names of the persons, and the respective offices, to which they are elected; and shall, within five days after the said election, set up fair and true copies of such list in three or more of the most public places in such township, which shall be considered as sufficient notice to the said persons of their being elected to the said offices respectively.

If appointment of officers be made by town committee, how notice to be given.

XVIII. And be it enacted, That if the appointment to office is made by the township committee in the manner prescribed by law, then it shall be the duty of the said committee to give personal notice to, or cause notice, in writing, to be left at the place of abode of the person so appointed, of such his appointment, within five days after the same; and also, within the said time, to transmit an account of such appointments to the clerk of the said court of common pleas.

Clerks, surveyors, freeholders on appeals, overseers of the poor, and constables to take an oath of office.

XIX. And be it enacted, That every clerk of the township, surveyor of the highways, assessor, freeholder on appeals in cases of taxation, overseer of the poor, and constable, hereafter elected or appointed as aforesaid, shall, before he enters upon the execution of his office, and within six days after notice of such election or appointment, take and subscribe an oath or affirmation before some justice of the peace, residing in or near the said township, in the form herein after prescribed; that is to say, every clerk shall take and subscribe an oath or affirmation in the following form; to wit,

A. D. 1798.

Form of oath to be taken by the clerk.

I clerk of the township of in the county of do solemnly and sincerely promise and swear, (or affirm) that I will faithfully and honestly keep all the papers, writings, books and records, by virtue of my office committed, and which, from time to time, shall be committed to me; and that I will, in all things, to the best of my knowledge and understanding, perform the duties of my said office of clerk, without favor or partiality.

And every surveyor of the highways shall take and subscribe an oath or affirmation in the following form; to wit,

By the surveyor.

I do solemnly and sincerely promise and swear, (or affirm) that I will in all things, to the best of my knowledge and understanding, well, justly, and faithfully execute the office of a surveyor of the highways, without favor or partiality.

And every assessor shall take and subscribe an oath or affirmation in the following form; to wit,

By the assessor.

I do solemnly and sincerely promise and swear, (or affirm) that I will truly, faithfully, honestly, and impartially value and assess the ratable estates in the township of in the county of and that, in making such valuations and assessments, I will, to the best of my knowledge and judgment, observe the directions of the law respecting the same.

And every freeholder, to hear and determine appeals relative to unjust assessments in cases of taxation, shall take and subscribe an oath or affirmation in the following form; to wit,

By commissioner of appeal.

I do solemnly and sincerely promise and swear, (or affirm) that I will well, truly, and faithfully execute the trust reposed in me, and perform my duty, as a commissioner of appeals in cases of taxation, for the township of in the county of according to the best of my knowledge and understanding, without favor or partiality.

And every overseer of the poor shall take and subscribe an oath or affirmation in the following form; to wit,

By the overseer of the poor.

I do solemnly and sincerely promise and swear, (or affirm) that I will, in all things, to the best of my knowledge and understanding, well and faithfully execute the trust reposed in me, as an overseer of the poor of the township of in the county of

And every constable shall take and subscribe an oath or affirmation in the words following; to wit,

By the constable.

I do solemnly and sincerely promise and swear, (or affirm) that I will well and truly serve the State of New-Jersey in the office of constable for the township of in the county of ; that I will honestly and impartially summon, empannel and return good and lawful men for juries, able and sufficient, and not suspected or procured, as is or shall be directed by law; that I will, to the utmost of my power, faithfully, and without delay, execute all writs, precepts, process, warrants and executions to me directed, and which shall come to my hands, and truly return the same; that, in the exercise of my office, I will do no wrong to any, but will do right to all, and take none but lawful fees; that I will truly, diligently, and honestly, without fraud, deceit, oppression, favor or partiality, do, execute and perform all services, acts and duties of my said office, to the best of my knowledge, judgment, and ability.

Such oath duly certified shall be sent to the township clerk, who shall file the same.

XX. And be it enacted, That every justice of the peace, before whom such oath or affirmation shall be taken and subscribed, shall, without fee or reward, certify, under the said writing, the day and year, when such oath or affirmation was taken, and subscribe his name thereto, and then deliver the said certificate to the officer taking such oath or affirmation, who shall, within six days thereafter, transmit

transmit or deliver such certificate to the clerk of the township, for which such officer was elected or appointed, who shall file the same. A. D. 1793.

XXI. And be it enacted, That if any clerk, surveyor, assessor, commissioner of appeals, overseer of the poor, or constable, shall not take and subscribe such oath or affirmation as aforesaid, or shall not transmit or deliver the same to the clerk as aforesaid, within the time hereby limited, or if any officer, elected or appointed as aforesaid, shall not give such security as is or shall be by law required, within the time for that purpose limited; then, and in every such case, such neglect shall be deemed a refusal to serve in such office; and the township, in which such officer was chosen, or township committee, who appointed him, as the case shall require, may thereupon proceed to a new election or appointment.

Neglect to take oath, &c. or to give security, shall be deemed a refusal to serve.

XXII. And be it enacted, That if any person hereafter elected or appointed a clerk, surveyor, assessor, collector, commissioner of appeals, chosen freeholder, overseer of the poor, constable, overseer of the highways, or pound keeper as aforesaid, shall refuse to accept or serve in such office, or if any such clerk, surveyor, assessor, commissioner of appeals, overseer of the poor, or constable, shall proceed in the execution of such office, before he shall have taken and subscribed such oath or affirmation as aforesaid, or if any officer, so elected or appointed, shall proceed in the execution of his office, before he shall have given such security, as is or shall be required by law, then every person, so neglecting or refusing, or doing, shall forfeit fifteen dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the inhabitants of the township, in and for which such officer was elected or appointed.

Penalty on any officer refusing to serve, &c.

XXIII. And be it enacted, That upon the death, or expiration of the office of clerk of any township, all the papers, writings, books and records, belonging to the said office, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or in case of his death, on the oath or affirmation of his executors or administrators; and if any such clerk, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being lawfully demanded, then every such person shall forfeit sixty dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the inhabitants of the said township.

On the death or expiration of the office of clerk, the books and papers to be delivered to his successor.

XXIV. And be it enacted, that it shall be the duty of the presiding officer at every town meeting, immediately after his election, and taking the chair, to cause the seventh section of this act to be read to the persons then assembled.

Seventh section of this act to be read at town meetings.

XXV. And be it enacted, That all and every act and acts, and clause and clauses, part and parts of any act or acts heretofore made, and coming within the purview of this act, be, and they are hereby repealed.

Former acts repealed.

An ACT *to provide for the distribution of the laws and proceedings of the legislature of this State, and the Laws of the United States.*

Passed the 28th of February, 1793.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the printer, who now is, or hereafter may be appointed to print the laws and proceeding of the legislature of this State, shall, within sixty days after the rising of the legislature, deliver to the treasurer of the State, so many copies of the said laws and proceedings of the legislature for the time being, as shall be directed by law, well stitched and in good order.

Within what time the printer to the State shall deliver the laws to the treasurer.

II. And be it enacted, That the treasurer aforesaid shall, on receipt of the laws and proceedings aforesaid, (after retaining three copies for himself,) cause the residue to be delivered to and distributed among the persons and in the portions herein after mentioned; viz. to the governor of the State, for himself, and to exchange with the executive of the other States, sixteen sets; to the justices of the supreme

Laws how and to whom to be distributed by the treasurer.

A. D. 1798.

supreme court, the secretary of State of the United States, the senators and representatives of this State in the Congress of the United States, the attorney general, the auditor of accounts, the secretary of this State, the clerks of the council, assembly, and supreme court, each one copy; to the clerk of the council, for the use of council, four copies; to the clerk of the assembly, for the use of the assembly, six copies; and the remainder shall distribute among the several counties of this State in the same proportion, as the said counties shall contribute to the support of government; and shall transmit them, at the expense of the State, in bundles, directed to the collectors of the several counties of the State.

In what manner and to whom the county collector shall distribue the laws in his county.

III. And be it enacted, That each and every of the said county collectors, after retaining one copy for himself, shall, at the expense of the county, transmit one set of the laws and proceedings aforesaid to each of the following officers; viz. the judges of the court of common pleas, the justices of the peace, the magistrates of any corporate town in the county, the sheriff, clerk of the common pleas, and clerk of the board of chosen freeholders, and the representatives of the county in the legislature, each one set; and the remainder shall divide among the several townships of the county, and transmit them in equal portions to the clerk of each township, who shall, within one week after receipt of the same, after retaining one copy for the use of the township, cause the residue to be distributed among the officers of the township, giving them a preference in the following order; viz. the assessor, collector, judge of elections, chosen freeholders, overseers of the roads and poor; and the receipts of the persons, so entitled to receive the same, shall be sufficient vouchers to the said treasurer and collectors in the settlement of their accounts for the money by them for this purpose expended, and for a reasonable compensation for their trouble.

How the clerk of the township shall distribute the laws in his township.

Laws of the U. S. how to be distributed.

IV. And be it enacted, That so many of the laws of the United States, as may at any time be apportioned to this State by the Congress of the United States, shall be delivered to the treasurer of the State, to be by him distributed among the following persons at the expense of the State; viz. to the governor of the State, the attorney general, the justices of the supreme court, the clerk of the supreme court, secretary of the State, and the members of the legislature of this State, each one set, and shall retain one set for his own use; to the clerk of the council, for the use of council, two sets; to the clerk of the assembly, for the use of the assembly, four sets; to the librarians of Princeton college and of the two literary societies in said college, each one set; and the remainder among the several counties of this State in proportion to their quota of the State taxes, to be transmited to the collectors of the respective counties, and by them to be delivered to the following persons in the several counties; first, to the clerk of the court of common pleas, one set; secondly, to the directors or managers of every public library in the county, one set; thirdly, to the judges of the common pleas of the county, each one set; and the residue, if any there be, to be disposed of, as shall be directed by the board of chosen freeholders of the county.

Penalty on collector and clerk for not performing the duties required of him by this act.

V. And be it enacted, That if any collector or clerk shall neglect or refuse to perform any of the duties required of him by this act, he shall, for each offence, forfeit and pay the sum of eight dollars, to be sued for in any court of competent jurisdiction, by the director of the board of chosen freeholders of the county, wherein he may reside, to be applied, when recovered, to the use of the county.

An ACT *granting relief, in certain cases, against collusive judgments and wrongful alienations of lands.*

Passed the 2d of March, 1798.

Reversioner may defend a suit brought against the tenant for life or years.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if tenant in dower, tenant by the curtesy, or other tenant for term of life or lives, is or shall be impleaded, the person, to whom the reversion or remainder belongs, may come into court at any time before judgment, and be admitted to defend his or her right.

II. And

A. D. 1798.

II. And be it enacted, That if tenant in dower, tenant by the curtesy, or other tenant for term of life or lives, shall, when impleaded, make default or give up the tenements demanded, or if judgment be given on such default, or surrender, then the person, to whom the reversion or remainder belongs, after the death of such tenant, shall in no wise be prejudiced or injured by such default, surrender, or judgment.

Reversioner not to be prejudiced by the default or surrender of such tenant or judgment thereon.

III. And be it enacted, That the dying seized of any disseizor of or in any lands, tenements, or hereditaments, having no right or title therein, shall not be such descent in law to the heir of the disseizor, as to take away the entry of the person, who, at the time of such descent, had lawful title of entry; except such disseizor hath had peaceable possession for the space of five years next after the disseizin committed, without entry by, or continual claim of, such as have lawful title.

The dying seized of the disseizor shall not take away the right of entry, unless he has had peaceable possession for five years.

IV. AND WHEREAS, when a husband doth lose the lands of his wife by default, it is unreasonable that the wife, after the death of her husband, should have no recovery but by writ of right; *Be it therefore enacted*, That a woman, after the death of her husband, shall not be injured by such default; but shall, notwithstanding, retain her right of entry, and prosecute the same by writ of entry, or any other action, real or mixed, that may be adapted to the case; and if in such action the tenant object to her claim or demand, that he entered into the land by judgment, and it be found, that such entry was by judgment upon default of her husband; then, if required, he shall answer thereto, and in such answer shew his right to the said land in the same manner as in the writ, which he first took out against the husband and wife, and if he verify such right, then she shall gain nothing by her writ; otherwise she shall recover.

A widow not barred of right of entry into her land lost by her husband's default.

V. And be it enacted, That if in any suit against the husband and wife, for lands of the wife, the husband absent himself, or will not defend his wife's right, or against the wife's consent will render the said lands, then the wife may come at any time before judgment, and defend her right, without her husband.

Feme covet may in certain cases defend her right, without her husband.

VI. And be it enacted, That no feoffment, fine, or other act or acts, which shall be made, suffered, or done by the husband only, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall work any discontinuance thereof, or prejudice or affect the said wife or her heirs, or such as shall, by her death, have right, title, or interest to the same; but the said wife, or her heirs, or such other person, to whom such right shall appertain after her decease, may, after the death of the said husband, lawfully enter into such lands, tenements and hereditaments, and hold and enjoy the same according to his, her, or their rights and titles therein; any such feoffment, fine, or other act or acts to the contrary notwithstanding.

Conveyance by a husband alone of his wife's lands not to prejudice her, or her heirs.

VII. And be it enacted, That if any woman, who hath or shall have an estate in dower, or for term of life, jointly with her husband, or only to herself, or to her use, in lands, tenements, or hereditaments, of the inheritance or purchase of her husband, or given to the husband and wife for term of life, by any ancestor of the husband, or by any other person, seized to the use of the husband or of his ancestors, shall, when sole, discontinue, or alien the same, with or without warranty, or shall suffer any recovery thereof by covin against her, them, or any of them, or any other seized to their use, or to the use of any of them as aforesaid, then all such discontinuances, alienations, and recoveries shall be utterly void and of no effect; and it shall be lawful for the person, to whom, after the decease of such woman, the interest, title, or inheritance of the said lands, tenements, or hereditaments, do or shall belong, immediately after such discontinuance, alienation, or recovery, to enter upon, possess, and enjoy the said lands, tenements, or hereditaments, according to such title and interest, as the said person should have had in the same, if such woman had been dead, and no discontinuance, alienation, or recovery had been made or suffered.

Alienations by a woman, when sole, of her dower, or estate for life in lands of her husband, and recoveries of the same by covin, to be void.

VIII. And be it enacted, That if any woman, who hath or shall have an estate in dower, or for term of life jointly with her husband, or only to herself, or to her use, in lands, tenements, or hereditaments, of the inheritance or purchase of her husband, or given to the husband and wife for life, by any ancestor of the

If a woman, with any subsequent husband, make such alienation or recovery, then the person, to

A. D. 1798.

the husband, or by any other person, seized to the use of the husband or of hi ancestors, shall, with any after taken husband, make or suffer any such disconti nuance, alienation, or recovery, as is mentioned in the preceding section, then i shall be lawful for the person, to whom, after the decease of the said woman, the said lands, tenements, or hereditaments, do or shall belong, to enter, immediately after such discontinuance, alienation, or recovery, into the said lands, tenements, or hereditaments, and them to possess and enjoy during the life of such husband, according to such title and interest, as the said person should have had in the same, if such woman had been dead, and no discontinuance, alienation, or recovery had been made or suffered; but in such case the said woman may, if she survive such after taken husband, enter into, possess, and enjoy the said lands, tenements, or hereditaments according to her first estate in the same.

Whom the inheritance belongs, may immediately enter.

But the woman, if she survive, may reenter.

This act not to extend to any recovery with the assent of the heir or reversioner.

IX. PROVIDED ALWAYS, *and be it further enacted*, That this act shall not extend to any recovery or discontinuance, which shall be suffered or made with the heirs next inheritable to the said woman, or where the person or persons, who next after her death should have an estate of inheritance in the said lands, tenements or hereditaments, shall assent or agree to the said recovery, if such assent or agreement be of record: AND PROVIDED ALSO, That it shall be lawful for every such woman, being sole or married, after the death of her first husband, to give, sell, or make discontinuance of such lands, tenements, or hereditaments, for term of her life only, after the course of the common law.

Conveyances, made by such woman for the term of her life, good.

Alienation by tenant by the curtesy not to bar the issue of the inheritance of their mother.

X. AND BE IT ENACTED, That if a man shall alien any lands or tenements, which he may hold by the curtesy, neither his children, nor the issue of his children, shall be barred, by his deed, from recovering the same of the seizin of their mother, although in such deed of their father there be a clause, that he and his heirs are bound to warranty; and in like manner, the heirs of the wife shall not, after the death of their father and mother, be barred, by the deed of their father, from recovering the inheritance of their mother, which he aliened in her life time.

In such case, nonage not to delay suits brought by the woman or her heirs.

XI. AND BE IT ENACTED, That the suit of the woman, or his heirs, after the death of her husband, for lands or tenements aliened by the husband, shall not be delayed by the nonage of the heir or heirs, who ought to warrant.

The reversioner or remainder-man may have writ of error on judgment against tenant for life, in dower, or by curtesy.

XII. AND BE IT ENACTED, That if tenant for term of life, or in dower, or by the courtesy, be impleaded, and judgment given against him or her for the lands or tenements, then the person or persons, to whom the reversion or remainder of the same belongs, at the time of such judgment, his, her or their heirs, or successors, may have writ of error, if error be found in the record of such judgment, as well in the life time of the said tenant, as after his or her death; and if such judgment be reversed, the tenant, if living, shall be restored to his or her possession of the said lands or tenements, and the party prosecuting such writ of error to the arrearages of rent for the same; and if such tenant be dead at the time of the judgment given on such writ of error, then restitution of the said lands or tenements shall be made to the party prosecuting the said writ, together with the arrearages of rent. PROVIDED ALWAYS, That if the party prosecuting the said writ of error allege, that the judgment first obtained against such tenant was by covin or assent, then restitution shall be made to the party prosecuting the said writ, with arrearages, although the said tenant be living; but in such case, the said tenant may have a scire facias against the party plaintiff in error, if he will deny and traverse the covin or assent aforesaid, and not otherwise.

But if the first judgment was by covin, restitution shall be made to the plaintiff in error.

An ACT *concerning forcible entries and detainers.*

Passed the 2d of March, 1798.

No entry to be made on lands, but where it is lawful, and then peaceably.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no person shall enter upon or into any lands, tenements or other possessions, and detain or hold the same, but where entry is given by law, and then only in a peaceable manner.

II. AND

II. And be it enacted, That if any person shall enter upon or into any lands, tenements or other possessions, and detain or hold the same with force or strong hand, or with weapons, or by breaking open the doors, windows or other part of a house, whether any person be in it or not, or by any kind of violence whatsoever, or by threatening to kill, maim, or beat the party in possession, or by such words, circumstances or actions, as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then turning by force, or frightening by threats, or other circumstances of terror, the party out of possession; in such case, every person, so offending, shall be guilty of a forcible entry and detainer within the meaning of this act.

What shall be a forcible entry and detainer.

III. And be it enacted, That no person, who shall lawfully or peaceably enter upon or into any lands, tenements or other possessions, shall hold or keep the same unlawfully, and with force, or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid; and it is hereby declared, that whatever words or circumstances, conduct or actions, will make an entry forcible under this act, shall also make a detainer forcible.

What shall be a forcible detainer.

IV. And be it enacted, That the three preceding sections of this act shall extend to and comprehend terms for years, and all estates, whether freehold or less than freehold.

This act to extend to all estates of freehold or less than freehold.

V. And be it enacted, That if any tenant or tenants for term of life or lives, year or years, or other person or persons, who are or shall be in possession of any lands, tenements or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall, wilfully, and without force, hold over any lands, tenements or hereditaments, after demand and notice in writing given for the delivery of the possession thereof, by his, her or their landlord or landlords, lessor or lessors, or the person or persons, to whom the remainder, or reversion of such lands, tenements or hereditaments shall belong, his, her or their agent or attorney, thereunto lawfully authorized, then such person or persons, so holding over, shall be guilty of an unlawful detainer.

What shall constitute an unlawful detainer, without force.

VI. And be it enacted, That the aforesaid forcible entries and detainers, forcible detainers, and unlawful detainers, are hereby made cognizable before any justice of the peace of the county, in which they are committed.

All such entries and detainers cognizable before a justice of the peace.

VII. And be it enacted, That when complaint to any justice of the peace of the proper county shall be made in writing, and signed by the party grieved, his agent or attorney, specifying the lands, tenements or other possessions, so forcibly entered upon and detained, or forcibly, or unlawfully detained, by whom and when done, and the estate therein, it shall be the duty of the said justice to issue a precept, under his hand and seal, directed to the sheriff of the said county, commanding him to cause to come before the said justice, twelve good and lawful men of the said county, qualified to serve as petit jurors in the court of general quarter sessions of the peace, to enquire into and try such forcible entry and detainer, or forcible, or unlawful detainer; which precept shall be in the form or to the effect following; that is to say,

The justice on complaint to issue process.

Form of such process.

county, to wit: The State of New-Jersey to our sheriff of our county of greeting: Whereas complaint in writing is made to the subscriber, A.B. one of our justices of the peace in and for our said county, of a certain forcible entry and detainer (or if detainer only, then say, of a certain forcible detainer, or, of a certain unlawful detainer,) made by E. F. into the messuage (or upon the lands) of C. D. in the county aforesaid; we therefore command you, that you cause to come before the said A. B. at in the county aforesaid, at the hour of in the noon of the day of twelve good and lawful men of the body of your county, being citizens of this State and resident within the county, above the age of twenty one and under the age of sixty five, and who have a freehold in lands, messuages or tenements in the said county, and are in no wise of kin to the said C. D. or E. F. to make a jury of the country, to enquire of and try the said forcible entry and detainer (or forcible or unlawful detainer) Given under the hand and seal of the said A. B. the day of in the year of our Lord, one thousand,

VIII. And

A. D. 1798.

VIII. And be it enacted, That the said justices shall issue a summons to the party complained against, in the words or to the effect following; that is to say,

The justice to issue a summons to the party.

Form of such summons.

county, to wit: The State of New-Jersey to our sheriff of our county of greeting: We command you, that you summon E. F. of to appear before A. B. one of our justices of the peace in and for our said county, at in the county aforesaid, at the hour of in the noon of the day of to answer to and make defence against the complaint of C. D. of a forcible entry and detainer (or if detainer only, then say, of a forcible detainer, or of an unlawful detainer) made by the said E. F. into the messuage (or upon the lands) of the said C. D. in the county aforesaid; and have you then and there this precept, with a return of your proceedings therein. Given under the hand and seal of the said A. B. the day of in the year of our Lord, one thousand,

How such summons is to be served.

IX. And be it enacted, That the said summons shall be served upon the party, against whom the said complaint is made, or a copy thereof left at his usual place of abode, six entire days before the day of appearance therein mentioned; and that such service of the said summons in any part of this State, as well without the said county as within it, shall be good and effectual in law; and further, that no jury shall, by virtue of this act, be sworn to enquire of and try any forcible entry and detainer, or forcible or unlawful detainer, where such previous notice shall not have been given as aforesaid.

No trial to be had without notice to the defendant.

Defendant may plead not guilty, &c.

X. And be it enacted, That the party, against whom such complaint is made, may, at the time of appearance mentioned in the said summons, and before the said jury is sworn, plead not guilty to the said charge or complaint, or that he hath been three years in quiet possession, and his estate therein not ended or determined, agreeably to a subsequent clause in this act; and thereupon the said parties shall be at issue, and the said justice shall proceed to swear the jury, so returned, to enquire of and try the same; and if the said party, against whom the complaint is made as aforesaid, does not appear at the time specified in the said summons, or appearing, does not plead to the said complaint, then it shall be lawful for the said justice to proceed in the same manner, as if he had pleaded not guilty.

How to proceed, if the defendant does not appear, or plead.

XI. And be it enacted, That to the said jurors and each of them, who shall be returned to enquire of and try the said complaint, the said justice shall administer the following oath or affirmation:

Jurors oath.

You do swear (or affirm) that you will well and truly try this issue joined between C. D. and E. F. and a true verdict give according to evidence.

Complaint to be read, and complainant to support the same;

XII. And be it enacted, That when the jury shall be so sworn as aforesaid, the said justice shall cause the said complaint to be read to them, and then call upon the complainant to support the same.

If verdict be against the defendant, the justice shall give judgment thereon, and award restitution.

XIII. And be it enacted, That if the jury find the party, against whom such complaint is exhibited, guilty, or find against his plea of possession, it shall be the duty of the said justice to record the said verdict, and to give judgment thereon, with treble costs; and also to issue a writ of restitution, directed to the sheriff, to cause the complainant to be reseized or repossessed, to which shall be added a clause, commanding the said sheriff to levy the said costs of the goods and chattels of the offender, and, for want thereof, to take the body of such offender, and him safely to keep in close custody in the common gaol of the county, until he shall pay the same, or be thence delivered by due course of law.

If verdict against the complainant, then judgment accordingly, and the comcomplainant to pay costs.

XIV. And be it enacted, That if the jury find against the said complainant, the said justice shall record the said verdict, and give judgment accordingly, with costs, and shall issue execution, directed as aforesaid, for the said costs, against the goods and chattels, and, in want thereof, against the body of the said complainant.

XV. And

XV. And be it enacted, That the said justice may, at the request of either party, and on good reasons being assigned, postpone the said trial to any time not exceeding fifteen days; but such postponement to be on the payment of costs.

Trial may be postponed for good reasons.

XVI. And be it enacted, That it shall be the duty of the said justice to enter, on his minutes or docket, true copies of the complaint exhibited by virtue of this act, and of the summons and venire, and their respective returns, and the names of the jurors, their verdict, and his judgment thereon; and also the names of the witnesses and the admission of evidence objected to, and the rejection of evidence offered, and the reason of such admission or rejection, and all the proceedings before him had touching the said complaint.

Justice's docket how to be kept.

XVII. And be it enacted, That if the sheriff of any county shall neglect or refuse to execute or return any precept, writ, or other process, to him directed and delivered, by virtue of this act, he shall, for every such offence, forfeit and pay two hundred dollars to the party grieved, to be recovered, with costs, by action of debt, in any court, of record having cognizance of that sum.

Penalty on sheriff for not performing the duties enjoined by this act.

XVIII. And be it enacted, That the proceedings had by virtue of this act on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the supreme court by writ of certiorari, and in no other way, and then only after judgment.

Judgment may be removed by certiorari.

XIX. And be it enacted, That neither the said judgment, or any thing in this act, shall bar or prevent the party injured from bringing an action of trespass, or other action, against the aggressor or party offending.

This act not to bar the injured party from his action against the other.

XX. And be it enacted, That the estate or merits of the title shall in no wise be enquired into on any complaint, which shall be exhibited by virtue of this act. Provided always, That this act shall not extend to any person, who hath had the uninterrupted occupation, or been in the quiet possession of any lands or tenements, for the space of three whole years together, immediately preceding such complaint so exhibited to the said justice, and whose estate therein is not ended or determined; but every such person may plead the same to the said complaint, which shall be tried in the manner herein before prescribed.

Merits of the title not to be enquired into.

Not to extend to a person, who has had three years quiet possession.

XXI. And be it enacted, That every justice of the peace, before whom any prosecution shall be instituted, by virtue of this act, shall be and he is hereby authorized to issue writs of subpœna ad testificandum into any county of this State.

Writs of subpœna may be issued into another county.

XXII. And be it enacted, That in prosecutions under this act, the following fees shall be allowed:

To the Justice.

Table of fees.

For every summons,	thirty cents.
For every venire facias,	forty cents.
For entering copies of every complaint, summons, venire facias, and their returns,	one dollar.
For subpœna for every witness,	twelve cents.
For swearing the jury,	twenty cents.
For administering every oath or affirmation,	five cents.
For entering every verdict,	twelve cents.
For entering every judgment,	twelve cents.
For every trial,	two dollars.
For return to every certiorari,	one dollar.

To

A. D. 1798.

TO THE SHERIFF.

For serving every summons and return, - -	one dollar.
For summoning every jury, returning the precept, and attending the trial, - - - -	four dollars.
For executing every writ of restitution, - -	two dollars.
For serving every execution for costs, advertising property for sale, &c. the same fees as are allowed for the like services in the court of common pleas.	

TO THE JURORS AND WITNESSES.

The same fees as are or shall be by law allowed to them respectively in civil causes, in the court of common pleas, and the like for serving subpœna on every witness.

TO THE ATTORNEY.

For the trial of every cause, - - -	two dollars.

Penalty on defaulting jurors and witnesses.

XXIII. AND BE IT ENACTED, That every person summoned as a juror, or subpœnaed as a witness, who shall not appear, or appearing, shall refuse to serve, or to give evidence in any prosecution instituted by virtue of this act, shall forfeit and pay, for every such default or refusal, unless some reasonable cause be assigned, such fine not exceeding five dollars, nor less than one dollar in the case of a juror, and not exceeding twenty dollars, nor less than five dollars, in the case of a witness, as the said justice shall think proper to impose; and such justice is hereby authorized and required to issue an execution, directed to any constable of the said county, to levy the same of the goods and chattels of the offender; which fine, when recovered, shall be applied by the said justice to the use of the said county.

And how to be recovered and applied.

An ACT *making provision for ascertaining the boundaries of counties and townships.*

Passed the 5th of March, 1798.

The board of freeholders may apply to the supreme court to appoint commissioners for ascertaing the line of partition between counties.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That where the partition lines between counties have not been actually surveyed and distinctly marked and ascertained, in whole or in part, or where any dispute shall arise respecting the same, it shall be lawful for the board of chosen freeholders of either county, on giving thirty days notice in writing, signed by the director of such board, to the director of the board of chosen freeholders of the other county, to make application to the supreme court of this State, which is hereby empowered and directed to appoint three judicious commissioners, not being inhabitants of either of the said counties, to run, survey, mark, and ascertain the said line or lines of partition, or any part thereof, agreeably to the act or acts of the legislature constituting such counties, or describing their boundaries.

Commissioners to take an oath of office.

II. AND BE IT ENACTED, That the said commissioners, before they enter upon the execution of their appointment, shall take and subscribe an oath or affirmation before some judge or justice of the peace, that they will faithfully and impartially perform all the duties appertaining to the said appointment.

Commissioners to give thirty days notice of meeting to the directors of the boards.

III. AND BE IT ENACTED, That the said commissioners, or any two of them, shall give thirty days notice, in writing, to the respective directors of the said boards of the time and place of their meeting, to execute the duties designated in and by their appointment.

IV. AND BE IT ENACTED, That the said commissioners, or any two of them, shall cause the said line of partition, or such part thereof as shall be specified in,

or

or become necessary by their appointment, to be run, surveyed, marked and ascertained in conformity, as nearly as may be, with the act or acts of the legislature constituting such counties and prescribing their boundaries; which survey, certified under their hands, or the hands of any two of them, shall be annexed to their commission or appointment, and oath or affirmation of office, and be delivered to the secretary of this State, to be by him recorded and filed.

A. D. 1798.

Commissioners to survey and ascertain the line of partition; which survey shall be recorded in the secretary's office.

V. And be it enacted, That the line so surveyed, marked, ascertained and certified, shall be, and hereby is declared to be the boundary and line of partition between the said counties.

Line so surveyed to be the boundary between the counties.

VI. And be it enacted, That all the charges and expenses of executing the duties of such appointment, inclusive of recording and filing the commission, oath of office, and survey, shall be taxed by the said supreme court, and equally paid by the said counties.

Expense to be paid equally by the said counties.

VII. And be it enacted, That when the board of chosen freeholders of a county shall deem it necessary to ascertain the partition line, or any part thereof, between any townships of the said county, it shall be lawful for the said board to make application to the inferior court of common pleas, on giving the like notice to the chosen freeholders of such townships; whereupon the said inferior court of common pleas shall appoint three judicious commissioners, not being inhabitants of either of the said townships, to run, survey, mark and ascertain the said line, or any part thereof, agreeably, as near as may be, to charters, settlements, and acts relative to the same.

Commissioners to settle township lines, to be appointed by the court of common pleas.

VIII. And be it enacted, That the said commissioners shall take an oath or affirmation of office as aforesaid, and shall, as above mentioned, give thirty days notice, in writing, to the chosen freeholders of the said townships, of the time and place of their meeting to perform the duties enjoined upon them.

To take oath of office, and give notice of their meeting.

IX. And be it enacted, That the said commissioners, or any two of them, shall cause the said line, or such part of it as shall be specified in, or become necessary by, their appointment, to be run, surveyed, marked and ascertained, agreeably, as near as may be, to charters, settlements, and acts relative to the same; which survey, certified under their, or any two of their hands, shall be annexed to their commission or appointment, and oath or affirmation of office, and delivered to the clerk of the court of common pleas of the said county, who shall record and file the same.

Commissioners to survey and ascertain the line of partition; which survey shall be recorded by the clerk of the court.

X. And be it enacted, That the line, so surveyed, marked, ascertained, and certified, shall be the boundary, or line of partition between the said townships; and all the charges and expenses attending the same shall be taxed by the said inferior court of common pleas, and equally paid by the said townships.

Such line to be the boundary between the townships; expenses to be equally paid.

XI. And be it enacted, That this act shall only operate on the boundaries and lines of counties and townships as such; and shall in no wise be construed to affect the boundaries or lines of lands belonging to any person whatsoever.

This act not to affect the lines of lands belonging to any person.

XII. And be it enacted, That the term, township, made use of in this act, shall be construed to comprehend precinct, ward, borough, and town corporate.

Township to comprehend precinct, ward, &c.

XIII. And be it enacted, That if any commissioner, appointed by virtue of this act, shall die, refuse to serve, or resign, it shall be the duty of the said supreme court, or the said inferior court of common pleas, as the case may be, to appoint another in his room.

If any commissioner die, another to be appointed.

XIV. And be it enacted, That the act, entitled, "An Act for running and marking the lines between the several counties and townships of this colony," passed the twenty eighth day of November, in the year of our Lord, one thousand, seven hundred and sixty, be, and the same is hereby repealed.

Former law repealed.

An ACT

A. D. 1798.

An ACT *for the relief of creditors against absconding and absent debtors.*

Passed the 8th of March, 1798.

Attachment to issue on oath of the creditor, that his debtor absconds.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if any creditor shall make oath or affirmation before any judge of any of the courts of record of this State, or justice of the peace of any county in the same, that he verily believes, that his debtor absconds from his creditors, and is not, to his knowledge or belief, resident in this State at that time, then it shall be the duty of the clerk of the supreme court, or of the court of common pleas, to issue a writ of attachment, to be directed to the sheriff or coroner, as the case may require, and returnable to the next term, commanding him to attach the rights and credits, monies and effects, goods and chattels, lands and tenements of such debtor, wheresoever they may be found; which oath or affirmation shall, prior to the sealing of the said writ, be delivered to the said clerk, to be by him filed in his office.

Or, in the absence of the creditor, on the oath of his agent.

II. AND BE IT ENACTED, That if the said creditor be absent, or reside out of this State, then his agent or attorney may make oath or affirmation to the above effect, and deliver the same to the said clerk to be filed, who shall thereupon issue such writ of attachment.

Penalty on issuing such writ contrary to this act.

III. AND BE IT ENACTED, That if any clerk shall seal such writ of attachment, before such oath or affirmation shall be delivered to him, he shall forfeit and pay twenty dollars to the party injured, to be recovered, with costs, by action of debt, in any court of record of this State having cognizance of that sum.

In what manner the attachment is to be executed.

IV. AND BE IT ENACTED, That the said writ of attachment shall be executed in the following manner; that is to say, The officer, to whom it is directed, shall go to the house or lands of the defendant, or to the person or house of the person, in whose custody or possession the defendant's property and estate may be, and then and there declare, in the presence of one credible person at the least, that he attaches the rights and credits, monies and effects, goods and chattels, lands and tenements of such defendant, at the suit of the plaintiff in the said writ named.

Inventory and appraisement of property attached to be made, and returned with the writ.

V. AND BE IT ENACTED, That the said officer shall, with the assistance of one discreet and impartial freeholder, make a just and true inventory and appraisement of all the property and estate of the defendant, so by him attached, and such inventory and appraisement, dated and signed by himself and the said freeholder, shall annex to and return with the said writ, and the said officer shall endorse on the said writ, the true time of executing the same, and sign his name thereto.

Property bound from the time of serving the attachment.

VI. AND BE IT ENACTED, That the said writ shall bind the property and estate of the defendant, so as aforesaid attached, from the time of executing the same.

Goods attached to be kept by the officer, unless garnishee give bond for the same.

VII. AND BE IT ENACTED, That the goods, chattels, and personal estate, so attached, shall remain in the safe keeping and care of the said officer, in order to answer and abide the judgment of the court, unless the garnishee, after inventory and appraisement thereof, shall enter into bond to such officer, with two sureties, being freeholders in the county, in double the sum at which they were appraised, with condition, that the said goods, chattels and personal estate, or the full value thereof, to be estimated by such appraisement, shall be forthcoming to answer the judgment of the said court.

Officer may break open houses, &c. in search of property.

VIII. AND BE IT ENACTED, That to enable the said officer fully to execute such writ of attachment, he is hereby authorized and required, (having first made demand and being refused) to break open any house, chamber, room, shop, door, chest, trunk or other place or thing, where he shall be informed, or have reason to believe any money, goods, books of account, bonds, bills, notes, papers or writings of the said defendant may be deposited, secreted, had, or found.

IX. AND

A. D. 1795.

IX. And be it enacted, That on the return of the said writ of attachment, it shall be the duty of the clerk of the court to give notice for two months successively, in some public newspaper circulating in this State, convenient to the place where the court is held, of such attachment, and at whose suit, against whose estate, for what sum, and from what court the same issued.

Notice of the attachment to be published in some of the news papers.

X. And be it enacted, That the plaintiff, notwithstanding the garnishee's denial of his having any monies, goods, chattels or effects of the defendant in his custody or possession, or of his being indebted to him, may, if he really believes that the said garnishee hath such monies, goods, chattels or effects in his custody or possession, or that he is indebted to the defendant, and is in fear of the said garnishee's absconding before judgment and execution can be had against such garnishee, and shall make oath or affirmation thereof, and deliver the same to the clerk as aforesaid, institute a suit by capias ad respondendum against the said garnishee, who shall thereon be held to special bail; in which suit the plaintiff may declare against the said garnishee for the monies, goods, chattels or effects, so as aforesaid in his custody or possession, in trover and conversion, as of such plaintiff's own proper monies, goods, chattels and effects, or if the said garnishee be indebted to the defendant in attachment, then the plaintiff may declare for so much money had and received by such garnishee to the use of the plaintiff, and, on the trial, may give the special matter in evidence, and thereupon the jury shall find for the said plaintiff, and assess damages to the full value of the monies, goods, chattels or effects so proved to be in the custody or possession of such garnishee, or to the full value of the debt so due from such garnishee to the defendant in attachment; on which verdict, judgment shall be given, with costs of suit, and execution issued thereon against the goods and chattels, lands and tenements, and the body of the said garnishee, as is or shall be by law allowed in actions of trespass on the case.

In what cases the garnishee may be sued.

XI. And be it enacted, That if any clerk shall seal such writ of capias ad respondendum against the garnishee, before such oath or affirmation shall be delivered to him, he shall forfeit and pay twenty dollars to the party injured, to be recovered, with costs, by action of debt, in any court of record of this State having cognizance of that sum.

Plaintiff to make oath before writ is issued against garnishee under the preceding section.

XII. And be it enacted, That the suit so instituted against the said garnishee, shall be continued by the court, without trial or decision, until the action against the defendant in attachment shall be adjudicated upon and determined; and if in such action, nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover costs against the plaintiff, notwithstanding he may be indebted to the defendant, or have the monies, goods, chattels or effects of such defendant in his custody or possession.

Suit against garnishee to be continued till the principal action be determined.

XIII. And be it enacted, That if in the suit, so instituted against the garnishee, the plaintiff shall be non suited, or shall discontinue, or verdict and judgment shall be given against him, then the said garnishee shall recover costs.

In what cases garnishee shall have costs.

XIV. And be it enacted, That if the sheriff or other officer shall, by virtue of any writ of attachment, issued in pursuance of this act, attach and take, through ignorance or want of proper information, any goods, chattels or effects, which shall be claimed by any person as his property, it shall and may be lawful for such sheriff or officer thereupon to summon and swear a jury to enquire into and try the right and property thereof; and if the jury, on such inquest, shall find the right and property of such goods, chattels or effects to be in the claimant, or in any other than the defendant in attachment, such sheriff or officer shall forthwith deliver the said goods, chattels or effects, to the person in whom the property is so found by the inquisition, or to his agent or attorney; and such sheriff or officer shall not be liable to any prosecution for having attached and taken the said goods, chattels or effects, through ignorance or want of proper information; and all reasonable costs, arising by such inquest, shall be allowed by the court, and paid out of the estate of the defendant in attachment, if the property be found to be in the claimant, or any other person than the said defendant; but if the property be found to be in the said defendant, then such costs shall be paid by the said claimant, or person, who applied for an inquisition, or occasioned the same to be taken.

When goods attached are claimed by others, the right of property to be tried by a jury.

Costs of such trial by whom to be paid.

A. D. 1798.

Persons to be appointed by the court to audit accounts and adjust demands of creditors.

XV. And be it enacted, That the court, on return of such writ of attachment, is hereby empowered and required to appoint three honest, discreet and fit persons, to audit and adjust the demands of the plaintiff, and of so many of the defendant's creditors, as shall have applied to the court for that purpose, or to the auditors, before they shall have made their report; and it shall be the duty of the said auditors, or any two of them, to ascertain the sum due to the plaintiff and to each of the creditors aforesaid, and to make their report thereof in writing, under their hands, to the first or second term thereafter, as the case may require; which report shall be filed by the clerk, and shall the third term, (including the term to which the writ was returned) be made absolute, and judgment entered thereon. Provided always, That such defendant shall have been thrice called in each of the said terms and have made default, and that every such calling and default shall be entered by the clerk in the minutes of the court.

Report of auditors to be filed, and judgment entered thereon.

If defendant appear and file special bail, attachment to be set aside.

XVI. And be it enacted, That if the defendant appear in any of the three terms aforesaid, and accept of a declaration at the suit of every or any one of the said creditors, and enter into special bail, then the said writ of attachment, report, and all the proceedings thereon, shall, as to the suit wherein such special bail is given, be set aside; and if special bail be given to the suit of the plaintiff in attachment, then the costs, which shall have accrued on such attachment, shall abide the event of the said suit.

Costs to abide the event of the suit.

Plaintiff not to discontinue without leave of the creditors.

XVII. And be it enacted, That the plaintiff in such attachment shall not be permitted to discontinue the same, without the consent of, or satisfaction made to each of the said creditors, who shall have applied to the court, or auditors as aforesaid.

Auditors to examine whom they shall think fit, touching the property of the defendant.

XVIII. AND for the better discovery of property and detection of fraudulent practices, *Be it further enacted*, That it shall and may be lawful for the said auditors, or any two of them, to issue their warrant, under their hands and seals, commanding the sheriff of the proper county, or any constable in the same, to bring before them, at a certain time and place therein specified, the wife of such defendant, or any other person, and him or her, by word of mouth, or interrogatories in writing, to examine, on oath or affirmation, which the said auditors, or any two of them, are hereby authorized to administer, touching all matters relative to the trade, dealings, monies, debts, effects, rights, credits, lands, tenements, property and estate of the said defendant, and his secret grants, or fraudulent transfer or conveyance of the same; and if any person shall refuse to be sworn or examined by or before the said auditors, or any two of them, touching any matter herein directed, then such person, so offending, is hereby declared to be guilty of a contempt of the authority of the court, which appointed the said auditors, and shall, by the said court, be proceeded against accordingly.

Auditors may order houses, &c. to be broke open, and searched for concealed property.

XIX. And be it enacted, That the said auditors, or any two of them, are hereby empowered to issue their warrant, under their hands and seals, commanding the sheriff of the proper county, or any constable in the same, to break open, (having first made demand and been refused) any house, chamber, room, shop, door, trunk, chest, or other place or thing, where they shall have reason to believe any monies, goods, chattels, books of account, bonds, bills, notes, papers or writings of the said defendant may be deposited, secreted, had or found, and to seize and inventory the same, and make report thereof to the court at the then next term; and if any person resist the execution of the said warrant, he shall be guilty of a contempt of the authority of the court, which appointed the said auditors, and shall be proceeded against accordingly by the said court.

Upon judgment on report of auditors, scire facias to issue against garnishee.

XX. And be it enacted, That where judgment, on the report of the auditors, shall be entered against the defendant by default, a scire facias shall, (except only as is herein before mentioned) issue against the granishee, to appear at the next term after entry of such judgment, and shew cause, why the plaintiff should not have execution of the money so as aforesaid due by him to the defendant, and in his hands, or the value of the goods and chattels of the defendant, which were in the custody or possession of such garnishee, at the time of executing the writ of attachment; and if the garnishee shall appear at the return of the said scire facias, and on oath or otherwise, to the satisfaction of the plaintiff, confess the amount

mount of the debt due from him to the defendant, or the true value of the defendant's goods and chattels, which were as aforesaid in his custody or possession, and tender the same to the plaintiff, and he accept thereof, then he, the said garnishee, shall, by the judgment of the court, be acquitted and discharged from the debt, or goods and chattels aforesaid, with costs; and if the garnishee, on being returned, warned, on the scire facias, or on two writs of scire facias it be returned, that he had nothing whereby to be summoned, or could not be found in the county, shall not appear, confess and tender as aforesaid, then judgment shall be entered against such garnishee by default, and a writ of enquiry shall be awarded to the sheriff or other officer, to enquire and certify to the court, by the oath or affirmation of twelve good and lawful men of his bailiwick, the amount of the debt due from such garnishee, or the value of the goods and chattels so as aforesaid in his custody or possession, and on the return of such inquisition, judgment shall be entered against the said garnishee for the sum so found and certified, with costs; and if the garnishee shall appear at the return of the said scire facias, and plead thereto, that he had no goods or chattels of the defendant in his custody or possession, either at the time of executing the writ of attachment, or at any time since, or that he was not indebted to the defendant, and the plaintiff on trial, shall prove that he was indebted, then the jury shall find for the plaintiff, and assess damages to the amount or value of such debt, goods or chattels, with costs, and judgment shall be entered accordingly, and execution awarded against the goods and chattels, lands and tenements, and also the person of the said garnishee; but if the jury find for the garnishee, then he shall recover costs against the plaintiff, and have execution for the same.

On judgment against the defendant, the auditors may, by virtue of rule of court, sell the real and personal estate of such defendant.

XXI. And be it enacted, That where judgment, on the report of the said auditors, shall be entered against the said defendant by default, the said auditors, or any two of them, may, by virtue of an order of court for that purpose, make sale and assurance of the goods and chattels, lands and tenements of the said defendant which were attached and taken as aforesaid, or such part thereof as shall be necessary to satisfy the debts of the plaintiff, and the creditors, who may have applied agreeably to the directions of this act; but notice of the sale of such goods and chattels, lands and tenements, shall be set up at five of the most public places in the county, and be advertised in some one of the newspapers circulating in this State, for the space of thirty days prior to such sale; nor shall any sale of such lands or tenements be made in less than eighteen calendar months from the time of executing the writ of attachment, nor of any goods or chattels, till judgment be obtained against the defendant as aforesaid, unless they be of a perishable nature, and then the court may, on the return of the said writ, or at any other time before judgment, order the said auditors, or any two of them, to sell such perishable goods or chattels, in which case, advertisements set up for the space of five days prior to the time of sale, in four of the most public places in the township, precinct or ward, shall be sufficient.

Court may order perishable goods to be sold before judgment.

The monies arising from such sale to be distributed among his creditors in proportion to their respective debts.

XXII. And be it enacted, That when the goods and chattels, lands and tenements of the said defendant shall be sold as aforesaid, then it shall be the duty of the said auditors, or any two of them, to cause public notice to be given in one or more of the newspapers circulating in this State, requiring a meeting of the plaintiff and creditors, who may have applied agreeably to the directions of this act, at a certain time and place in the said notice to be specified, which time shall not be less than six nor more than ten weeks after such notice given, for the purpose of making distribution of the monies arising from such sale; at which meeting or other subsequent meeting, to be continued by adjournment, if necessary, the said auditors, or any two of them, shall distribute among the said plaintiff and creditors equally, and in a ratable proportion, according to the quantum or amount of their respective debts, as ascertained by the said report and the judgment thereon, all the monies arising from the sale of the said goods and chattels, lands and tenements, first deducting legal costs and charges; and if the said monies be not sufficient to satisfy the said debts, then the said auditors, or any two of them, shall assign to the said plaintiff and creditors, the choses in action, rights, and credits of the said defendant, in proportion to their respective debts, so as aforesaid ascertained; which assignment shall vest the property and interest of the said defendant in such assignee, so as he may sue for and recover the same in his own name, and for his own use; and in the said distribution and assignment

If such monies be not sufficient to pay the debts, then the auditors to assign the choses in action, rights and credits of the defendant to his creditors.

A. D. 1798.

ment, no preference shall be allowed to debts due on specialties; and further, that the monies so distributed, as also the monies, which may be received by virtue of such assignment, shall operate as payment of such debt, in whole or in part, as the case may be; and the said auditors are hereby directed to make report of such distribution, assignment, and other proceedings under this section, to the court at the next term, in order that the same may be filed in the clerk's office.

Auditors to make report of such distribution and assignment.

The sale and conveyance of auditors to be good and effectual in law.

XXIII. AND BE IT ENACTED, That every grant, bargain, sale, assignment, transfer, assurance, alienation and conveyance, made by the said auditors, or any two of them, under or by virtue of this act, shall be as good and effectual in law, as if executed by the said defendant before the service of such attachment.

Debts not due may be paid as if due.

XXIV. AND BE IT ENACTED, That any creditor, whose debt is not due, may apply to the court, or auditors, in the same manner as if it were due, and thereupon shall be admitted and considered as a creditor under this act, and shall receive a dividend of the defendant's estate in proportion with the other creditors, deducting only a rebate of legal interest for what he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

Creditors neglecting to apply not to have any share.

XXV. AND BE IT ENACTED, That if any creditor, whether his debt be due or not, shall neglect or refuse to apply to the court, or auditors, in the manner prescribed by this act, he shall not be entitled to any dividend or distributive share; but all the monies arising from the sale of the defendant's goods and chattels, lands and tenements, shall be distributed among, and his choses in action, rights and credits, shall be assigned to such of the creditors, as shall have duly applied to the said court or auditors.

The property of debtors, residing out of the State, may be attached.

XXVI. AND WHEREAS debtors, who reside out of this State, may have property sufficient within the same to pay their debts, or some part thereof, *Be it therefore further enacted*, That the rights and credits, monies and effects, goods and chattels, lands and tenements, of every debtor, who may reside out of this State, shall be liable to be attached, taken, proceded against, sold, assigned, transferred and conveyed, for the payment of his debts, in the like manner, as nearly as may be, as the rights and credits, monies and effects, goods and chattels, lands and tenements of other debtors are made liable by this act: PROVIDED, That instead of the oath or affirmation herein before mentioned, the applicant for such writ of attachment shall, before the sealing thereof, make oath or affirmation, (which shall be filed in the office of the clerk of the court, out of which the same shall be issued) before any judge or justice aforesaid, that the person, against whose estate such attachment is to be issued, is not, to his knowledge or belief, resident at that time in this State, and that he owes to the plaintiff a certain sum of money, specifying, as nearly as he can, the amount of the debt or balance. AND PROVIDED ALSO, That no judgment shall be entered by virtue of this section, until notice, for the space of one year, shall have been given by the clerk of the court in one of the public news papers published in this State, in the State of Pennsylvania, and in the State of New-York, of the issuing of such attachment, and at whose suit, against whose estate, for what sum, and from what court the same issued, and that, unless the defendant in attachment shall appear, give special bail, and receive a declaration at the suit of the plaintiff, judgment will be entered, and the estate so attached will be sold.

Oath to be made before attachment issued.

Notice of such attachment to be published one year.

Writ of attachment, how to issue against joint obligors, partners, &c.

XXVII. AND BE IT ENACTED, That where two or more are jointly bound or indebted, either as joint obligors, partners, or otherwise, the writ of attachment may be issued against the separate, or joint estate, or both, of such joint debtors, or any of them, either by his or their proper name or names, or by the name or style of the partnership, or by whatever other name or names such joint debtors shall be generally known and distinguished in this State, or against the heirs, executors or administrators of them, or any of them; and the estate, so attached, whether it be separate or joint, shall be liable to be sold or assigned for the payment of such joint debt.

XXVIII. AND

XXVIII. And be it enacted, That no plaintiff, or other creditor, shall receive any dividend or assignment as aforesaid, by virtue of this act, until he shall have entered into bond to the defendant, with two or more sureties, being freeholders and residents in this State, to be approved by the court, in double the sum so to be received or assigned, with condition, that he shall appear to any suit, that may be brought against him by the said defendant within one year next after the date of the said bond, and shall pay unto such defendant any sum of money, which, by the judgment or decree of the court, shall appear to have been received by him, and not due or owing, with costs of suit; which bond shall be filed by the clerk for the benefit of the said defendant.

Creditors to enter into bond to defendant, before they can receive any dividend or assignment.

XXIX. And be it enacted, That if any defendant shall die after the return day of the writ of attachment, the said action shall not be thereby abated or discontinued, but the same shall be carried on to judgment, sale, transfer, distribution and final determination, as if such death had not intervened, and the defendant had been alive; and all proceedings and deeds, which shall be had and made in such case, are hereby declared to be as valid and effectual in law, as if they were had and made in the life time of such defendant. And further, That the bond entered into pursuant to the preceding section may, notwithstanding the death of such defendant, be prosecuted in his name to judgment and effect, in the same manner as if he were living.

Action not to abate by the death of the defendant.

XXX. And be it enacted, That any creditor, residing out of this State, shall be entitled to all the privileges and benefits of this act.

Non residents entitled to the benefit of this act.

XXXI. And be it enacted, That the said auditors shall be allowed a reasonable compensation for their services, to be taxed by one of the judges of the court, and paid out of the defendant's estate.

Auditors to be allowed for their trouble out of defendant's estate.

XXXII. And be it enacted, That this act shall be construed in all courts of judicature in the most liberal manner for the detection of fraud, the advancement of justice, and the benefit of creditors.

This act to be construed liberally.

XXXIII. And be it further enacted, That any justice of the peace within this State, on application and affidavit made before him to the purpose aforesaid, shall, and is hereby required to issue an attachment, under his hand and seal, for any sum not exceeding twenty dollars, directed to a constable, who shall execute the same in manner aforesaid, on the effects, rights and credits of the defendant; and if the creditor shall make sufficient proof of the debt due to him, and also of the effects, rights or credits in the hands of the garnishee, the said justice shall give judgment therein for the plaintiff, and award and issue his execution thereof to the constable, either against the effects of the defendant, or against the garnishee, as in other cases cognizable before a justice, (who shall receive five shillings for serving the attachment, and three shillings for serving the execution, and no more) but the effects of the defendant thereon taken, shall not be sold in less than three months, (unless the same are perishable) to the end, the debtor or his friend may redeem them, and in the mean time the same shall be inventoried and safely kept in such manner as the justice shall direct; and if the plaintiff shall not make sufficient proof of the effects, rights or credits, in the hands of the garnishee, he shall pay him his costs, and if need be, the said justice shall issue his execution against him for the same. Provided always, That no judgment shall be entered before such justice within twenty days from the time of issuing such attachment, and it shall be the duty of the plaintiff forthwith, after the issuing of such attachment, to advertise in three of the most public places in the county, that an attachment has been taken out from such justice, against such absconding or absent debtor, in order that any person having a greater demand against such debtor, than is cognizable before a justice of the peace, may have an opportunity to take out an attachment for the recovery of the same.

How a justice shall proceed in cases cognizable before him.

XXXIV. And be it enacted, That any writ of attachment against any absconding or absent debtor, which may be issued out of the supreme court, or the court of common pleas, shall be a supersedeas to all attachments issued by a justice of the peace, undetermined at the time of serving the said writ; and it shall and may be lawful for the sheriff, or his deputy, to take into his possession all

Writ from a superior court to supersede an attachment before justice.

A. D. 1798.

goods and chattels attached by the constable, as fully to all intents and purposes as if the attachment issued by the justice had not been served, and the plaintiffs in said attachments shall be entitled to their several debts, with the costs that may have accrued, in proportion with the other creditors, as is before in this act mentioned and directed: PROVIDED ALWAYS, That no constable shall be obliged to remove any goods, taken into his custody by virtue of any attachment, after the same shall have been seized and attached by the sheriff.

Certain acts repealed.

XXXV. AND BE IT ENACTED, That the act, entitled, "An Act for the better enabling of creditors to recover their just debts from persons who abscond themselves," passed the sixteenth day of December, in the year of our Lord, one thousand, seven hundred and forty eight; and the act, entitled, "An Act to revive and amend an act, entitled, "An Act for the better enabling creditors to recover their just debts from persons who abscond themselves," passed the fifth day of December, in the year of our Lord, one thousand, seven hundred and sixty; and the act, entitled, "A Supplementary act to the act, entitled, "An Act for the better enabling of creditors to recover their just debts from persons, who abscond themselves," passed the first day of June, in the year of Lord, one thousand, seven hundred and ninety two, and all and every other act or acts, clause or clauses of acts, coming within the purview of this act, be, and they are hereby repealed: PROVIDED NEVERTHELESS, That such repeal shall not affect any writ of attachment heretofore issued by virtue of the said acts, or any of them; but such writ of attachment shall be proceeded upon to final judgment, sale, distribution, and effect, in the same manner as if this act had not been made.

But such repeal not to affect antecedent actions.

An ACT *ascertaining the times and places of holding the courts of common pleas and general quarter sessions of the peace.*

Passed the 8th of March, 1798.

Times and place of holding the courts of common pleas and quarter sessions in Bergen.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the courts of common pleas and general quarter sessions of the peace, in and for the county of Bergen, shall be held annually at New Barbadoes, in the said county, on the fourth Tuesday of January, March and October, and the second Tuesday of June.

In Essex.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Essex, shall be held annually at Newark, in the said county, on the second Tuesday of January and April, the fourth Tuesday of June, and the third Tuesday of September.

In Middlesex.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Middlesex, shall be held annually at New-Brunswick, in the said county, on the third Tuesday of December, the fourth Tuesday of March and September, and the second Tuesday of June.

In Monmouth.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Monmouth, shall be held annually at Freehold, in the said county, on the fourth Tuesday of January, April and July, and the third Tuesday of October.

In Somerset.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Somerset, shall be held annually at Bridgewater, in the said county, on the first Tuesday of January and October, and the third Tuesday of April and June.

In Burlington.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Burlington, shall be held annually at Mount Holly, in the said county, on the second Tuesday of February and August, the third Tuesday of May, and the first Tuesday of November.

That

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Gloucester, shall be held annually at Woodbury, in the said county, on the third Tuesday of March, the third Tuesday of June, the first Tuesday of October, and the second Tuesday of December. A. D. 1798. In Gloucester.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Salem, shall be held annually at Salem, in the said county, on the first Tuesday of March and December, the second Tuesday of June, and the third Tuesday of September. In Salem.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Cape May, shall be held annually at the middle township, in the said county, on the first Tuesday of February and August, the last Tuesday of May, and the fourth Tuesday of October. In Cape May.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Hunterdon, shall be held annually at Flemington, in the said county, on the first Tuesday of February, May and August, and the fourth Tuesday of October. In Hunterdon.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Morris, shall be held annually at Morris Town, in the said county, on the third Tuesday of March and December, the first Tuesday of July, and the fourth Tuesday of September. In Morris.

That the courts of common pleas and general quarter sessions of the peace, in and for the county of Cumberland, shall be held annually at Bridgetown, in the said county, on the last Tuesday of February, the fourth Tuesday of September, the first Tuesday of June, and the last Tuesday of November. In Cumberland.

And that the courts of common pleas and general quarter sessions of the peace, in and for the county of Sussex, shall be held annually at Newtown, in the said county, on the third Tuesday of February and August, and the fourth Tuesday of May and November. In Sussex.

II. And be it enacted, That the said courts of common pleas and general quarter sessions of the peace may, respectively, be held and continued for so long time at each session, as the business thereof shall render necessary. May be held until the business is finished.

III. And be it enacted, That all writs and other process already issued, and returnable to the next term of any of the said courts, shall be returned on the days and at the places so as aforesaid established for holding the said courts, respectively; the day and place of return in the same writs and process mentioned notwithstanding. Time for returning writs that have issued.

IV. And be it enacted, That all acts and parts of acts coming within the purview of this act, shall be, and the same are hereby repealed. Former laws repealed.

An ACT *for making process effectual against mortgagors, who abscond, or who refuse to appear.*

Passed the 12th of March, 1798.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any suit hereafter to be commenced by a mortgagee in the court of chancery of this State against any mortgagor, against whom a subpœna or other process shall issue, such mortgagor shall not cause his appearance to be entered upon such process in such manner, as according to the rules of the court the same ought to have been entered, in case such process had been duly served, and an affidavit shall be made to the satisfaction of such court, that such mortgagor is withdrawn out of this State, or cannot upon due enquiry be found within the same, so as to be served with such process; then, in In what cases the bill of the mortgagee shall be taken as confessed, and the premises sold, if the mortgagor shall not appear at a certain day according to the order of the court, a copy whereof shall be inserted in one of the newspapers, and be also posted up in the county.

A. D. 1798.

in such case, the said court may make an order, directing such mortgagor to appear at a certain day therein named, not less than three months from the date of such order, a copy of which shall, within twenty days, be inserted in one of the public newspapers printed in the eastern division of this State, if the lands lie therein, and in one of the public newspapers circulating in the western division of this State, if the lands lie therein, for at least six weeks; and a copy of the same order shall also be posted up within the time aforesaid, at the court house of the county, and in two of the most public places in the township, in which such mortgaged premises lie, for at least six weeks; and if such mortgagor shall not appear within the time limited by such order, or within such further time as the court shall appoint, then, on proof made of the publication of such order in manner aforesaid, the court, being satisfied of the truth thereof, may order the plaintiff's bill to be taken pro confesso, and thereupon decree a sale of the mortgaged premises, or such part or parts thereof, as to the said court shall seem just and right.

Mortgaged premises may be appraised before a decree.

II. And be it enacted, That if, in the opinion of the court, it shall appear to be necessary, the court shall cause the mortgaged premises to be appraised, on oath, by two indifferent persons, to be appointed by the court, that the value of the same may be known to the court, as nearly as may be, before the decree be made; and upon such decree for the sale of the mortgaged premises, or such part thereof as shall be thought sufficient to discharge the debt due to such mortgagee, together with his costs, a writ shall be issued from the court to the sheriff of the

On a decree for a sale, a writ shall be issued to the sheriff to sell, who shall advertise, sell, and convey the premises.

county, where such mortgaged premises lie, commanding him to make sale of the lands decreed to be sold at public vendue, and to have the monies arising by the sale, in court at a day to be mentioned in the same writ, not less than three months after the test, or day on which such writ issued; and the said sheriff shall thereupon cause an advertisement of the intended sale of such lands to be inserted in some public newspaper circulating in the county, where the lands lie, for at least two months previous thereto, and shall also advertise the same for the like space of time in the township, where the mortgaged premises lie, and in three or more of the most public places in the same county, and at the day so by him notified shall, between the hours of twelve and five in the afternoon, proceed to sell the same to the highest bidder, and shall execute a deed therefor to the purchaser in such manner as the case may require, which deed shall be of the same validity,

The monies arising from the sale, how to be appropriated.

and as beneficial to the purchaser, as if the same deed had been executed by the mortgagee and mortgagor, and shall be adjudged an entire bar against them and each of them, and their and each of their heirs, both in law and equity; and the monies arising by the said sale shall be applied to pay off and discharge the debt due to such mortgagee, with such costs as the court shall award, and the remainder, if any there be, shall be put at interest, on such security as the said court shall think sufficient, and the same shall be paid to the mortgagor, or his executors, administrators or assigns, upon his or their application to the court for the same: Provided always, That no greater estate in the premises sold shall, at any time be conveyed or granted by the sheriff to such purchaser, than would have vested in the mortgagee, had the equity of redemption been duly foreclosed.

If mortgagee, before sale, enter his appearance and pay costs, a supersedeas shall issue to stay sheriff's proceedings.

III. And be it enacted, That if the mortgagor shall, at any time before the sale made by the sheriff, in pursuance of such writ issued to him as aforesaid, cause his appearance to be duly entered in such court, and shall pay such costs to the mortgagee as the said court shall think reasonable, that then a supersedeas shall issue from the said court, directed to the sheriff, to stay his proceeding to the sale of such mortgaged premises; and upon such appearance being entered, such proceedings shall and may be thereupon had, as if an appearance had been entered within such time, and in such manner, as according to the rules of the court the same ought to have been entered, in case the first process in the suit had been duly served.

On a sale being decreed and mortgagee paid, the mortgagor, if aggrieved, may, within seven years, compel the mortgagee to account, and refund, if overpaid.

IV. And be it enacted, That in all cases, in which a decree for the sale of the mortgaged premises shall be made as aforesaid, and the mortgagee shall be paid the money alleged by him to be due as above directed, it shall and may be lawful for any such mortgagor, within the space of seven years from the time of the sale of such mortgaged premises, if he finds himself aggrieved, and that the mortgagee hath received more money than was really due to him on the mortgage,

to

to file his bill in the said court against such mortgagee, to compel him to account with and settle what was really and truly the sum due to such mortgagee at the time of the sale of the mortgaged premises, and to refund and repay to him what shall be found such mortgagee hath been overpaid, together with the interest from the time of such payment made, with costs of suit, the former decree for the sale of the mortgaged premises notwithstanding. A. D. 1798.

If mortgagor be brought into court by process, his appearance shall be entered.

V. And be it enacted, That if any mortgagor, by virtue of any writ of habeas corpus, or other process issuing out of the court of chancery, shall be brought into court, and shall refuse to cause an appearance to be entered according to the rules of the court, such court shall and may appoint the clerk in court, or any solicitor of the court, to enter such mortgagor's appearance, and such proceedings may be thereupon had in the cause, as if the party had actually appeared.

This act to extend to suits now depending.

VI. And be it enacted, That this act shall extend to all suits now depending in the said court for the foreclosure of mortgages against absconding mortgagors, and that all proceedings, hereafter to be had in such suits, shall be in all things conformable to the directions of this act.

Former act repealed.

VII. And be it enacted, That the act, entitled, "An Act making process in courts of equity effectual against mortgagors, who abscond and cannot be served therewith, or who refuse to appear," passed the twenty sixth day of September, in the year of our Lord, one thousand, seven hundred and seventy two, be, and the same is hereby repealed.

An ACT *respecting apprentices and servants.*

Passed the 14th of March, 1798.

Persons under age, legally bound, shall serve according to their indenture.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if any male person, within the age of twenty one years, or any female person, within the age of eighteen years, shall be bound by indenture, of his or her own free will and accord, and by and with the consent of his or her father, or, in case of the death of his or her father, by and with the consent of his or her mother, or guardian, to be expressed in such indenture, and signified by such parent or guardian, sealing and signing the same indenture, and not otherwise, to serve as a clerk, apprentice, or servant, in any art, craft, mystery, science, profession, trade, employment, manual occupation or labor, until, if a male, he arrive to the age of twenty one years, and if a female, until she arrive to the age of eighteen years, or for any shorter time, then the said clerk, apprentice, or servant, so bound as aforesaid, shall serve accordingly.

Their ages shall be expressed in the indenture.

II. And be it enacted, That the age of every infant, who shall be bound to serve as a clerk, apprentice, or servant, according to the preceding section, shall be mentioned and inserted in his or her indentures.

Indentures, &c. contrary to this act to be void.

III. And be it enacted, That all indentures, covenants, promises, and bargains of or for the having, taking, or keeping of any clerk, apprentice, or servant, hereafter to be made or taken, otherwise than by this act, or by any act authorizing overseers of the poor and justices of the peace to bind out children in certain cases, is limited and prescribed, shall be utterly void in law, as against such clerk, apprentice, or servant only.

No deed of apprenticeship or servitude to be void for not being indented.

IV. And be it enacted, That no deed, contract, agreement, or writing whatsoever, made or to be made for binding any person as a clerk, apprentice, or servant as aforesaid, after the passing of this act, shall be deemed to be void and of no effect, by reason of such deed, contract, agreement, or writing not being indented only.

Complaints between master and servant &c. how settled, and abuses, how corrected.

V. And be it enacted, That if any master or mistress shall be guilty of any misusage, refusal of necessary provision, or clothing, unreasonable correction, cruelty, or other ill treatment, so that his or her said clerk, apprentice, or servant

A. D. 1798.

shall have any just cause to complain, or if the said clerk, apprentice, or servant shall absent himself or herself from the service of his or her master or mistress, or be guilty of any misdemeanor, miscarriage, or ill behaviour, or do not his or her duty to his or her master or mistress, then the said master or mistress, or the said clerk, apprentice, or servant, being aggrieved, and having just cause of complaint, shall repair to one justice of the peace, within the county, where the said master or mistress dwells, who shall, in his wisdom and discretion, take such order and direction between such master or mistress, and his or her clerk, apprentice, or servant, as the equity of the case shall require; and if the said justice of the peace cannot compound or agree the matter between such master or mistress, and his or her clerk, apprentice, or servant, then the said justice shall call to his assistance two other justices of the peace of the said county, unconnected with either of the said parties; which three justices, when met, shall constitute a court for the hearing of the said matters in difference, and, having heard the same, shall have authority to discharge, if they think proper, by writing, under their hands and seals, or the hands and seals of any two of them, the said clerk, apprentice, or servant, of and from his or her clerkship, apprenticeship, or service, and to order such part or proportion of the money as shall have been given, paid, contracted or agreed for, with or in relation to such clerk, apprentice, or servant, as they shall think just and reasonable, to be refunded or paid back to the person, who paid the same, his or her executors, or administrators, or to be deducted, as the case may require; and such writing, as aforesaid, shall be a sufficient discharge for the said clerk, apprentice, or servant, against his or her master or mistress, and his or her executors and administrators, the said indenture, or any law to the contrary notwithstanding; and if the default shall be found to be in the clerk, apprentice, or servant, then the said court shall cause such due correction or punishment to be administered unto him or her as they shall deem to be just and reasonable; and if any person shall think himself or herself aggrieved by such adjudication of the said justices, he or she may appeal to the next court of general quarter sessions of the peace in and for the county, where such adjudication shall have been made, such person giving six days notice of his or her intention of bringing such appeal, and of the cause and matter thereof, to the adverse party, and entering into a recognizance, within three days after such notice, before some justice of the peace of the said county, with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by the said court; which said court, at their said sessions, upon due proof, upon oath or affirmation of such notice being given, and of entering into such recognizance as aforesaid, shall be, and hereby are empowered and directed to proceed in, and hear and determine the cause and matter of such appeal, and give and award such judgment therein, with costs, to either party, appellant or respondent, as they in their discretion shall judge proper and reasonable.

Justices may discharge apprentices, &c.

and may cause them to be corrected.

Appeal granted.

Penalty for assisting a servant to run away, or absent himself,

VI. And be it enacted, That every person, who shall counsel, persuade, entice, aid or assist any clerk, apprentice, or servant, to run away, or absent himself or herself from the service of his or her master or mistress, shall forfeit and pay the sum of thirty dollars, to be sued for and recovered by action of debt, with costs, by such master or mistress, in any court of record having cognizance thereof.

or for harboring a servant.

VII. And be it enacted, That every person, who shall entertain, harbor, or conceal any clerk, apprentice, or servant, knowing such clerk, apprentice, or servant to have run away, shall forfeit and pay one dollar for every day's entertaining, harboring, or concealing as aforesaid, to be sued for and recovered by action of debt, with costs, by such master or mistress, in any court of record having cognizance thereof.

Servants, &c. who have run away may be compelled to serve double the time, and to pay or serve for damages and costs.

VIII. And be it enacted, That whenever a male servant, above the age of twenty one years, or a female servant, above the age of eighteen years, shall abscond from his or her master or mistress's service, or run away, it shall be lawful for such servant, when apprehended, to be taken by such master or mistress before three justices of the peace of the county where such master or mistress resides, who, upon the hearing of the whole matter, shall adjudge the said servant to serve any term, not exceeding double the time he or she so absented him or herself

herself, besides paying or serving for all damages and costs, which such master or mistress shall be adjudged to have sustained by such unlawful absence or departure. A. D. 1798.

An action may be brought against servant for damages.

IX. And be it enacted, That every clerk, apprentice, or servant, under the ages mentioned in the preceding section, who shall absent himself or herself from the service of his or her master or mistress, without leave first obtained, or who shall run away, so that the said master or mistress shall be deprived of his or her service during the remainder of the term, or any part thereof, for which he or she was bound to serve, then, and in such case, it shall be lawful for the master or mistress of such clerk, apprentice, or servant, to have an action on the case, in any court having cognizance thereof, against such clerk, apprentice, or servant, for the damage, that such master or mistress may have sustained by reason of the absence of such clerk, apprentice, or servant; provided such action shall be brought within the term of six years after such clerk, apprentice, or servant, shall arrive at full age.

Certiorari shall not be brought.

X. And be it enacted, That no writ of certiorari, or other process, shall issue or be issuable, to remove, into the supreme court, any proceedings had in pursuance of this act, before any justice or justices of the peace, or before any court of general quarter sessions of the peace.

Former act repealed.

XI. And be it enacted, That the act, entitled, "An Act for regulating of white servants, and taking up soldiers and seamen deserting her majesty's service and coming into this colony," passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and thirteen--fourteen, be, and the same is hereby repealed.

An ACT *respecting slaves.*

Passed the 14th of March, 1798.

Slaves shall continue so, unless set free.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That every negro, indian, mulatto, or mestee, within this State, who, at the time of passing this act, is a slave for his or her life, shall continue such during his or her life, unless he or she shall be manumitted and set free in the manner prescribed by law.

Slaves not to be witnesses, except against each other.

II. And be it enacted, That no slave shall be admitted a witness against any person in any matter, cause, or thing whatsoever, civil or criminal, except in criminal cases, in which the evidence of one slave shall be admitted for, or against another slave.

Penalty on persons trading with slaves without permission of their masters.

III. And be it enacted, That no person or persons shall trade or traffic, either in buying, bartering or selling, with any slave, without the leave or consent of the master or mistress of such slave, on pain of forfeiting three dollars, for each offence, to the master or mistress of such slave, to be recovered, with costs, against the person or persons so trading contrary to the true intent and meaning of this act, by action of debt, in any court having cognizance thereof; and also, that every contract or bargain, which shall be so made, with any slave, without the permission or consent of his or her master or mistress, shall be void and of no effect.

Penalty on persons employing or harboring slaves without the consent of their master.

IV. And be it enacted, That if any person or persons shall hereafter employ, harbor, conceal, or entertain any negro or other slave, knowing such negro or other slave to be the slave of any other person or persons, without the consent of the master, mistress, or owner of such slave, he, she or they shall forfeit to the master, mistress, or owner of such slave, the sum of four dollars for every twenty four hours, and in that proportion for a greater or less time, while such slave shall have been employed, harbored, concealed, or entertained as aforesaid; which forfeiture or penalty shall be recovered by action of debt, with costs

A. D. 1798.

costs of suit, in any court having cognizance thereof. PROVIDED ALWAYS, That such forfeiture or penalty shall not in the whole exceed the value of such slave.

Penalty, in case such slaves so harbored, &c. shall be lost, disabled, &c.

V. AND BE IT ENACTED, That if any person or persons shall be found guilty of harboring, entertaining or concealing any slave, or conveying, or assisting to convey away such slave, and if such slave shall be lost, die, or be otherwise destroyed, or shall be disabled, or rendered unserviceable, the person or persons, so harboring, entertaining, concealing, conveying, or assisting to convey away such slave, shall be liable to pay the value of such slave to the owner or owners, to be recovered by action of debt, or trespass on the case, with costs of suit, in any court having cognizance thereof.

Reward for taking up slaves if ten miles from home, without a pass, &c.

VI. AND BE IT ENACTED, That if any person shall take up any negro or other slave at a distance of ten miles from the habitation of his or her master or mistress, who hath not permission in writing from his or her master or mistress, or is not known to be on his or her service or business, the person, so taking up such slave, shall have for his reward one dollar, with reasonable charges for carrying him or her home, to be paid by the master or mistress of such slave; and in case of non payment, to be recovered by action of debt, or trespass on the case, with costs of suit, in any court having cognizance thereof.

And slaves coming into this State from another State, without license.

VII. AND BE IT ENACTED, That if any negro or other slave, of or belonging to any inhabitant of any of the other States in the union, shall come into this State, without license under the hand of his or her master or mistress, or who is not known to be on his or her business or service, every such negro or other slave shall be taken up by any person in this State, and be carried before the next justice of the peace, who is hereby authorized and required, by a warrant under his hand and seal, to commit such slave to the gaol of the city or county; and the person, so taking up every such slave, shall have for his reward two dollars, to be paid by the master or mistress of such slave; and further, that such slave shall remain in prison till the same be paid, with all reasonable charges.

Penalty on slaves meeting together in a disorderly or tumultuous manner.

VIII. AND BE IT ENACTED, That if any negro or other slaves shall meet and assemble together in a disorderly or tumultuous manner, any constable, or other person, on view or information thereof, shall and may require them immediately to disperse, and go to their respective places of abode; and if such slaves shall not forthwith disperse and retire accordingly, such constable, or other person, is hereby authorized, and it is especially made the duty of such constable, to apprehend such slaves, and carry them before the next justice or justices of the peace, who is and are hereby empowered and directed to enquire into the charges exhibited against such slaves, or any of them, and at his or their due discretion, according to the circumstances of the case, to send them, or any of them, to their respective master or mistress, or to commit them, or any of them, to the gaol of the city or county, there to remain for any space of time not exceeding one week, or, (if the master or mistress of any such slave or slaves shall signify their desire, either in person or by writing, to the said justice or justices) to order and direct such slaves, or any of them, to be whipped on the bare back by the said constable, not exceeding twenty lashes; and any of the said slaves, being committed to prison, shall there remain until the master or mistress shall satisfy all reasonable charges; and any of the said slaves being whipped, the master or mistress shall be liable to pay the said constable one dollar for each and every of his or her slaves so whipped.

Penalty on slaves being out after 10 o'clock at night, or hunting on Sunday.

IX. AND BE IT ENACTED, That if any negro or other slave shall be seen or found from the dwelling house of his or her master or mistress after the hour of ten at night, except on the particular business of his or her master or mistress, or shall be seen to hunt or carry a gun on the first day of the week, or Christian Sabbath, commonly called Sunday, any constable or other person, on information or knowledge thereof, is hereby authorized, and it is especially made the duty of such constable, to apprehend and carry such negro or other slave before the next justice or justices of the peace, who, on examination of the matter, (if such slave shall not give a good account of himself or herself) shall, at his or their due discretion, according to the circumstances of the case, do and act towards such slave in the same manner in all respects as by the preceding section of this act is prescribed:

scribed; and any such slave, being committed to prison, shall there remain until the master or mistress shall satisfy all reasonable charges; and in case such slave shall be ordered to be whipped, then the master or mistress of such slave shall be liable to pay the constable for performing that service the sum of one dollar: PROVIDED, That nothing in this, or the preceding section contained, shall be construed or taken to prevent any negro or other slave from going to any place of worship, or from any innocent recreation, or from doing any other reasonable act with his or her master's or mistress's consent.

Penalty on persons, who shall suffer their slaves to go about begging.

X. AND BE IT ENACTED, That no person or persons within this State shall, knowingly and willingly, suffer or permit his, her or their slave to go about begging of others, victuals, clothing, or other necessaries, or money; and if any person or persons shall offend herein, he, she or they shall, for every such offence, forfeit the sum of eight dollars, to be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by any person or persons, who will sue for the same, the one half thereof to be paid to the overseers of the poor of the township, where such offence shall be committed, and the other half to the person or persons, who shall prosecute for the same to effect.

Penalty on selling slaves to persons, who are unable to maintain them.

XI. AND BE IT ENACTED, That if any person or persons shall, by any collusive conveyance, or fraudulent agreement, sell or dispose of, or pretend to sell or dispose of any aged or decriped slave, to any person or persons, who is or are unable to keep and maintain such slave, such sale, or pretended sale shall be absolutely void; and the person or persons, making such sale, or pretended sale, shall forfeit the sum of forty dollars for each offence, and shall moreover be deemed the owner or owners of such slave; which forfeitures shall be recovered and applied in the manner directed in and by the next preceding section of this act.

Penalty for bringing slaves into this State.

XII. AND BE IT ENACTED, That from and after the passing of this act, it shall not be lawful for any person or persons whatsoever, to bring into this State, either for sale or for servitude, any negro or other slave whatsoever; and every person offending, by bringing into this State any such negro or other slave, shall for each slave, forfeit and pay the sum of one hundred and forty dollars, to be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by the collector of the township into which such slave shall be brought, to be paid by such township collector to the county collector, and by him to the treasurer, for the use of the State. PROVIDED ALWAYS, That nothing in this act contained shall be construed to prevent any person, who shall remove into this State to take a settled residence here, from bringing all his or her slaves, without incurring any of the penalties aforesaid, or to prevent any foreigners or others, having only a temporary residence in this State, for the purpose of transacting any particular business, or on their travels, from bringing and employing such slaves as servants during the time of his or her stay here, provided such slave shall not be sold or disposed of in this State.

But this act not to extend to foreigners, travellers, or temporary residents.

Citizens of this State may bring their slaves into the same for service, but not for sale.

XIII. AND BE IT ENACTED, That any citizen of this State, who, at the time of the passing of this act, shall own any slave or slaves in any of the United States, shall have power and authority to bring any such slave or slaves into this State for servitude, and not for sale, without incurring any of the penalties or forfeitures mentioned in this act, upon producing a certificate to the collector of the city or township, into which the said slave or slaves may be brought, from any judge of the supreme court, or court of common pleas of the State from which such slave or slaves shall be brought, certifying, that such slave or slaves was or were the property of the citizen so applying at the time of passing this act; and to the truth of the subject matter of the said certificate, the party, producing it, shall make oath before any judge or justice of this State, and shall file the said certificate in the clerk's office of the county, into which such slave or slaves is or are brought.

Forfeitures recovered by collectors to be paid into the treasury.

Penalty on collectors who shall neglect their duty.

XIV. AND BE IT ENACTED, That all forfeitures, which may be recovered as aforesaid, shall, by the township collector recovering the same, be paid forward to the county collector, and by him be paid into the treasury; and if any collector shall be put to any necessary expense in prosecuting as aforesaid, he shall be credited for the same out of the public money in his hands; and in case any collector shall neglect or refuse to prosecute to effect, for any forfeiture incurred as aforesaid,

A. D. 1798.

said, he shall, for every such neglect or refusal, forfeit and pay the sum, which he ought to have recovered, which, together with the sums recovered by any collector upon non payment thereof, shall be sued for and recovered by action of debt, with costs of suit, in any court having cognizance thereof, by the treasurer of the State for the time being, for the use of the State.

Persons may be indicted for cruel treatment to their slaves.

XV. And be it enacted, That it shall be the duty of the grand jury of every county in this State, to indict any person for inhumanly treating and abusing his or her slave, and the person, so offending, shall, on conviction, be punished by a fine, not exceeding forty dollars; which fine shall be paid to the overseer of the poor for the use of the township, in which such offender shall reside.

Owners of slaves, and negro servants, how far to educate them.

XVI. And be it enacted, That the owner or owners of any negro, or other slave or slaves, or of any negro, mulatto, or mestee servant or servants, for life or years, who shall have been born since the twenty sixth day of November, in the year of our Lord, one thousand, seven hundred and eighty eight, and before the passing of this act, or who shall be born at any time after the passing of this act, shall cause every such slave or slaves, servant or servants, while under the age of twenty one years, to be taught and instructed to read; and the owner or owners of any such slave or slaves, servant or servants, who shall neglect or refuse to cause such slave or slaves, servant or servants, to be taught and instructed as aforesaid, shall forfeit and pay thirty dollars, to be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by the overseers of the poor of the township, whose duty it is hereby expressly made to prosecute for the same, and to apply the monies, when recovered, to the use of the poor.

Forfeiture for neglect therein.

Persons fitting out vessels for the slave trade, what to forfeit.

XVII. And be itenacted, That if any person or persons shall fit out, equip, man, or otherwise prepare any ship or other vessel, to sail from any port or harbor of this State, for the purpose of carrying on a trade or traffic in slaves, to, from, or between Europe, Asia, Africa, or America, or any places or countries whatever, or of transporting slaves to or from one port or place to another, such ship or vessel, her cargo, tackle, furniture, apparel, and other appurtenances, shall be forfeited, and be liable to be seized by any justice of the peace, sheriff, or coroner, within this State, and prosecuted by such justice of the peace, sheriff, or coroner, making such seizure, by information in rem, in the supreme court, or the inferior court of common pleas of the county, within which such seizure shall be made.

Vessels forfeited to be sold.

Money arising from the sale how to be appropriated.

XVIII. And be it enacted, That every ship or other vessel, with her cargo, tackle, furniture, apparel, and other appurtenances, so seized as aforesaid, and against which judgment shall be had and obtained, shall, by order of the court, in which such judgment was so had, be sold at public vendue by the sheriff of the county, unless the said sheriff be a party to the prosecution, and then by the coroner of the county in which the said seizure was made, who, after deducting all legal costs and charges, to be taxed by one of the judges of the court, in which the said judgment was had, is hereby ordered and directed, to pay seven eighth parts of the net proceeds thereof to the collector of the county, in which such seizure was made, for the use of the State, and the remaining eighth part thereof to the person or persons, who made the seizure, and prosecuted the same to effect; and the said sheriff or coroner, by whom the said sale shall be made, is hereby entitled to receive and take out of the proceeds of the said sale, one per cent. for his trouble.

Master or others on board resisting a person attempting to seize to forfeit one hundred and thirty dollars.

XIX. And be it enacted, That if any master, seaman, or other person, on board any ship or other vessel, so liable to be seized as aforesaid, shall refuse, or not suffer to enter, or resist, before or after entering on board such ship or vessel, any such person or persons attempting to enter on board, or being already entered on board such ship or other vessel for the purpose of making such seizure as aforesaid, every person, so refusing or resisting, shall forfeit and pay the sum of one hundred and thirty dollars, to be recovered by the person or persons so resisted, in an action of debt, with costs of suit, in any court of record in this State, having cognizance thereof, one half part for the use of the State, and the other half part for the use of the person or persons, who shall prosecute the same to effect.

XX. And

A. D. 1798.

XX. And be it enacted, That no negro or other slave shall be removed out of this State, whose place of residence has been therein for twelve calendar months, immediately preceding such removal, with the design and intention, that the place of abode or residence of such slave shall be thereby changed, without his or her consent, if of full age, testified upon private examination, before a justice of the peace of the county, in which he or she shall reside, or, being under the age of twenty one years, without his or her consent, testified in manner aforesaid, as also without the consent of his or her parent or parents, if any there be, to be testified in like manner, whereof the said justice shall make a record, and deliver to said slave a copy thereof, containing the name, age, condition and then place of abode of such slave, the reason of such removal, and the place to which he or she is about to go; and if any person or persons whatsoever shall sell or dispose of any such slave to any person out of this State, without having previously obtained all such consent as by this act is required, testified in the manner aforementioned, every such person or persons, his, her, or their aiders and abettors, shall severally forfeit and pay, for every such offence, the sum of fifty dollars, to be recovered by action of debt in any court having cognizance thereof, with costs of suit, by any person who will sue for the same, one moiety to the plaintiff, and the other moiety to the use of the poor of the township, from which such slave may be removed. Provided, That nothing in this act shall be construed or understood to make any person or persons liable to the above penalty, who may or shall remove to and reside in any other of the United States, and take his, her, or their slave or slaves with him, her, or them.

Slaves how to be sold and removed out of the State.

But this act not to affect masters moving out of this State into another with their slaves.

XXI. And be it enacted, That it shall and may be lawful for the owner of any negro or other slave, to manumit and set free such slave, by writing under hand and seal, executed in the presence of at least two witnesses, provided such slave, at the time of such instrument of manumission being executed, shall be sound in mind, and not under any bodily incapacity of obtaining a support, and shall not be under the age of twenty one years, nor above the age of forty years; and provided also, that the owner of such slave shall, previous to the execution of such instrument of manumission, obtain a certificate, signed by two of the overseers of the poor of the township, and any two justices of the peace of the county, wherein such owner shall reside, and also cause such certificate to be recorded in the office of the clerk of the said county; for which service the said clerk shall be entitled to one shilling; which certificate shall be in the words, or to the effect following:

Slaves between the ages of twenty one and forty, how to be manumitted.

County, to wit. We do hereby certify, that on this day of in the year of our Lord, one thousand, A. B. of the township of in the said county of brought before us, two of the overseers of the poor of the said township, and two of the justices of the peace of the said county, his (or her) slave, named who, on view and examination, appears to us to be sound in mind, and not under any bodily incapacity of obtaining a support, and also is not under the age of twenty one years, nor above the age of forty years. In witness whereof, we have hereunto set our hands, the day and year above written.

Form of the certificate of manumission.

C. D. }
E. F. } Overseers of the poor of the said township of

G. H. }
I. K. } Justices of the peace in and for the said county of

That upon such certificate, being so signed and recorded as aforesaid, and such instrument of manumission, being so executed as aforesaid, such slave shall be deemed and adjudged to be free; and the owner of such slave shall be exonerated and acquitted from all costs and charges, which may arise for the support of such slave so manumitted, except his or her proportion of any tax or assessment, that hereafter may be laid for the support of the said slave.

XXII. And be it enacted, That if any person, by his or her last will and testament, shall give his or her slave freedom, such slave, being at the time of the death of the testator or testatrix, sound in mind, and not under any bodily incapacity

Slaves between the ages of twenty one and forty may be manumitted by last will and testament, and how.

A. D. 1798.

capacity of obtaining a support, and also not under the age of twenty one years, nor above the age of forty years, to be certified in manner aforesaid, then such freedom shall be good and effectual in law.

How slaves under the age of twenty one, or above the age of forty may be manumitted.

XXIII. And be it enacted, That if the owner or owners of any other slave, than such as is described in the two sections next preceding, be disposed to manumit and set free such other slave, and such owner or owners, or any other sufficient person, for and in behalf of such slave, shall and do, at the court of common pleas of the county where such slave shall reside, enter into a bond to the State of New-Jersey, with at least two sureties, being inhabitants and freeholders of and in the said county, to be approved by such court, in a sum not less than five hundred dollars, to prevent and keep such slave from becoming or being any charge to any township, place, or county in this State, then such slave shall be free, according to such manumission of his or her owner. Provided, That such manumission be in writing, signed and sealed by the owner or owners of such slave, in the presence of at least two witnesses. And further, That if any such slave of the description contained in this section shall be made free by the last will and testament of any person deceased, and if the executor or executors of such last will and testament, or, in case of the neglect or refusal of such executor or executors, if any other sufficient person, shall and do, within six calendar months after proving the said last will and testament, enter into a bond, with sureties, and in manner aforesaid, then the said slave shall be free, according to the true intent and meaning of such last will and testament; but if in any of the cases mentioned in this section, such bond be not entered into in the manner aforesaid, then the said manumission shall be absolutely void and of no effect.

Slaves giving bond, &c. for manumission, to be discharged therefrom after their arrival to the age of forty.

XXIV. And be it enacted, That all slaves, manumitted after the passing of this act, shall be discharged and exonerated, after he or she arrives to the age of forty years, from the payment of any bond, note, or other contract, or performance of any indenture, that shall have been obtaind against him or her in consequence of such manumission.

Settlement of manumitted slaves.

XXV. And be it enacted, That the legal settlement of every slave, manumitted agreeably to the directions of this act, who shall be likely to become a public charge, shall be in that township or place in this State, where the owner, manumitting such slave, may have a legal settlement at the time of such manumission. Provided, That nothing in this section contained, shall be construed to prevent any slave so manumitted, from afterwards gaining a legal settlement in any other township, in the same manner as white persons may gain a legal settlement by virtue of the existing laws of this State.

Owner of slaves, not manumitted according to law, to maintain them; but if the owner, not able, then the township.

XXVI. And be it enacted, That every owner of any negro or other slave, not manumitted according to the directions of this act, his or her heirs, executors or administrators, shall be obliged, at all times, to support and maintain such slave. Provided, That if any such owner shall become insolvent, and so unable to provide for and maintain his or her slave, who shall, by sickness or otherwise, be rendered incapable of supporting himself or herself, then such slave shall be deemed to be a pauper, whose legal settlement shall follow the legal settlement in this State of his or her owner.

Free negroes from other States not to travel, or reside, or be employed, or harbored in this State, without a certificate.

XXVII. And be it enacted, That no free negro or mulatto, of or belonging to any other State in the union, shall be permitted to travel or reside in this State, without a certificate from two justices of the peace of such other State, that such negro or mulatto was set free, or deemed and taken to be free in that State; and if any inhabitant of this State, shall harbor, conceal, or employ any such negro or mulatto, so coming into this State, not having a certificate as aforesaid, or suffer any such negro or mulatto, not having a certificate as aforesaid, to live on his or her land, or in his or her house, or other tenement, for one week, knowing such negro or mulatto to belong to any other State, then every person, so offending, shall forfeit and pay twelve dollars for every week he or she shall habor, conceal, employ, or furnish such negro or mulatto with house or land as aforesaid, to be recovered by action of debt, with costs of suit, by and to the use of any person who shall sue for the same, in any court where the same may be cognizable.

XXVIII. And

A. D. 1798.

XXVIII. And be it enacted, That no free negro or mulatto, of or belonging to this State, shall be permitted to travel or remain in any county in this State, other than in the county where his or her place of residence may lawfully be, without a certificate from two justices of the peace of the county, in which he or she belonged, or from the clerk of the county, under the seal of the court, certifying that such negro or mulatto was set free, or deemed and taken to be free in such county.

Free negroes of this State not to go out of their proper county, without a certificate.

XXIX. And be it enacted, That when any habeas corpus shall be brought to remove any negro, mulatto, mestee, or indian, before the supreme court, out of the possession or custody of any person or persons claiming the service of such negro, mulatto, mestee, or indian, for life, years, or other term, the person or persons, to whom the said habeas corpus is directed, may, in the return to the same writ, aver and set forth, that he, she or they has or have lawful right to the personal service of the said negro, mulatto, mestee, or indian, for life, years, or other term, as the case may be; whereupon the prosecutor shall instanter join issue by denying the right of the defendant or defendants to the personal service of such negro, mulatto, mestee, or indian, either for life, years or other term, and immediately upon the joinder of the said issue, the court shall award a venire facias to the sheriff, or coroner, as the case may require, of the county in which such party defendant resides, commanding him or them to summon a jury to appear at the next circuit court to be held in such county for the trial of the issue so joined as aforesaid.

Proceedings in habeas corpus, respecting negroes, what, and how to be conducted.

XXX. And be it enacted, That the act, entitled, "An Act for regulating slaves," passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and thirteen--fourteen, and the act, entitled, "An Act to restrain tavernkeepers and others from selling strong liquors to servants, negroes and mulatto slaves, and to prevent negroes and mulatto slaves from meeting in large companies, from running about at nights, or from hunting or carrying a gun on the Lord's day," passed the twenty third day of October, in the year of our Lord, one thousand, seven hundred and fifty one, and the act, entitled, "An Act to regulate the trial of slaves for murder and other crimes, and to repeal so much of an act, entitled, "An Act to regulate slaves, as relates to their trial for murder and other capital offences," passed the tenth day of May, in the year of our Lord, one thousand, seven hundred and sixty eight, and the act, entitled, "An Act for laying a duty on the purchasers of slaves imported into this colony," passed the sixteenth day of November, in the year of our Lord, one thousand, seven hundred and sixty nine, and the act, entitled, "An Act to prevent the importation of slaves into the State of New-Jersey, and to authorize the manumission of them under certain restrictions, and to prevent the abuse of slaves," passed the second day of March, in the year of our Lord, one thousand, seven hundred and eighty six, and the supplement thereto, passed the twenty fourth day of November, in the year of our Lord, one thousand, seven hundred and eighty eight, be, and the same are hereby repealed.

Former acts repealed.

An ACT *constituting courts for the trial of small causes.*

Passed the 15th of March, 1798.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every suit of a civil nature at law, where the debt, balance, or other matter in dispute, does not exceed, exclusive of costs, the sum or value of sixty dollars, shall be, and hereby is made cognizable before any justice of the peace of any county in this State, who is hereby authorized to hold a court within such county to hear, try, and determine the same according to law, although the cause of action did not arise in the said county; and further, that the said court shall be a court of record, and vested, for the purposes aforesaid, with all such power as is usual in courts of record of this State. Provided always, That this act shall not extend to any action of replevin, slander, trespass for assault, battery, or imprisonment, or to any action, wherein the title

What causes shall be cognizable before justices of the peace.

A. D. 1798.

of any lands, tenements, hereditaments, or other real estate, shall or may in any wise come in question.

Territorial jurisdiction of justices to be coextensive with their counties.

II. And be it enacted, That the territorial jurisdiction of every justice of the peace, under this act, shall be coextensive with the limits of the county, for which he is appointed and commissioned; that his writs, precepts and process shall run in and through such county, and that he may, in causes pending before him, award writs of subpœna ad testificandum into other counties of this State.

Constables to be their ministerial officers.

III. And be it enacted, That the constables of the several townships in such county shall be the ministerial officers of the said court, and that it shall be the duty of the said constables to execute and return all precepts, summons, warrants, writs and other process, issuing out of the said court, and to them or any of them directed and delivered, and to perform all matters, acts, and things appertaining to their offices aforesaid.

Process, how to be tested, signed and sealed.

IV. And be it enacted, That all such precepts, summons, warrants, writs and other process, shall be tested the day on which they are respectively issued, and shall be signed and sealed by the justice, who issued the same.

First process to be a summons or a warrant.

V. And be it enacted, That the first process, which shall be issued against any defendant by virtue of this act, shall be a summons, or a warrant, in nature of a capias ad respondendum, as the case may require; but the plaintiff may notwithstanding in any case make use of the former.

Summons, how to be served.

VI. And be it enacted, That the summons, to cite the defendant to appear before the said justice, shall specify a certain place and time, not less than five nor more than fifteen days from the date of such process, and shall be served at least five days before the time of appearance mentioned therein, by reading the same to the defendant, and delivering to him a copy thereof, when required, if he shall be found; and if not found, by leaving a copy thereof at his house or place of abode, in presence of some white person of the family of the age of fourteen years, who shall be informed of the contents thereof; and the constable, serving such summons, shall, on the oath of his office, endorse thereupon the time and manner he executed the same, and sign his name thereto.

If the defendant does not appear according to the summons, the justice may proceed in his absence.

VII. And be it enacted, That if the defendant does not appear at the time and place expressed in such summons, and it shall appear by the return endorsed thereon, that the summons was duly served, and no sufficient reason be assigned to the justice, why the defendant does not appear, then the said justice shall proceed to hear and determine the cause in the absence of such defendant.

Summons, in what cases to be used.

VIII. And be it enacted, That the summons shall be used by virtue of this act in cases, where the defendants are freeholders and residents in the county, where such process shall be issued, and in cases where by law the defendants cannot be held to bail.

In what cases a warrant may be issued against a freeholder.

IX. Provided always, *and be it further enacted*, That if any plaintiff, his attorney or agent, shall prove, on oath or affirmation, to the satisfaction of the justice, that if the process be by summons against such freeholder, the plaintiff will be in danger of losing his debt or demand, or doth really believe, that such freeholder will abscond, or depart or remove from the county, wherein he resides, before the day of return of such summons, then it shall be the duty of the said justice to issue a warrant against such freeholder.

Warrant, when to be issued.

X. And be it enacted, That the warrant, commanding the defendant to be arrested, may, under this act, be used in all cases, where the said defendant is not a freeholder residing in such county, and can by law be held to bail, and shall be returnable forthwith after service thereof, and the constable serving said warrant shall, according to the tenor thereof, forthwith convey the said defendant before the justice, who issued the same, who shall thereupon, at his discretion, either cause the said defendant to enter into recognizance in the manner herein after mentioned, or, on neglect or refusal, shall command the said constable to convey the said defendant to the gaol of the county, to be there detained in custody, until

until time may be had for the hearing or trial of the cause, not exceeding three days from the time of the return of the said warrant, or such justice may direct the said constable to hold the said defendant in custody, until the plaintiff shall be notified and have time to appear and proceed to such hearing or trial; and the constable, who served the said warrant as aforesaid, shall, on the oath of his office, endorse thereon the execution of the same, and sign his name thereto.

The sum due or demanded to be endorsed on the process.

XI. And be it enacted, That the said justice shall endorse the debt, damages, or sum demanded, with costs, on every summons or warrant, which he shall issue by virtue of this act; and if the defendant think proper to pay such debt, damages, or demand, with costs, so endorsed, without any further proceedings in the cause, then it shall be lawful for the constable to receive the same, and his receipt shall be a full discharge to such defendant from such debt, damages, or demand, and costs aforesaid; and if any constable shall not pay the money so by him received for such debt, damages, or demand, to the justice issuing such process, or to the plaintiff in the said process, or his legal representative, within eight days after he shall have received the same, then such constable shall be liable to pay to such plaintiff, or his legal representative, the amount of the said debt, damages, or demand, with interest, to be recovered by action of trespass on the case, with costs.

XII. And be it enacted, That the recognizance, directed in the tenth section of this act, shall be entered into by the defendant, with at least one surety, having sufficient freehold and residing in the county, to the plaintiff in the said action, in the amount of the demand specified in the warrant, according to the effect and meaning of the following form; that is to say,

Form of recognizance.

county, to wit. Whereas A. B. hath been arrested and is now in custody by virtue of a warrant issued by C. D. one of the justices of the peace in and for the said county, at the suit of E. F. in an action of for the sum of Now be it remembered that on the day of in the year of our Lord, one thousand, the said A. B. and G. H. of the county aforesaid, personally appeared before me the said C. D. and jointly and severally acknowledged themselves to owe to the said E. F. the sum of , to be made and levied of their several goods and chattels, and, in want thereof, of their bodies, upon condition, that if the said A. B. shall not be and appear on the day of next before the said justice, or if he does appear, and is condemned in the said action, at the suit of the plaintiff, that he shall pay the costs and condemnation money, or surrender himself up to the constable, on execution to be thereafter issued against him, on the day judgment shall be obtained, and if he fail so to do, that he the said G. H. will pay the said costs and condemnation money for him, and suffer judgment to be entered up against him for the same.

Acknowledged the day and year last abovesaid,
before me, C. D. one of the justices of the
peace in and for the said county of

Which is to remain with the justice.

And every justice of the peace is hereby empowered and directed to take such recognizance, which shall remain with such justice, for the benefit of the plaintiff in the suit.

When justice may proceed in absence of defendant.

XIII. And be it enacted, That if the defendant does not appear at the time and place expressed in such recognizance, and no sufficient reason shall be assigned to the justice, why the defendant does not appear, then the said justice shall proceed to hear and determine the cause in the absence of such defendant.

Plaintiff to deliver a copy of his account, or state of his demand, or be nonsuited.

XIV. And be it enacted, That the plaintiff in such suit shall, on or before the return day of the said summons, or on the return of the warrant, or at the time of appearance specified in the recognizance, deliver or cause to be delivered to the justice, before whom the action is to be tried, a copy of his account, or state of his demand against the defendant, and in default thereof, the said plaintiff shall be nonsuited, with costs.

XV. And

A. D. 1768.

Justice to try the cause when the parties appear, unless he adjourn the same.

XV. And be it enacted, That when the parties in any suit, to be instituted by virtue of this act, shall appear at the place and time expressed in the summons, or at the return of the warrant, or at the time of appearance mentioned in the recognizance, the said justice shall proceed to hear and examine their respective allegations and proofs, unless he shall think it proper to adjourn the trial.

Defendant may plead payment, and set off any account or demand against the plaintiff.

XVI. And be it enacted, That the defendant, if he have any account or demand against the plaintiff in any action, which shall be instituted pursuant to this act, shall plead payment, and be permitted to discount or set off the same against the account, debt or demand of such plaintiff; but such plea, together with a copy of his account, or state of his demand, so intended to be set off, shall be delivered to the said justice on the return day of the summons, or, if on warrant, then at the time of the hearing of the cause, and in default thereof the said account or demand shall not be received in evidence on the trial of the said cause; but if the said warrant shall not have been executed five days prior to the day of hearing, then the said defendant, if he have any account or demand to set off, and will enter into recognizance as aforesaid, shall be allowed further time, not exceeding three days, to deliver to the said justice such plea and copy of his account, or state of his demand as aforesaid.

Defendant neglecting to set off his account shall not recover the same, unless the balance exceed sixty dollars.

XVII. And be it enacted, That if any defendant neglect or refuse to plead and deliver as aforesaid, and give in evidence, his account or demand against such plaintiff, he shall for ever thereafter be precluded from having or maintaining any action for such account or demand, or from setting off the same in any future suit. Provided always, That where the balance found to be due to such defendant exceeds the sum of sixty dollars, then the said defendant shall not be precluded from recovering his account or demand against such plaintiff, in any other court of record having cognizance of the same.

Justice may adjourn the trial.

XVIII. And be it enacted, That any justice of the peace, before whom a suit is instituted, by virtue of this act, may, to prevent fraud or surprise on either side, or on reasonable cause being assigned by or in behalf of either party, adjourn the trial to any time not exceeding fifteen days from the return day of the summons, or, if the process be by warrant, from the time when the same was returned, or from the time of appearance mentioned in the recognizance; except where the applicant for such adjournment shall make oath or affirmation, that he cannot safely go to trial for want of a material witness, whom he shall name, being absent and out of this State, and then such justice may postpone the trial to any time not exceeding three calendar months. Provided, That if the process is by warrant, the defendant shall, previous to such adjournment, enter into recognizance to the plaintiff as in and by this act is before directed.

If parties agree, cause may be tried without process.

XIX. And be it enacted, That where parties agree to enter, without process, any action before a justice of the peace, to the decision of which he is competent, if process had been executed, such court shall proceed thereon to final judgment and execution, in the same manner as if a summons or warrant had been issued and duly served.

Either party may demand a trial by jury.

XX. And be it enacted, That in every action, which shall be brought before any justice of the peace by virtue of this act, it shall and may be lawful for either of the parties, after the defendant has appeared to such action, and before the said justice has proceeded to enquire into the merits of the cause, to demand a trial by jury, which the said justice is hereby required to grant; that thereupon a venire shall be issued to summon a jury of six men and no more, if the debt or demand be of the sum or value of five dollars, and not exceeding sixteen dollars, or a jury of twelve men, and not less, if the debt or demand exceed the sum or value of sixteen dollars, being citizens of this State, above the age of twenty one and under the age of sixty five, and freeholders in the county, where the said cause is to be tried, and in no wise of kin to the plaintiff or the defendant, nor interested in the suit, to be and appear before the said justice at such time and place as shall be expressed in the venire, to make a jury for the trial of the action between the parties mentioned therein; and the constable shall, at the return of the said venire, return, annexed thereto, a panel containing the names of the jurors, whom he shall have summoned by virtue thereof.

A venire shall issue to summon six men, if the debt be from five to sixteen dollars, or twelve men, if above the latter sum.

XXI. And

A. D. 1798.

XXI. And be it enacted, That when either of the parties to a suit, before any justice of the peace, shall demand a jury of twelve men, and such jury shall find a sum in favor of such applicant above five and not exceeding sixteen dollars, then such applicant shall pay one half of the costs of such jury, and if the sum found by such jury in favor of such applicant be under five dollars, then he shall pay the whole costs of such jury, and when either party shall demand a jury of six men, and such jury shall find a sum in favor of such applicant under five dollars, then the said applicant shall pay the costs of such jury.

Costs thereof, how to be paid.

XXII. And be it enacted, That to the jurors, and each of them, who shall be returned to try any cause as aforesaid, the said justice shall administer the following oath or affirmation:

Juror's oath.

You do swear, in the presence of Almighty God, (or do affirm, as the case may require) that you will well and truly try the matter in difference between plaintiff, and defendant, and a true verdict give according to evidence.

That to every witness produced at the said trial, the said justice shall administer the following oath or affirmation:

Oath of witness.

You do swear, in the presence of Almighty God, (or do affirm, as the case may require) that the evidence you shall give to the court and jury in this matter in difference between plaintiff, and defendant, shall be the truth, the whole truth, and nothing but the truth.

And that to the constable, who shall be appointed to attend the jury, the said justice shall administer the following oath or affirmation:

Constable's oath.

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that you will, to the utmost of your ability, keep every person sworn (or affirmed) on this jury together in some private and convenient place, without meat or drink, water excepted; that you will not suffer any person to speak to them, nor speak to them yourself, except by order of the court, unless it be to ask them, whether they have agreed on their verdict, until they have agreed on their verdict.

Penalty on defaulting jurors and witnesses, how to be recovered and applied.

XXIII. And be it enacted, That every person, summoned as a juror, or subpœnaed as a witness, who shall not appear, or appearing, shall refuse to serve, or to give evidence in any such action, shall forfeit and pay for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding five dollars, nor less than one dollar, as the said justice shall think proper to impose; and such justice is hereby authorized and required to issue an execution, directed to any constable in the said county, to levy the same of the goods and chattels of the offender; which fine, when recovered, shall be applied by the said justice to the use of the said county.

Cost in what cases to be awarded against the plaintiff.

XXIV. And be it enacted, That if the plaintiff, other than executors or administrators, in any such action, shall be nonsuited, or shall discontinue or withdraw his action, without the consent of the defendant, then judgment shall be given against such plaintiff for the costs, which have accrued; or if such plaintiff shall appear to owe or be indebted to the defendant, then judgment shall be given against him for the debt, or damages, and costs, as the case may require.

Execution to be awarded against the goods, chattels, and body of the party.

XXV. And be it enacted, That when judgment shall be given against the plaintiff or defendant, by virtue of this act, the said justice shall grant execution thereupon, commanding the constable to levy and make the debt or damages, and costs, of the goods and chattels of the party, and for want of sufficient goods and chattels, whereon to levy and make the same, to take the body of such party, and to convey him to the gaol of the county. Provided always, That when judgment shall be obtained against executors or administrators, execution shall issue thereon in the same manner as it is issued against them in the other courts of law of this State. And provided also, That when any judgment given against any freeholder, by virtue of this act, shall not be more than fifteen dollars, nor less than five dollars, execution shall not issue until after one month from the time of such judgment rendered, and when the judgment shall exceed fifteen dollars, no execution

On judgments for certain sums against freeholders, execution not to issue till a given period be elapsed.

A. D. 1798.

tion shall issue until after three months from the time of the render of such judgment, unless the party, in whose favor judgment may be given, shall make it appear to the satisfaction of the justice, on oath or affirmation, that he or she is in danger of losing his or her debt or damages, if such delay of execution be allowed; in which case the said justice shall issue execution immediately, as herein before directed, unless the party against whom such judgment is given shall thereupon give security to the adverse party for the payment of the debt, or damages, and costs, within the month, or three months, (as the case may be) in this section limited. AND FURTHER, It is the true intent and meaning of this act, that if any defendant shall appear at the return of the summons or warrant, or by consent, without process, and procure a good and sufficient freeholder, resident in the county, to join with such defendant in a confession of judgment to the adverse party, with costs, then such defendant shall be entitled to all the privileges, which any freeholder is entitled to by virtue of this act.

When and how the constable is to advertise and sell goods taken in execution.

XXVI. AND BE IT ENACTED, That the constable, who, by virtue of such execution, levies on any goods and chattels, shall immediately give notice, by advertisements, signed by himself, and put up at three or more public places in the township, where they were taken, of the time and place they will be exposed to sale, at least five days before the time appointed for selling them, and therein describe the goods and chattels so taken; and shall, at the time and place so appointed, expose them to sale by public vendue, and strike them off to the highest bidder, and pay the money thence arising agreeably to the directions of such execution.

For want of goods the defendant to be committed to the common gaol;

And if suffered to escape therefrom, the sheriff to be responsible.

XXVII. AND BE IT ENACTED, That for want of goods and chattels whereon to levy, the said constable shall, according to the tenor of the said execution, take the body of the person against whom the said execution is issued, and convey and deliver him to the keeper of the common gaol of the county, who is hereby commanded to keep such person in safe custody, in the common gaol aforesaid, until the debt, or damages, with costs, be fully paid, or until he be thence delivered by due course of law: And if the said keeper shall suffer such person so committed to his custody to go or be at large out of the said gaol, except by virtue of some writ of habeas corpus, before the said debt or damages, with costs, be paid, or he be thence delivered by due course of law. then every such going or being out of the said gaol shall be an escape, for which the sheriff shall be responsible to the plaintiff to the amount of the debt, or damages, and costs, for which such person shall be committed, to be recovered by the said plaintiff, with costs, by action of debt.

XXVIII. Repealed by a supplemental act of the 16th of February, 1799.

Penalty on constables for neglect of duty.

XXIX. AND BE IT ENACTED, That if the constable, to whom any execution is delivered, shall not perform the duties or any of them prescribed by this act respecting such execution, such constable shall be liable to pay to the person, in whose favor the said execution is issued, the debt, or damages, and costs, or any of them mentioned therein, to be recovered by action of debt, with costs, by the person so as aforesaid injured thereby; and if the constable, to whom any summons or warrant is delivered, shall neglect or refuse to serve the same, such constable shall be liable to pay damages to the party aggrieved, to be recovered, with costs, by an action of trespass on the case.

Proceedings on a plea of title to real estate.

XXX. AND BE IT ENACTED, That when, in any action to be brought by virtue of this act, the defendant shall, as a justification, plead title to any real estate in himself or another, under whom he acted or entered, such defendant shall commit the said plea to writing, and, having signed the same, shall deliver such plea to the said justice, who shall countersign and deliver it to the plaintiff; and thereupon it shall and may be lawful to and for such plaintiff to commence and prosecute his action against such defendant in the supreme court of the State; and if, in such action, the plaintiff recover any damages, he shall be entitled to and recover therewith all costs of suit.

Such plea to be conclusive evidence, that the defendant relied thereon.

XXXI. AND BE IT ENACTED, That on every trial so to be had in such action, where title is pleaded, the plea, so as aforesaid signed by the said defendant, shall be

be conclusive evidence, that such defendant relied on his title by way of justification. A. D. 1798.

Defendant to give bond before such plea be received.

XXXII. And be it enacted, That the said justice, to whom a plea of justification is tendered as aforesaid, shall, before he receive such plea, require and obtain from the defendant a bond, with one good surety, being a freeholder in the said county, in the penalty of eighty dollars, executed to the plaintiff, and conditioned, that if the said plaintiff shall commence such action before the next supreme court, the said defendant shall appear thereto, and put in special bail within twenty days after the first day of the then next term of the said court, and shall pay such costs as may be awarded against him in the said action; and that in every case, in which such plea is tendered, and the defendant shall not forthwith enter into such bond to the plaintiff, the said justice shall proceed in the same manner, as if such plea had not been tendered.

Appeals to the common pleas in what cases, and on what terms to be granted.

XXXIII. And be it enacted, That from any judgment, which may be obtained before any justice of the peace, except such as shall have been given on a verdict, or on report of referees, or by default, or in the absence of the defendant, or on a debt, balance, demand, or other matter in dispute, not exceeding three dollars, either party may appeal to the court of common pleas of the county, to be holden next after the rendering of such judgment; which appeal the said justice is hereby directed to grant on the following and no other terms, that is to say, the party demanding such appeal shall enter into bond to the other party with at least one sufficient surety, being a freeholder in the county, and in double the sum for which such judgment was given, conditioned, that the appellant shall appear and prosecute the said appeal in the said court of common pleas, shall stand to and abide the judgment of the said court, and pay such further costs as shall be taxed, if the judgment be affirmed.

Courts of common pleas to have cognizance of such appeals.

XXXIV. And be it enacted, That the several courts of common pleas, in and for the respective counties of this State, shall have cognizance of, and hear and determine all such appeals, in a summary way, and give judgment and award execution thereon, with costs, either on the affirmance or reversal of the judgment so appealed from. But the same and no other documents, proofs and witnesses shall be produced and examined in the said court of appeals, as had been previously produced and examined in the said court below; except where the justice shall have admitted illegal, or rejected legal evidence, and then such court of common pleas, on the hearing of the said appeal, shall reject such illegal evidence, so admitted, or admit such legal evidence, so rejected, by the said justice.

The justice, who tried the cause, not to sit on the appeal.

XXXV. And be it enacted, That no justice of the peace, who heard and determined the said cause, shall sit as a judge of any of the courts of common pleas, on the hearing and determining of the same cause on appeal, or give any opinion thereon.

On appeal, the bond, and copy of proceedings to be sent to the clerk of the court.

XXXVI. And be it enacted, That the justice, who grants an appeal as aforesaid, shall send a transcript of the proceedings and judgment in the said cause, under his hand and seal, together with the bond aforesaid, to the clerk of the court of common pleas, to which such appeal is made, on or before the first day of the court next ensuing such appeal.

Rules of reference may be entered by the justice, or by the common pleas, on appeal.

XXXVII. And be it enacted, That in every suit to be instituted before any justice of the peace by virtue of this act, and in every appeal to be made before any court of common pleas, it shall and may be lawful for such justice of the peace, or court of common pleas, as the case may be, with the assent and at the request of the parties to enter rules of reference of the matters in difference, to such persons as shall be nominated and agreed upon by and between the parties; and the reference, so made, shall and may be conducted in the same manner in all respects as directed in the case of references by rule of court, in and by the act, entitled, "An Act for regulating references, and determining controversies by arbitration," and the report of the said referees, or the major part of them, whether in favor of the plaintiff or defendant, appellant or appellee, shall be final and conclusive to the parties, judgment be entered thereon, and execution issue accordingly.

XXXVIII. And

A. D. 1798.

Justice's docket how to be kept.

XXXVIII. And be it enacted, That it shall be the duty of every justice of the peace, before whom any suit shall be instituted, to enter, in a book to be kept for the purpose, the names of the plaintiff and defendant, the style and nature of the action, the sum demanded, the time of issuing process and when returnable, the return made thereto by the constable, when the copy of the account, or state of the demand was delivered by the parties, or either of them, the time of taking the recognizance, the adjournment, the rule of reference and report of referees, the jury, when and by whom demanded, the venire, when issued and how returned, the time of trial, and names of the jurors and witnesses, the admission of evidence objected to, and the rejection of evidence offered, the verdict and judgment, and when given, the execution, when issued and its endorsement, and how returned by the constable, the appeal, when and by whom demanded, and all the proceedings before him had touching the said suit; and further, that it shall be the duty of such justice to grant to either party, when required, a certified copy of such proceedings.

To be left in the clerk's office, and when.

XXXIX. And be it enacted, That the book, in which such proceedings shall be entered by any justice of the peace, shall, within one year after the death of the said justice, be deposited in the office of the clerk of the county, wherein the said justice resided and held his commission, to be there kept as a public record; and if the executors or administrators of such deceased justice shall neglect or refuse to deliver the said book, at the expiration of the said term of one year, to the said clerk as aforesaid, he, she or they, so refusing or neglecting, shall forfeit and pay the sum of sixty dollars, to be recovered by action of debt, with costs, in any court having cognizance of the same, and paid, when recovered, to the collector of the county for the use of the county.

Penalty on persons suing otherwise than is directed by this act.

XL. And be it enacted, That if any person shall institute a suit for any debt or demand, made cognizable before a justice of the peace, in any other court than is hereby directed, and obtain judgment thereon for any sum, which, without costs, shall not exceed sixty dollars, then such person shall not recover or have any costs in the said suit; unless, before the commencement of the suit, he shall have taken an oath or affirmation before a justice of the peace, and filed the same in the clerk's office of the court, in which such suit was instituted, stating, that he believes, that the sum due or damages sustained exceed sixty dollars, and then, if he recover any sum whatever, the defendant shall be liable to pay costs.

If the balance on bond, or note exceed not sixty dollars, it may be recovered before a justice of the peace.

XLI. And be it enacted, That whenever any bond, bill, note or other contract in writing, for the payment of any sum of money above sixty dollars, shall, by a bona fide payment of part of the consideration money, the receipt whereof shall be endorsed thereon, or by set off, be reduced to the sum of sixty dollars or under, then the balance, due on such deed or contract, shall be considered as the real debt, (without regard to any kind of penalty expressed therein) and shall be recoverable before a justice of the peace, in the same manner as any other debt or demand of sixty dollars or under is made recoverable by virtue of this act.

Penalties, not exceeding sixty dollars, cognizable before a justice of the peace.

XLII. And be it enacted, That every sum of money, or penalty, not exceeding sixty dollars, to be sued for and recovered by virtue of any law of this State, in any court of record, or in any court having cognizance thereof, shall be and hereby is made cognizable before any justice of the peace in manner aforesaid.

Causes to be removed by certiorari only.

XLIII. And be it enacted, That no judgment, order, or proceeding, to be had or made by virtue of this act, shall be removed by writ of error, but by certiorari only.

Writs of certiorari, how obtained.

XLIV. And be it enacted, That no justice of the supreme court shall grant or allow any certiorari to remove any judgment, order, or proceeding, to be had by virtue of this act, unless the party, applying for such certiorari, shall present to the said justice the reasons therefor, drawn up in writing, and subscribed by some attorney at law, and the same be deemed by the said justice to contain a probable cause for allowing such certiorari; and also, unless such applicant shall enter into bond to the other party in the sum of one hundred dollars, with one or more good surety or sureties, conditioned, that such applicant shall prosecute the said certiorari

rari in the supreme court, shall pay the sum recovered in the court below, with interest and costs, if the judgment be affirmed, and shall in all things stand to and abide the judgment of the said supreme court respecting the judgment, order, or proceeding given or made by the court below; which said bond shall likewise be tendered to the justice granting such certiorari, to be by him filed with the clerk of the supreme court, for the benefit of the obligor therein named, and on failure thereof, no certiorari shall be allowed. A. D. 1798.

XLV. And be it enacted, That such certiorari shall be determined and adjudicated upon by the supreme court, at the first term at furthest after due return thereof shall be made, or be dismissed, with costs; unless the said court shall think proper to adjourn the same till the next term for further argument or advisement. And when to be determined.

XLVI. And be it enacted, That if any judgment, to be given by virtue of this act, shall, on removal by certiorari, be affirmed by the supreme court, the plaintiff in certiorari shall pay to the defendant all costs arising on such suit in the said supreme court; for which the party, entitled to such costs, may have execution, to be issued out of the said supreme court, against the body, or goods and chattels of the adverse party; but if such judgment be reversed, then the plaintiff in certiorari shall not be entitled to any costs. Costs allowed on affirmance, but not on reversal of judgment.

XLVII. And be it enacted, That all attornies at law within this State shall, for any debt, demand, or damages, be liable to be sued before any justice of the peace, by virtue of this act, in like manner and form of action, as other citizens of this State, not being attornies, are liable to be sued before such justice; any plea of privilege or exemption to the contrary notwithstanding. Attornies at law to be sued under this act as others.

XLVIII. And be it enacted, That in all actions, which may be brought by virtue of this act, the following and no other fees shall be allowed.

JUSTICES.

Table of fees before a justice of the peace

Summons,	13 cents.
Warrant,	13 cents.
Recognizance,	13 cents.
Entering every nonsuit or discontinuance,	4 cents.
Venire facias,	13 cents.
Administering every oath or affirmation,	5 cents.
Subpœna for every witness,	7 cents.
Swearing the jury,	20 cents.
Entry of every verdict,	4 cents.
Entry of every rule of reference,	13 cents.
Every copy thereof,	13 cents.
Entry of every judgment,	10 cents.
Every execution,	13 cents.
Drawing, signing and sealing return to certiorari,	20 cents.
Copy of proceedings when demanded by the party,	13 cents.

CONSTABLES.

Serving every summons,	30 cents.
Serving every warrant,	45 cents.
Serving every subpœna,	25 cents.
Summoning every jury of 6 men,	50 cents.
Summoning every jury of 12 men,	60 cents.
Attending jury till agreed of their verdict,	25 cents.
Serving every execution,	30 cents.
Advertising and selling property,	50 cents.
And for all sums on execution above the value of fifteen dollars,	2 cents on each dollar.

A. D. 1798.

JURORS.

For all causes tried, - - -	12 cents a man.
When summoned and attending, but cause not tried,	6 cents a man.
To the person drawing a bond on appeal, or any other bond,	15 cents.

WITNESSES.

The same fees as are or shall be allowed in causes before the court of common pleas. PROVIDED ALWAYS, That no fee shall be allowed for the service of any subpœnas for more than two witnesses, nor shall fees be allowed to more than two witnesses for each party in a cause.

XLIX. AND BE IT ENACTED, That on all appeals as aforesaid heard and determined in the court of common pleas, the following and no other fees shall be allowed:

COURTS.

Table of fees on appeal in the court of common pleas.

Every appeal heard and determined, -	30 cents.

CLERKS.

Entering action, - - -	7 cents.
Filing bond, - - - -	7 cents.
Filing transcript, - - -	7 cents.
Entering defendant's appearance, - -	7 cents.
Every subpœna, - - - -	7 cents.
Entering judgment, - - -	7 cents.
Every witness sworn or affirmed, - -	7 cents.
Every order or rule of court, - -	7 cents.
Every execution, - - - -	40 cents.
Entering and filing execution, - -	12 cents.

CONSTABLES.

Serving every subpœna, - - -	25 cents.

CRYERS.

Every appeal, - - - -	9 cents.
Calling and swearing each witness, - -	4 cents.

WITNESSES.

The same fees as are or shall be allowed in causes before the court of common pleas. PROVIDED, That no fee shall be allowed for the service of any subpœnas for more than two witnesses, nor shall fees be allowed to more than two witnesses for each party in a cause. AND PROVIDED ALSO, That nothing in this act shall preclude the keeper of any gaol from demanding and receiving his legal fees and charges from persons committed to his custody by virtue of this act.

Creditors may in certain cases sue in the common pleas.

L. AND WHEREAS creditors may, in particular cases, be unable, in consequence of this act, to recover their just demands from persons, who have real estates, but are possessed of no goods or chattels, or to a small or inadequate value; for remedy whereof, *Be it further enacted*, That if any creditor shall, before any justice of the peace, declare on oath or affirmation, to be filed in the clerk's office at the time of sealing the process, that he believes the debtor is not possessed of goods and chattels sufficient to satisfy his demand, then such creditor may prose-

cute

cute an action for the same in the court of common pleas, and if he obtain judgment thereon, the said court shall adjudge the defendant to pay the costs of such suit. A. D. 1798.

Tavern licenses not to be granted to a justice of the peace.

LI. And be it enacted, That it shall not be lawful for the courts of general quarter sessions of the peace, or any court of jurisdiction, having power to grant license to keep an inn and tavern in any of the counties, cities or towns corporate within this State, to grant a license to any person to keep an inn and tavern, who shall be, at the same time, a justice of the peace, or in virtue of his office exercising the powers of a justice of the peace; and if any person shall be appointed a justice of the peace, or an officer with the powers of a justice of the peace, in any of the counties, cities or towns corporate within this State, during the time that he holds a license to keep an inn and tavern, and accepts of the said office, such license shall from thenceforth be absolutely void.

Constable to give security, if required.

LII. And be it enacted, That every person, who shall be hereafter elected or appointed to the office of constable, in any of the townships of this State, shall, before he enters upon the execution of his office, repair to the township committee, and if security shall be required of such constable by the said committee, he shall thereupon enter into bond to the inhabitants of the township in their corporate name and capacity, with one or more sureties, to be approved of by the said committee, in such sum as the said committee shall direct, conditioned for the true and faithful performance of all the duties enjoined on him by this act; which bond shall be delivered to the clerk of the township, who is hereby directed and required to record and file the same in his office; and the said township committee are hereby directed and empowered, if need be, to prosecute the said bond for and in behalf, and to the use of all persons, who may have sustained loss by the neglect or misconduct of the said constable.

Former acts repealed.

LIII. And be it enacted, That this act shall be in force from and after the fourth day of July next; and that from and after the said fourth day of July next, the act, entitled, "An Act to regulate the issuing of writs of certiorari," passed the eighteenth day of February, in the year of our Lord, one thousand, seven hundred and ninety four; and the act, entitled, "An Act to revive and continue an act, entitled, "An Act to erect and establish courts in the several counties of this colony for the trial of small causes, and to repeal the former act for that purpose," passed the twentieth day of March, in the year of our Lord, one thousand, seven hundred and eighty six; and the act, entitled, "An Act to extend the powers of justices of the peace in the several counties of this State, to try causes to the amount of twelve pounds, and to prevent actions under fifty pounds being brought in the supreme court, and for other purposes therein mentioned," passed the fifth day of June, in the year of our Lord, one thousand, seven hundred and eighty two, and the supplement thereto, passed the twenty third day of December, in the year of our Lord, one thousand, seven hundred and eighty four; and the act, entitled, "An Act more effectually to compel the attendance of witnesses and jurors at the courts established in this State for the trial of causes, cognizable before a single justice of the peace," passed the sixth day of December, in the year of our Lord, one thousand, seven hundred and eighty two; and the act, entitled, "An Act to erect and establish courts in the several counties in this colony for the trial of small causes, and to repeal the former act for that purpose," (except the twenty first section of the said act) passed the eleventh day of February, in the year of our Lord, one thousand, seven hundred and seventy five; and all and every act and acts, part and parts of any act or acts, coming within the purview of this act, be, and they are hereby repealed. Provided always, That such repeal shall not extend to or affect any suit, which shall be instituted before the said fourth day of July next, under or by virtue of the acts in this clause mentioned, or any of them; but such suit shall be proceeded upon and prosecuted to effect in the same manner, as if this act had not been made.*

* See a supplemental act passed the 16th of February, 1799.

An ACT

A. D. 1798.

An ACT *concerning trespasses by Swine.*

Passed the 15th of March, 1798.

Swine trespassing on inclosed lands may be killed.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for any freeholder within this State, his servant or tenant, finding swine trespassing on his or her inclosed land, to kill such swine, and inform the owner thereof, if easily to be found, and if no owner can be so found, or, if found, shall not appear and take such swine away, then the person injured shall, within fifteen hours after such killing, give notice to the overseers or overseer of the poor of the township, who shall dispose of such swine for the use of the poor of the township, where the same was killed.

Damages for trespass done by swine, how to be ascertained and recovered.

II. AND BE IT ENACTED, That if any such person as aforesaid shall find swine trespassing on his or her land, for which he or she shall pay taxes, whether the same be inclosed or not, and do not choose to kill such swine as in the preceding section is allowed and directed, then such person may take and put such swine into his or her yard or other inclosure, and give notice to the owner, if easily to be found, who shall pay double damages to the person injured, to be appraised and certified in writing by two reputable freeholders, to be chosen by the parties; and if the owner of such swine shall refuse or neglect, for twenty four hours after notice, to choose one of the said appraisers, or if such owner cannot easily be found, then the person injured may choose them both himself; and in case the appraisers so chosen cannot agree in the appraisement to be made, then the said appraisers may choose a third person to join them therein, any two of whom agreeing, their appraisement, made and certified as aforesaid, shall be binding and conclusive, and double the sum so appraised shall and may be recovered by action of debt, with costs of suit, in any court where the same may be cognizable.

In what cases swine shall be sold to pay the damages.

III. AND BE IT ENACTED, That if inquiry be made, and no owner appears and pays the damages, so as aforesaid appraised, within three days after such appraisement, it shall and may be lawful for the person injured to set up advertisements, at three of the most public places next adjacent to where the trespass was committed, describing the number of the said swine, and the natural or artificial marks thereon; and if no owner shall appear within two weeks from the date of such advertisement, and pay the damage, and also the expense of keeping, to be appraised as aforesaid, then it shall and may be lawful for the overseers or overseer of the poor of the township, where the said trespass was committed, to sell the said swine so advertised as aforesaid, at public vendue, and after paying the damage and expense of keeping, and retaining fifty cents for his or their attendance on the sale and collecting the money, to apply the overplus, if any there be, to the use of the poor of the said township.

Former act repealed.

IV. AND BE IT ENACTED, That the act, entitled, "An Act for recovering damages for trespasses done by swine," passed the sixth day of December, in the year of our Lord, seventeen hundred and sixty nine, and all other acts, coming within the purview of this act, be, and the same are hereby repealed.

An ACT *for preventing injuries to the breed of horses.*

Passed the 15th of March, 1798.

Penalty for suffering stone horses of the age of eighteen months to run at large.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That no person shall suffer a stoned horse of the age of eighteen months, whereof he is owner, or hath the keeping, to run at large out of the inclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so, after having notice thereof, and been admonished to confine such horse, shall forfeit and pay the sum of ten dollars, to be recovered by any person, who shall sue for the same, in an action of debt, with costs of suit, in any court having cognizance thereof.

II. AND

II. And be it enacted, That the act, entitled, "An Act for preventing small stone horses running at large in this province," passed the eighth day of July, in the year of our Lord, seventeen hundred and thirty, shall be, and the same is hereby repealed. A. D. 1798. Former act repealed.

An ACT *making provision for working and repairing the highways.*

Passed the 16th of March, 1798

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the township committee, who shall hereafter be chosen, agreeably to law, in the respective townships of this State, or a majority of such committee, are hereby authorized and directed to assign and appoint, in writing, to the overseers of the highways, respectively, their several limits and divisions of the highways within such township, for working, amendment and repair; and the said overseers are hereby commanded to observe and conform themselves to such assignments. Duty of township committee to assign divisions to the overseers of the highways.

II. And be it enacted, That it shall be the duty of the said overseers to hire laborers, and also horses, oxen, waggons, carts, ploughs and other implements, to open, clear out, make, work, amend, repair and keep in good order, the highways within their respective limits and divisions, to make causeways, and to erect such bridges as can be built by common laborers, and to procure whatever materials they shall deem necessary to effect the purposes specified in this section. Duty of overseers of the highways.

III. And be it enacted, That every overseer of the highways shall be allowed and paid by the township, in which he is elected or appointed, after the rate of seventy five cents for every day, which he shall necessarily spend in the discharge of the duties of his office. Compensation to overseers.

IV. And be it enacted, That the monies necessary for defraying the costs, charges and expenses of opening, clearing out, making, working, amending, repairing and keeping in good order the highways, and procuring materials for the same, and also the compensation allowed for the services of the overseers thereof, shall be granted, assessed, collected and raised in the manner prescribed by the act, entitled, "An Act incorporating the inhabitants of townships, designating their powers, and regulating their meetings;" and it is hereby enjoined upon the said townships, that they be careful to have money in hand, ready to advance, sufficient for the objects and purposes specified in this act. Monies how to be raised for repairing highways.

V. And be it enacted, That it shall be the duty of every overseer of the highways to account for the expenditure of the monies, which he shall receive for the uses herein mentioned, to the township, for which he was elected or appointed, at their annual or other meeting, or to the township committee aforesaid, and to pay the overplus, if any, to his successor in office, to be applied to the uses and purposes for which it was raised; and if such overseer shall neglect or refuse so to do, he shall, for every offence, forfeit and pay thirty dollars, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum, by the clerk of the said township, to be applied, on recovery, to amend and repair the highways thereof; and he shall also be liable to a prosecution, at the suit of the inhabitants of the said township, for the monies so by him received and unaccounted for. Overseers to account for the expenditure of monies by them received, and to pay over the surplus.

Penalty for neglect or refusal so to do.

VI. And be it enacted, That in case any township shall be fined or amerced upon the presentment of the grand jury, or upon the information of the attorney general, for the badness, want of repair, or deficiency in any of the highways, the overseer, within whose limits or division the same shall be or happen, shall refund the money paid in consequence of such fine or amercement, with costs, upon an action brought by the inhabitants of such township; or such overseer may, in the first instance, be presented, or informed against as aforesaid, and fined, on conviction, for the badness, want of repair, or deficiency in the highways aforesaid. Township or overseer may be fined for badness of the roads, and if the former, the overseer to refund the same.

A. D. 1798.

Inhabitants of the township may be witnesses in such cases.

said. And further, that the inhabitants of any township, merely as such, shall not be excluded from being witnesses on such presentment or information, on account of their being interested.

In what case persons assessed may work out their road tax.

VII. And be it enacted, That if any person, who is assessed for the raising of money to amend and repair the highways, elect to work out his tax or any part of it on the said highways, he shall give notice thereof, in writing, to the overseer, in whose limits and division he resides, within ten days after the order for raising the said money shall be passed or made; in which case such person, if of the age of twenty one and under the age of fifty five, and of ability to work, shall, on having two days previous notice, attend himself, or send a sufficient substitute, at such time and place as shall have been appointed by the said overseer, and shall work on the said highways under the direction and superintendance of such overseer; for which he shall be credited such a sum towards the payment of the said tax, as the said overseer shall think his labor deserves; and if neither such person, nor any able substitute, shall attend at the said time and place, he shall forfeit and pay one dollar, to be recovered, with costs, by action of debt, by the clerk of the township, in any court of record having cognizance of that sum; to be applied, on recovery, to amend and repair the highways of such township; and the said overseer shall be admitted as a witness in support of the said action. And further, that the said person shall, upon such delinquency, forthwith pay the whole, or the residue, as the case may require, of the said tax to the collector, or, on failure, be proceeded against for the same according to law.

Roads and bridges over or near dams or races, how to be made and kept in repair.

VIII. AND WHEREAS, The roads and bridges over or near dams and races of mills and iron works are too often neglected, and the water wheels are suffered to lie open and be exposed, to the great terror, danger, and annoyance of travellers; for the prevention whereof in future, *Be it it further enacted*, That all roads, laid out or to be laid out, near to or across dams for mills or iron works, shall be kept in good repair, and the bridges over the races and flood gates shall be substantially built, repaired, amended, kept in good order, and railed in on each side, the rails to be at least three feet high, and the whole rendered easy, convenient and safe for the passing of travellers, horses, carriages and cattle; and the wheels of such mills and iron works shall be entirely covered in and hid, either by a sufficient breast work, raised between the said road or bridge, and the said water wheels, or in such other way as effectually to secure persons, horses, cattle, and carriages in passing the same. And where a dam hath been or shall be erected, and a public road or highway hath been or shall be laid out, near to or over the said dam, and across the races and flood gates, such road shall be made and maintained, and the bridge or bridges over the same, and the railing in thereof, shall be built, rebuilt, repaired, and kept up, and the wheels of the mills and iron works covered in and hid as aforesaid, pursuant to the directions of this act, under the immediate inspection, order, and superintendance of the overseer of the highways, within whose limits and division the same shall happen. And where any highway hath been or shall be laid out, before the making such dam, races, or flood gates, such highway, if it go near to or over the said dam, races, or flood gates, shall be made and maintained, and the bridge or bridges over the same, if they be cut across the said highway for the use of such iron works or mill, and the railing thereof, shall be built, rebuilt, repaired, and kept up, and the wheels covered in and hid as aforesaid, at the proper charge and expense of the possessor of such iron works or mill. Provided, That it shall and may be lawful for such possessor, if he be a tenant paying rent, to deduct and retain such charge and expense out of the said rent. And if the possessor of such iron works or mill shall neglect or refuse to perform the duty hereby required of him, he shall, for every such offence, forfeit and pay twenty dollars, to be recovered, by action of debt, with costs, by any person, who will sue for the same, in any court of record having cognizance of that sum, the one moiety to the prosecutor, and the other moiety to the township where the offence was committed.

When owner not bound to repair.

IX. And be it enacted, That the said owner or possessor shall be exonerated from keeping in repair the bridges mentioned in the preceding section, as long as he shall neglect to uphold the said iron works or mills.

X. And

X. And be it enacted, That it shall and may be lawful for the overseer of the highways, or other person, by his order, to enter on lands adjacent to such highways, and to cut, make, scour, cleanse, and keep open such gutters, drains and ditches therein, as shall be sufficient to convey or draw off the water from the said highway, with the least disadvantage to the owner of the said land; and the owner and every other person, except such overseer, is hereby prohibited from filling up, stopping or obstructing such gutter, drain or ditch, under the penalty of eight dollars for every offence, to be recovered by action of debt, with costs, by the said overseer, in any court of record having cognizance of that sum, and applied to the working and repairing the said highways.

Overseer may enter on adjacent lands and cut drains.

XI. And be it enacted, That no tree shall be girdled or killed on the highway, under the penalty of two dollars, to be recovered and applied as last above-mentioned; and if any be, it shall be the duty of the overseer of the said highway forthwith to cut down such tree so girdled or killed.

Penalty for killing or girdling trees on the highway.

XII. And be it enacted, That if any person shall girdle or kill any tree standing within two rods of such highway, the owner or possessor of the land, where the same stands, shall, within two years after such girdling or killing, cut down the said tree, or, on failure thereof, shall forfeit and pay two dollars, to be recovered and applied as is directed in the preceding section.

Penalty for girdling or killing trees near the highway.

XIII. And be it enacted, That no overseer, or other person, working on the highways, or present as a spectator or otherwise, shall ask of any traveller, or shall extort, or by contrivance procure or receive from such traveller, any money, meat, drink, or other reward or thing, under the penalty of two dollars, to be recovered by action of debt, with costs, by and to the use of the person, who will sue for the same, in any court of record having cognizance of that sum.

Penalty for extorting money, &c. from travellers.

XIV. AND WHEREAS some of the highways of six and four rods wide and under have been and are narrowed and encroached upon, and it being often difficult for the overseers thereof to determine which of the owners or possessors of the adjacent lands have done the same, whereby such highways remain unopened to their full original width; for remedy whereof, *Be it further enacted*, That it shall be the duty of the overseer, in and through whose limits and division such highways are or shall be laid out, to cause the same to be opened to their full width, and all encroachments to be removed; and if it be doubtful to the said overseer what person hath so narrowed or encroached upon the said highway, then such overseer, or the party conceiving himself to be injured, shall and may apply to any two justices of the peace of the county, and the surveyors of the township, in and through which such highway runs, who, or the major part of them, are hereby authorized and directed to determine the same in writing under their hands; and thereupon the said overseer shall forthwith proceed to open the said highway agreeably to such determination; and if it be doubtful to the said justices and surveyors, which of the proprietors or possessors of the adjacent lands have so narrowed or encroached on the said highway, then it shall be the duty of the said justices and surveyors, or a majority of them, to direct, in writing under their hands, the said overseer to open such highway equally on each; which order the said overseer shall forthwith carry into effect.

Encroachments to be removed, and roads to be opened to their full width.

XV. And be it enacted, That if any person shall narrow, encroach upon, stop, or obstruct any highway, he shall for every such offence, forfeit and pay ten dollars, to be recovered by action of debt, with costs, by the overseer of such highway, in any court of record having cognizance of that sum, and applied to the repair of such highway.

Penalty for obstructing a highway.

XVI. Provided always, *and be it further enacted*, That nothing in this act contained shall be construed to extend to narrowing, widening or altering any street, in any of the cities, towns, or villages in this State, or to pulling down or removing any dwelling house, market house, or other public building heretofore erected, and which may encroach on any highway.

Not to extend to cities, towns and villages.

XVII. And be it enacted, That the main or high streets in the towns of Greenwich and Bridgetown, in the county of Cumberland, are hereby declared to be public highways, and as such to be repaired and kept in good order.

Streets in Greenwich and Bridgetown declared public highways.

XVIII. And

A. D. 1798.

Road from Amboy to Salem, and from E. Town to Trenton, not to be altered by surveyors.

XVIII. And be it enacted, That the great road leading from Perth Amboy to Salem, and the great road leading from Elizabeth Town to Trenton, as the same now go, shall be, and the same are hereby confirmed and declared unalterable by surveyors of the highways or any other persons.

Town meetings may determine how they will repair their roads.

XIX. And be it enacted, That it shall and may be lawful for the inhabitants of the respective townships in this State, qualified by law to vote for township officers, at their annual town meeting, to determine, by a vote of said meeting, whether they will maintain their public highways by hire, in the manner herein before mentioned, or by labor, in the manner herein after set forth, a copy of which vote, signed by the clerk of the said township, shall be transmitted to the township committee within five days after the said town meeting; and in all cases where the inhabitants of any township shall have elected to maintain their public highways by hire, it shall not be lawful to change the mode of maintaining such highways in such township for three years.

In what manner roads are to be worked by labor.

XX. And be it enacted, That in case the inhabitants of any township shall elect, in the manner appointed in the preceding section, to maintain their public highways by labor, then it shall be the duty of the township committee, on notice thereof from the town clerk as aforesaid, to divide the highways in such township into convenient districts, and to assign and appertion, in writing to the several districts the inhabitants of such township in equitable proportions, having regard to the circumstances of such inhabitants and the quality of the highways to be maintained and kept in order; and that the overseers of the said highways shall, at their discretion, apportion the labor on the inhabitants of the said township in the same proportion with the tax for the support of government, and shall warn and call out the inhabitants to work on the highways accordingly.

Penalty for not working on the roads when warned;

how recovered,

and to be applied.

XXI. And be it enacted, That if any inhabitant, after being duly warned as aforesaid, shall neglect or refuse to appear and work one day of at least eight hours, then he shall forfeit and pay to the overseer of the district or division, to which he is annexed, the sum of one dollar for every day he shall so refuse or neglect to labor, the sum of one dollar and one third for each day's absence of a cart and one horse, and two dollars for each day's absence of a waggon or cart with two or more horses or oxen so warned out, to be recovered in an action of debt before any justice of the peace of the county where such omission shall happen, with costs of suit; and the money, when recovered, shall be applied to the repair of the highway, to which such inhabitant was annexed; and it shall be the duty of such overseer to keep a book, in which he shall enter the names of all the inhabitants in his district or division set off to him by the committee as aforesaid, which shall be delivered to his successor in office.

Penalty on the overseers for neglect or refusal.

XXII. And be it enacted, That the overseer or overseers of the highways in any of the townships of this State, where the inhabitants shall elect to repair their highways by labor, shall, for neglect or refusal to perform any of the duties enjoined on him or them by this act, be subject to the like fines, forfeitures and penalties, that the overseer or overseers of any township, which repair their highways by hire, are by this act made subject to.

Certain acts repealed.

XXIII. And be it enacted, That the act, entitled, "An Act for regulating roads and bridges," passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and seventy four, and the acts therein mentioned and intended to be repealed and made null and void; and the acts enabling or empowering particular townships and precincts to repair their highways by hire, and to raise money for that purpose, and all and every act and acts, part and parts of any act or acts, coming within the purview of this act, be, and they hereby are repealed; but neither such repeal nor any thing in this act, except what is contained in the eighth section thereof, shall extend to or affect any causeway, road or highway, which the proprietors of any toll bridge, or other private individuals are bound by law or contract to make and keep in good order and repair, or to contribute thereto in any measure above their ordinary and ratable proportion in the way of taxation, except so far as such contribution shall be inadequate.

An ACT

An ACT *for suppressing vice and immorality.*

A. D. 1798.

Passed the 16th of March, 1798.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no travelling, worldly employment or business, ordinary or servile labor or work, either upon land or water, (works of necessity and charity excepted) nor shooting, fishing, (not including fishing with a seine or net, which is hereafter provided for) sporting, hunting, gunning, racing, or frequenting of tippling houses, nor any interludes or plays, dancing, singing, fiddling, or other music for the sake of merriment, nor any playing at foot ball, fives, ninepins, bowls, long bullets, or quoits, nor any other kind of playing, sports, pastimes or diversion, shall be done, performed, used or practised by any person or persons, within this State, on the Christian Sabbath, or first day of the week, commonly called Sunday; and that every person, being of the age of fourteen years or upwards, offending in the premises, shall, for every such offence, forfeit and pay, to the use of the poor of the township, in which such offence shall be committed, the sum of one dollar; and that no person shall cry, shew forth, or expose to sale, any wares, merchandize, fruit, herbs, meat, fish, goods or chattels, upon the first day of the week, commonly called Sunday, or sell or barter the same, upon pain, that every person, so offending, shall forfeit and pay to the use of the poor of the township, where such offence shall be committed, the sum of two dollars; and if any person, offending in any of the premises, shall be thereof convicted before any justice of the peace for the county where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses upon oath or affirmation, then the said justice, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall have been committed, commanding him to levy the said forfeitures or penalties by distress and sale of the goods and chattels of such offenders, and to pay the money therefrom arising to the overseers of the poor of the township, where the said offence or offences shall have been committed, for the use of the poor thereof; and in case no such distress can be had, then every such offender shall, by a warrant under the hand and seal of the said justice, be set publicly in the stocks for any space of time not exceeding four hours. AND FURTHER, That if any person shall be found fishing, sporting, playing, dancing, fiddling, shooting, hunting, gunning, travelling, or going to, or returning from, any market or landing with carts, waggons or sleds, or behaving in a disorderly manner on the first day of the week, called Sunday, it shall be lawful for any constable, or other citizen, to stop every person so offending, and to detain him or her till the next day, to be dealt with according to law. PROVIDED ALWAYS, That no person going to or returning from any church or place of worship, within the distance of twenty miles, or going to call a physician, surgeon, or midwife, or carrying a mail to or from any post office, or going express by order of any public officer, shall be considered as travelling within the meaning of this act. AND PROVIDED ALSO, That nothing in this act contained shall be construed to prohibit the dressing of victuals in private families, or in lodging houses, inns, and other houses of entertainment for the use of sojourners, travellers or strangers.

Business, work, and diversion prohibited on the Sabbath, upon the penalty of one dollar.

Persons selling or offering to sell goods, &c. on the Sabbath, to forfeit two dollars.

Forfeitures how to be recovered and applied.

If no goods from whence to make the forfeiture, the offender to be put in the stocks.

Persons fishing, travelling, hunting, &c. on the Sabbath, may be stopt.

II. AND BE IT ENACTED, That no person shall, on the first day of the week, called Sunday, cast, draw or make use of any seine or net, for the purpose of catching fish in any pond, lake, stream or river within the territorial limits or jurisdiction of this State, or be aiding or assisting therein; and every person, offending in the premises, shall, on being thereof convicted before any justice of the peace for the county, where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses upon oath or affirmation, forfeit and pay the sum of fourteen dollars for every such offence; and in case of non payment of the said forfeiture, then the said justice, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county in which the offence shall have been committed, commanding him to levy the said forfeiture or penalty, by distress and sale of the goods and chattels of such offender, and to pay the money therefrom arising to the overseers of the poor of the township, where the said offence shall have been committed, for the use of the poor thereof; and for want

Penalty for drawing a seine or net on the Sabbath.

A. D. 1798.

of goods and chattels whereby to make such distress, to convey the body of the said offender to the common gaol of the county, there to remain in safe custody until the said forfeiture, with the costs of prosecution, shall be fully paid, or until such offender shall be delivered by due course of law.

Persons keeping the seventh day of the week to be exempt from answering process, &c.

III. And be it enacted, That every inhabitant of this State, who religiously observes the seventh day of the week as the Sabbath, shall be exempt from answering to any process in law or equity, either as defendant, witness, or jury, except in criminal cases; likewise from executing on the said day the duties of any post or office, to which he may be appointed or commissioned, except when the interest of the State may absolutely require it, and shall also be exempt from working on the highways, and doing any militia duty on that day, except when in actual service.

Such persons to be exempt from fine for laboring on the seventh day.

IV. And be it enacted, That if any person, charged with having labored or worked on the first day of the week, commonly called Sunday, shall be brought before a justice of the peace to answer the information and charge thereof, and shall then and there prove to the satisfaction of the said justice, that he or she uniformly keeps the seventh day of the week as the Sabbath, and habitually abstains from following his or her usual occupation or business, and from all recreation, and devotes the day to the exercise of religious worship, then such defendant shall be discharged. Provided always, That the work or labor, for which such person is informed against, was done and performed in his or her dwelling house or work shop, or on his or her premises or plantation, and that such work or labor has not disturbed other persons in the observance of the first day of the week as the Sabbath; And provided also, That nothing in this section contained shall be construed to allow any such person to openly expose to sale any goods, wares, merchandize, or other article or thing whatsoever, in the line of his or her business or occupation.

Provided, &c.

Penalty for driving stages on Sunday.

V. And be it enacted, That if any stage or stages shall be driven through any part of this State on the first day of the week, called Sunday, except sufficient reason shall be offered to shew that it be done in cases of necessity or mercy, or in case of carrying the mail to or from any post office, the driver or drivers, proprietor or proprietors of such stage or stages, shall, on being thereof convicted before any justice of the peace for the county, where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or testimony of any witness or witnesses, forfeit and pay the sum of eight dollars for every such offence; and in case of non payment of the said forfeiture or penalty, then the same shall be levied, recovered and applied in the manner and form prescribed in and by the second section of this act; and every justice of the peace in this State is hereby empowered and required, upon his personal knowledge or view, or other due information, of any stage or stages being driven or run through any part of this State as aforesaid, to stop and detain the same, or order and direct the same to be stopped and detained, at the costs and expense of the proprietor or proprietors of such stage or stages, until the following day, and then to be dealt with as herein before is directed.

Penalty for driving carts, drays, &c. on Sunday.

VI. And be it enacted, That no waggoner, carter, drayman, drover, butcher, or any of his or their servants, shall ply, or travel with his or their waggons, carts or drays, or shall load or unload any goods, wares, merchandize, or produce, or drive cattle, sheep or swine, in any part of this State, on the first day of the week, called Sunday, under the penalty of two dollars for every offence, to be levied, recovered and applied in the manner and form prescribed in the second section of this act.

No process unless in criminal cases to be served on Sunday.

VII. And be it enacted, That no person or persons, upon the first day of the week, commonly called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree, (except in criminal cases, or for breach of the peace) but that the service of every such writ, process, warrant, order, judgment or decree, shall be void to all intents and purposes whatsoever; and the person or persons, so serving or executing the same, shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree.

VIII. And

A. D. 1798.

VIII. And be it enacted, That if any person or persons shall, at any time or times hereafter, profanely swear or curse, and be thereof convicted, by the confession of the party offending, or on the testimony of any one or more witness or witnesses, or in the manner herein after mentioned, before any justice of the peace for any county in the State, every person so offending shall, for every such offence, forfeit and pay to the use of the poor of the township, where such offence or offences shall be committed, the sum of one half of a dollar.

Penalty for swearing or cursing.

IX. And be it enacted, That in case any person shall profanely swear or curse, in the presence and hearing of any justice of the peace for any county, while in the execution of his office, every such justice of the peace shall, and is hereby authorized and required to convict every such offender of such offence, without any other proof whatsoever.

Any person swearing or cursing in the presence or hearing of a justice of the peace, in the execution of his office, to be convicted without other proof.

X. And be it enacted, That in case any person, who shall be convicted of profanely swearing or cursing, shall not immediately pay down the respective sums so forfeited, with the charges of such conviction, or give security, to the satisfaction of the justice, before whom such conviction is had, for the payment thereof within six days, then every such offender, being above the age of fourteen years, shall, by warrant under the hand and seal of such justice, be set publicly in the stocks for any space of time not exceeding two hours for any single offence, or for any number of offences, whereof any such offender shall be convicted at one and the same time, any space of time not exceeding four hours, or be sent to the common gaol of the county, there to be and stand committed for any space of time, to be certainly expressed in the said warrant, not exceeding four days; but if the offender shall not be above the age of fourteen years, and shall not forthwith pay the said forfeiture, or give security for payment thereof, the parent or master shall pay the same, to be recovered by distress and sale of the goods and chattels of such parent or master.

The offender, if above 14 years, to be put in the stocks, or committed on non-payment of the fine for swearing or cursing.

If not above that age, the parent or master to pay.

XI. And be it enacted, That if any person shall become intoxicated or drunk by the excessive use of spiritous, vinous, or other strong liquor, and thereof shall be convicted before any justice of the peace for the county, wherein such offence shall be committed, either upon the view of such justice, or upon the confession of the party offending, or testimony of any one or more witness or witnesses, every person so offending shall forfeit and pay, for every such offence, one dollar, to the use of the poor of the township, wherein such offence shall be committed; and in case any person, who shall be convicted of drunkenness as aforesaid, shall not immediately pay down the sum so forfeited, with the charges of such conviction, or give security, to the satisfaction of the justice before whom such conviction is had, for the payment thereof within three days, every such offender shall, by warrant under the hand and seal of such justice, be set publicly in the stocks for any space of time not exceeding four hours, or be sent to the common gaol of the county, there to be and stand committed for any space of time, to be certainly expressed in the said warrant, not exceeding four days.

Persons convicted of drunkenness, how punished.

XII. AND WHEREAS public shews and exhibitions of divers kinds have of late become very frequent and common within this State, whereby many strangers and worthless persons have unjustly gained and taken to themselves considerable sums of money, and it being found on experience, that such shews and exhibitions tend to no good or useful purpose in society, but, on the contrary, to collect together great numbers of idle and unwary spectators, as well as children and servants, to gratify vain and useless curiosity, loosen and corrupt the morals of youth, and straiten and impoverish many poor families, *Be it further enacted by the authority aforesaid*, That if any person or persons whatsoever shall, for any price, gain or reward, shew forth, exhibit, act, represent or perform, or cause to be shewn forth, exhibited, acted, represented or performed, on any public stage, or in any public house, or other place whatever, any interludes, farces or plays of any kind, or any games, tricks, juggling, slight of hand, or feats of uncommon dexterity and agility of body, or any bear baiting, or bull baiting, or any such like shews or exhibitions whatsoever, every person so offending, and being thereof convicted before any justice of the peace of the county, where the offence shall be committed, upon the view or personal knowledge of the said justice, or confession of the offender, or proof of any witness or witnesses upon oath or affirmation, shall, for every such offence, forfeit and pay to the use of the poor of

Penalty for exhibiting plays or shows.

A. D. 1798.

of the township, where such offence shall be committed, the sum of sixteen dollars, to be levied, recovered and applied in the manner and form prescribed in the second section of this act. PROVIDED ALWAYS, That nothing in this section contained shall be deemed or construed to prevent the shew or exhibition of any natural curiosity. AND PROVIDED ALSO, *and be it further enacted*, That if in the opinion of any three justices of the peace of any county, city or town corporate, where any interlude, farce or play is proposed to be performed, it shall be deemed that such interlude, farce or play is innocent, or may probably tend to answer any reasonable or useful end, it shall and may be lawful for them, at their discretion, on application for that purpose, to give license in writing for such interlude, farce or play to be performed, any thing herein before contained to the contrary notwithstanding.

Unless licensed by the justice.

Penalty for disturbing persons met for religious worship.

XIII. AND BE IT ENACTED, That if any person or persons whatsoever, either on the first day of the week, called Sunday, or on any other day or time, shall wilfully and of purpose disquiet, interrupt or disturb any assembly of people met for religious worship, either by making a noise, or by rude or indecent behaviour, or profane discourse, whether within their place of worship or out of it, so near the same as to disturb the order and solemnity of the meeting, then every person, so offending and being thereof convicted before any justice of the peace of the county, where the offence shall be committed, upon the view or personal knowledge of the said justice, or confession of the offender, or proof of any witness or witnesses, upon oath or affirmation, shall, for every such offence, forfeit and pay to the use of the poor of the township, where such offence shall be committed, the sum of two dollars, to be levied, recovered, and applied in the manner and form prescribed in the first section of this act; and in case no distress can be had whereby to levy the said forfeitures, as in the said section is prescribed, then every such offender shall, by a warrant under the hand and seal of the said justice, be set publicly in the stocks for any space of time, to be certainly expressed in the said warrant, not exceeding four hours.

Justices, on information to cause offenders against this act to be brought before them for conviction.

XIV. AND BE IT ENACTED, That every justice of the peace shall immediately on information given upon oath or affirmation of any constable or peace officer, or of any other person whatsoever, cause the offender and offenders against this act to appear before him, and upon such information being proved as aforesaid, shall convict such offender and offenders in such manner as in and by this act is prescribed.

XV. AND BE IT ENACTED, That every justice of the peace, before whom any person or persons shall be, by virtue of this act, convicted of any of the offences aforesaid, shall cause such conviction to be drawn up in the form following:

Form of conviction.

Hunterdon county, (or other county, as the case may require) to wit: Be it remembered, that on the day of in the year of our Lord, one thousand A. B. was convicted before me C. D. one of the justices of the peace of the said county, of crying (or shewing forth, or exposing to sale) one (or two, or more, specifying the number, quantity and kind of goods) on a Sunday, in the township of in the said county of (or, of travelling, or doing ordinary or servile work or labor, or of shooting, fishing, sporting, playing, hunting, gunning, or frequenting tippling houses, or using some unlawful exercise, or pastime) on Sunday, or of swearing one (or, two, or more) profane oath or oaths, or of cursing one (or, two, or more) profane curse or curses, or of having been drunk, at the township of in the said county; as the case may require. Given under my hand and seal the day and year abovesaid.

Conviction not to be removed by certiorari.

Appeals may be had to the sessions.

And such conviction shall not be liable to be removed by certiorari into the supreme court; but if the person offending shall think himself aggrieved by any such conviction, it shall and may be lawful for such person to appeal to the next court of general quarter sessions of the peace of the county, where such conviction is had; which court shall, in a summary way, hear and determine such appeal, and confirm such conviction, with costs, or reverse the same, as to them shall seem right and proper. PROVIDED, That no person shall be entitled to an appeal, unless such person shall first pay down to the justice the penalty and costs of

of prosecution awarded against him, to be returned to such person, in case, upon the appeal, the conviction thereof had, shall be reversed. A. D. 1798.

XVI. And be it enacted, That all charges of the information and conviction of any such offender shall be borne and paid by the party offending, if able, over and above the penalties inflicted by this act, which charges shall be settled and ascertained by the justice, before whom such conviction shall be had, but shall in no case exceed in the whole one dollar; and the justice, before whom any proceedings shall be had upon this act, or his clerk, may take, for the information, summons, conviction, and warrant thereupon, forty cents, and no more; and if the offender shall be set in the stocks for the same offence, no charges whatsoever shall be paid by any person whomsoever. Offenders to pay charges of conviction.

XVII. And be it enacted, That it shall and may be lawful for every such offender to pay the said forfeitures and charges to the justice, before whom such conviction is had; and such justice shall receive the same, and, as soon as conveniently may be, pay the same forfeitures to the overseers of the poor of the township, where such offence was committed, for the use of the poor thereof. Offenders against this act may pay forfeitures to the justice, before whom they were convicted.

XVIII. And be it enacted, That all and every justice and justices of the peace for the county, wherein any such offence shall be committed, may, and they are hereby respectively authorized and required, to put this act into execution, against any person or persons within their respective jurisdictions, although such justice shall be rated and pay to the relief of the poor of the township, where any offence, contrary to the true intent and meaning of this act, shall be committed. Justices to put this act in execution.

XIX. And be it enacted, That no person shall be prosecuted or troubled for any offence against this act, unless the same be proved or prosecuted within thirty days after the commission of such offence. Prosecutions to be had within thirty days.

XX. And be it enacted, That if any suit or action shall be commenced or brought against any justice of the peace, constable, or other officer or person whatsoever, for doing or causing to be done any thing in pursuance of this act, concerning any of the said offences, the defendant in such action or suit may plead the general issue, and give the special matter in evidence; and if in any such action or suit, a verdict shall be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs. Justice, constable, &c. if prosecuted under this act, may plead the general issue.

XXI. And be it enacted, That the act, entitled, "An Act for suppressing of immorality," passed the twelfth day of December, in the year of our Lord, one thousand, seven hundred and four; and the act, entitled, "An Act to promote the interest of religion and morality, and for suppressing of vice among all ranks of people within State," passed the twelfth day of June, in the year of our Lord, one thousand, seven hundred and ninety; and the act, entitled, "An Act for the relief of certain religious societies in this State," passed the twentieth day of November, in the year of our Lord, one thousand, seven hundred and ninety, and every act and parts of acts, coming within the purview of this act, shall be, and they are hereby repealed. Former acts repealed.

An ACT *respecting bridges.*

Passed the 5th of November, 1798.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That when it shall be necessary to erect, rebuild, or repair, any bridge in a township, or between any two townships in the same county, the expense whereof shall exceed one hundred and fifty dollars, it shall be the duty of the overseer of the highway, within whose limits or division the same may be, or either of the overseers of the highways of the adjoining townships, to give notice thereof in writing, under his hand, to the director of the board of chosen freeholders of the county, or in case of his absence, inability, Bridges, how to be built or repaired, where the expense exceeds one hundred and fifty dollars.

A. D. 1798.

or death, to the clerk of such board, who shall thereupon convene, (in the like manner, and under the like penalties, as if such notification had been made and subscribed by any three of the chosen freeholders) the said board or corporation, for the purpose of their considering and deciding upon the utility and necessity of erecting, rebuilding, or repairing the said bridge.

Bridges, whose expense will not exceed one hundred and fifty dollars, how to be built or repaired.

II. And be it enacted, That when the expense of erecting, rebuilding, or repairing any necessary bridge in a township, or between any two townships in the same county shall not exceed one hundred and fifty dollars, it shall be the duty of the overseer of the highways, within whose limits or division the same may be, or either of the overseers of the highways of the adjoining townships, to give notice thereof in writing, under his hand, to the chosen freeholders of such township, and of the two next adjacent townships, and in such notice to appoint the time and place of their meeting, for the purpose of taking the same under their consideration; and the said chosen freeholders or a majority of them are hereby authorized to order, if they think proper, the said bridge to be built, rebuilt, or repaired, and to superintend, or contract for the doing thereof; and for defraying the expense, the director of the board of chosen freeholders shall draw upon the county collector, who is hereby empowered and required forthwith to pay the same out of any county monies in his hands, provided it does not exceed the aforesaid sum of one hundred and fifty dollars.

Bridges, whose expense will not exceed thirty dollars, how to be repaired.

III. And be it enacted, That where the expense of repairing such bridge shall not exceed thirty dollars, inclusive of the necessary materials, it shall and may be lawful for the overseer of the highways, within whose limits and division the same may be, and the two chosen freeholders of the said township, or the major part of them, to direct such bridge to be repaired, and to superintend or contract for the doing thereof; and for defraying the amount of the said expense, not exceeding the sum aforesaid, the director of the said board shall draw on the county collector, who is hereby authorized to pay such order out of any county monies in his hands.

The breadth, &c. of small bridges.

IV. And be it enacted, That every small bridge, to be built by virtue of this or any other act, shall be at least twelve feet in breadth, have four or more good sleepers, and be covered with sound and substantial logs, poles, or plank, well squared and fixed down, and as closely joined as the nature of such materials will admit.

Bridges between counties to be built at joint expense.

V. And be it enacted, That the expense of building, rebuilding, or repairing any bridge between two counties shall be equally borne by such counties.

This act not to affect toll bridges, &c.

VI. And be it enacted, That this act shall not extend to, or affect any toll bridge, being private property, or any bridge, for which any township receives toll, unless the inhabitants of such township shall, at their annual or other meeting, relinquish, and for ever forego their right to such toll, or any bridge, which private individuals are bound by law or contract to make and keep in repair, or to contribute thereto in any degree above their ordinary and ratable proportion in the way of taxation, except so far as such contribution shall be inadequate. Provided always, That no toll bridge, or any other bridge, being private or incorporated property, shall become a county charge, until a majority of the chosen freeholders of the said county shall consent and agree to the same.

Repealing clause.

VII. And be it enacted, That every act, clause, and part of act and acts, within the purview of this act, be, and they hereby are repealed.

An ACT *for the safe keeping of the books and papers of the auditor's office.*

Passed the 6th of November, 1798.

Books in auditor's office, to be removed to secretary's office.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all the books and papers, now in the office and keeping of the auditor, which belong to the State, shall be delivered to the

the secretary of the State, and deposited, and henceforth kept in his office, under the care and inspection of the said secretary. A. D. 1799.

Secretary to settle certain accounts, and report the same, &c. to the legislature.

II. And be it enacted, That the said secretary be, and he hereby is, authorized to settle the accounts of any of the agents of forfeited estates, that may remain unsettled; and that all the receipts, that are by law directed to be registered in the auditor's office, shall be so registered by the said secretary; who shall, at the first sitting of the next legislature, present an account of the settlements made with any of the agents of forfeited estates, the number of receipts registered, and an account of his trouble and expense for such service, together with the expense for removing the said books and papers to his office.

III. Supplied and repealed.

Part of act of 25th Feb. 1798, repealed

IV. And be it enacted, That so much of the fifth section of the act, entitled, "An Act making provision for carrying into effect the act for the punishment of crimes," passed the twenty fifth day of February, seventeen hundred and ninety eight, as respects the auditor's countersigning the orders of the inspectors of the State prison, be, and the same is hereby repealed.

An ACT *regulating fences.*

Passed the 23d of January, 1799.

What fences adjudged to be lawful.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all fences, consisting of posts and rails, timber, boards, brick or stone walls, shall be esteemed lawful, if four feet and two inches high; and all other fences shall be lawful if four feet and six inches high, measuring from the level or surface of the earth, and close, strong and sufficient to prevent horses and neat cattle from going through or under the same; and all fences, set in the line of partition between persons, either of whom improve their adjoining lands, shall be so close, strong and sufficient, as to prevent sheep from going through or under the same; and all ditches and drains made in or through salt marshes and meadows, for fencing and draining the same, being five feet wide and three feet deep, shall also be esteemed and adjudged lawful fences; and all ditches and drains made in or through other meadows, being nine feet wide at the surface of the meadow, four feet and an half wide at bottom, and three feet deep, and lying on a mud or miry bottom, shall likewise be esteemed and adjudged lawful fences; and all brooks, rivers, ponds, creeks, and hedges, or other matter or thing equivalent to any such fence as aforesaid, may be adjudged lawful fences, at the discretion of those, who may be called to view the same, as by this act is prescribed. And all such beasts, as shall creep through, get over or break down any such fence, may be impounded, and the owner thereof shall be obliged to pay and satisfy all damages occasioned thereby, in manner and form as by this act is directed.

Beasts creeping, through or breaking over such fences may be impounded, and owner to pay damages.

How division fences shall be made and repaired.

II. And be it enacted, That where the lands, marshes or meadows of any two or more persons shall join each other, each of them shall make or amend and maintain, a just proportion of the division or partition fence between them, except such persons, as shall choose to let their adjoining lands lie vacant and open; and if any person shall, after due notice, neglect or refuse to make or amend and maintain his or her part or proportion of such fence, then the other party may make or amend and maintain the same wholly, and shall be entitled to receive one half of the expenses of the party so neglecting or refusing, as the same shall be appraised and certified in writing, by any two of the township committee, where the lands lie, residing nearest the premises, and being disinterested and indifferent between the parties, together with the legal fees of such committee for their services, as the same shall also be ascertained in writing; and on non payment, by the party delinquent as aforesaid, of the sum so found, and fees certified to be due, it shall and may be lawful for the other party to recover the same, by action of debt, with costs of suit, in any court, where the same may be cognizable.

III. And

A. D. 1708.

If the parties cannot agree on the place for the partition fence, two of the township committee shall fix the same.

III. And be it enacted, That to avoid the difficulty that may arise touching the placing of any partition fence, if the parties cannot agree upon the place themselves, it shall and may be lawful for the person, proposing to make the fence, to apply to any two of the township committee as aforesaid, residing nearest the premises, and being disinterested and indifferent between the parties, who, on hearing the allegations and proofs of the parties, shall fix and appoint, (by writing under their hands, to be delivered to each of the parties) the place, where such fence is to be made; and when made in the place so appointed, (if the other party shall have neglected or refused to make his just part or proportion thereof) it shall be sufficient to entitle the party so making the same, to recover such part or proportion of the charges thereof as aforesaid, although it may not happen to be exactly in the division line between the said parties. Provided always, That the place, so appointed for making the said fence, shall not be construed to exclude or deprive any or either of the parties, of any lawful claim to a greater quantity of land; but such person or persons may maintain his, her or their action for the same, as though such determination of the committee or partition fence had never been made.

But the place, so fixupon, shall not affect the claim of either party.

Partition fences shall be equally divided, made, and maintained by the parties.

IV. And be it enacted, That the place, where any partition fence is or shall be made, shall be equally divided, regard being had to the quantity of fence necessary, and other conveniencies of fencing, and each party shall take an equal share of such fence to make or amend and maintain, so that it may be known which part thereof is his own; and if the parties cannot agree in making such division, then any two of the township committee as aforesaid, residing nearest the premises, and being disinterested and indifferent between the parties, shall, on the application of either party, in the presence of the parties, (if they will be present) make such division, and determine the part or share of such fence, which each party is to make or amend and maintain; which determination, being delivered to each of the parties in writing, shall be binding upon such parties and the succeeding owners or occupiers of the same lands.

If lands of different occupants be bounded upon or divided by a pond or brook, how the partition fence shall be fixed, made, and maintained.

V. And be it 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 creek, brook, stream, pond or run of water, not navigable for boats or flats, and which of itself is not a sufficient fence, and the owner or possessor of the land on one side shall refuse to join with the owner or possessor of the land on the other side, in making a partition fence on the one side or the other, or cannot agree respecting the same, then any or either of such owners or possessors, may apply to any two of the township committee as aforesaid, residing nearest the premises, and being disinterested and indifferent between the parties, and if the said committee, on examination, shall be of opinion, that such creek, brook, stream, pond or run of water, does not answer the purpose of a sufficient fence, and that it is impracticable or inconvenient, without unreasonable expense, for such partition fence to be made in the middle, or other part of the water, being the true division line between the parties, they the said committee, in the presence of the parties, (if they will be present) shall determine, fix and ascertain, how or on which side thereof, the fence shall be set up and maintained, or whether partly on the one side, and partly on the other side of such water, and the part or share of the fence, which each person shall in such case make and maintain, as to them shall appear just and reasonable, and reduce their determination to writing, delivering a part thereof to each of the parties; and if either of the said parties shall refuse or neglect to make up and maintain the part of the fence to such party belonging or assigned, according to the determination of the said committee in writing as aforesaid, the same may be done and performed as in the second section of this act is provided; and the party delinquent shall be liable and subject to such recovery against him as in the said section is expressed and mentioned: Provided always, That if lands, belonging to different persons, are bounded on the division line between two townships, then and in that case one person shall be taken from the township committee of each of the said townships, to determine the place where such fence shall be set up and maintained, and the part or share thereof, which each person shall in such case make and maintain.

VI. And

A. D. 1799.

Partition fences not to be removed without giving twelve months notice to the other party.

VI. And be it enacted, That when any partition fence is or shall be made between any two persons, as by this act is directed, if either of them shall think proper to give up his improvement, and leave the same open and common, such person shall not take up or remove the said fence so made between them, without giving twelve months notice in writing to the person or persons in possession of the lands adjoining thereto; and if such person shall remove such fence, without giving such notice, or before the expiration of the said year, then and in every such case, he shall be liable to make good all damages, which the party injured by such removal shall sustain thereby, to be recovered, with costs of suit, in any court having cognizance of the same.

But agreements respecting fences not to be affected by this act.

VII. Provided always, *and be it further enacted*, That nothing in this act contained shall be construed to make void any written agreement between neighbours or others, respecting the making or maintaining partition fences.

If two of the township committee cannot agree, they may call in a third person.

VIII. And be it enacted, That in every case, in which, by this act, two of the township committee shall be called to determine any matter in difference, and it shall so happen, that such two of the committee cannot agree in their determination, it shall and may be lawful for them to call upon some third person of the neighbourhood, being a freeholder, and disinterested and indifferent between the parties, to join them in the business, any two of whom agreeing, their determination, made and certified in writing in manner aforesaid, shall be binding and conclusive between the parties.

Persons, who neglect to make their part of a partition fence, to make good all damages, &c.

IX. And be it enacted, That if any person, to whom any part or share of any partition fence is or shall be assigned to make or amend and maintain, as in and by this act is directed, shall neglect or refuse, after due notice given, to make and repair such part or share thereof, so that his own or the beasts of any other person shall break in, enter into, or upon his neighbour's land, over or through the said fence, the person so neglecting or refusing, is hereby rendered liable to make good all damages sustained thereby, to be ascertained according to the directions of this act, and for which such delinquent's beasts shall be liable to be impounded, and held in pound, until he shall pay the same, and all charges occasioned thereby, as herein after mentioned; or, if the beasts of any other person only shall have trespassed, by means of such neglect or refusal to make or repair the said fence, then the party injured may sue for and recover his damages against the party so neglecting or refusing to make or repair the said fence, in an action of trespass, with costs, in any court where the same may be cognizable. And if the beast of the person, who shall have made and maintained his part or share of the partition fence assigned to him, according to the directions of this act, or the beasts of any other person, should trespass on his next adjoining neighbour, through that part of the fence so by him neglected or refused to be made or maintained as aforesaid, he or they shall not be liable to have his or their beasts impounded, nor be liable to any action to recover any damage accruing thereby.

Beasts of an innocent person, trespassing through an unlawful fence, not to be impounded, nor any damages recovered in consequence thereof.

Where persons do not keep up their part of fences, beasts trespassing through the same shall not be impounded nor damages recovered.

X. And be it enacted, That if any owner or possessor of land shall neglect or refuse to make and keep in good repair the fence and fences about his land, as by this act is directed, and for default thereof, the beasts of any other person shall break in, or enter into or upon the said land, over or through such fence, then the owner of the said beasts shall not be liable to any action, nor the beasts be impounded, for any damage sustained thereby; and if any action be commenced therefor, the owner of such beasts may plead the general issue, and give this act in evidence to support the same. Provided always, That nothing in this section contained shall be deemed to affect any regulation as to partition fences, or to prevent the recovery of damages for any beasts entering into or upon any person's land, over or through such fence as by this act is directed and allowed.

And if they injure such beasts they shall pay full damages with costs.

XI. And be it enacted, That if any owner or possessor of land, being damnified for want of such lawful and sufficient fence as by this act is directed, shall hurt, wound, lame, kill or destroy, or cause the same to be done, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, or sheep, he, she or they so offending, shall pay and satisfy to the owner of the beasts so injured or destroyed, full damages, to be recovered in an action of trespass, with costs, in any court where the same may be cognizable.

A. D. 1799.

Horses, cattle, or sheep breaking over lawful fences, their owners shall pay all damages, to be ascertained by appraisers.

XII. And be it enacted, That if any horses, cattle or sheep, shall get over, creep through or break down, any fence by this act declared lawful, the owner or owners of the beasts shall pay to the person injured, all damages occasioned thereby, to be appraised and certified in writing by two substantial and indifferent men of the neighbourhood, mutually chosen by the parties; but if the owner or owners of such beasts shall refuse or neglect to choose one of the said appraisers, then the injured party may choose them both himself, and in case the said appraisers, chosen as aforesaid, cannot agree upon an appraisement of the damages, then the said appraisers may choose a third person of the neighbourhood, being a freeholder, to join them therein, any two of whom agreeing, their appraisement, made and certified as aforesaid, shall be binding and conclusive to the parties; and if any dispute shall arise concerning the sufficiency of the fence, it shall be determined, on a view thereof, by the same persons, and their decision respecting the same, in like manner reduced to writing, shall also be conclusive. And it shall and may be lawful for the party injured to take and impound such beasts found trespassing or doing damage as aforesaid, in his field or yard, or other enclosure, for the space of twenty four hours, he giving notice thereof to the owner or owners of the said beasts, if known and easily to be found; and if such beasts are not redeemed within the said twenty four hours, by payment of, or satisfaction for the damages so certified as aforesaid, he shall lead or drive them to the public pound of the township, where the poundkeeper shall receive and keep them, until the damages so certified, with the charges of conveying and pounding, are paid. And the said party shall have four cents for horses and cattle, and one cent for sheep, per head, for taking such beasts to the pound, and the poundkeeper shall have the same fees, for letting in and out of the pound; and for pounding, feeding and attending, ten cents for horses and cattle, and three cents for sheep, per head, for every twenty four hours they shall continue in the pound. And if the owner of any beasts, so impounded, shall not pay the damages and charges of impounding, within four days after such beast shall be impounded, or replevy the same beasts, then it shall be the duty of the poundkeeper to set up advertisements in at least three of the most public places in the township, to which the pound belongs, and in one or more of the most public places in the two next adjoining townships, particularly describing such beasts, and giving at least thirty days notice of an intended day and place of sale, and that if the owner do not appear and redeem the said beasts before the time so notified, they will then be sold at public vendue; at which time and place, if no owner, or other person for him, shall appear and redeem the said beasts, the said poundkeeper shall sell the same accordingly, and out of the monies arising from such sale, shall pay the said damage and charges of conveying to the pound, and retain in his hands his fees for pounding, keeping and feeding the said beasts, and forty cents for such sale and collecting the money, and return the overplus to the owner of the same beasts; and if no owner shall appear and claim such overplus, within twelve calendar months after such sale, the same shall be paid to the clerk of the township, where such beasts were impounded, for the use of the said township.

Party injured by beasts found trespassing may impound them in his own enclosure for twenty four hours, and then in the public pound.

Allowance for pounding and feeding.

Beasts impounded may be advertised and sold.

Damages and charges to be first satisfied, and the residue paid to the owner, or township.

Where there is no public pound, the person injured may pound beasts in his yard, or field.

XIII. And be it enacted, That where there is not a public pound kept within the township, then the person, damnified by such beasts trespassing as aforesaid, may pound them in his or her own field, yard or other enclosure, till redeemed as aforesaid; and he shall act in such cases in all respects, and be entitled to the same fees, as the poundkeeper should or ought to have done, or been entitled to by this act; and further, shall enter all such trespassing creatures kept in his possession, at any time after the first day of November, and before the first day of April, in the town book, agreeably to the act, entitled, "An Act concerning stray cattle, horses and sheep."

Penalty on any of the township committee, who shall neglect or refuse to perform the duties required by this act.

XIV. And be it enacted, That if any person, being of any township committee, who, on due notice given him, and being requested by any person interested to do any of the duties in and by this act assigned to him, shall refuse or neglect forthwith to attend accordingly, every person, so neglecting or refusing, shall forfeit and pay the sum of four dollars, with costs, to him or them, who shall sue for the same, within thirty days after such neglect or refusal.

Their compensation, and by whom to be paid.

XV. And be it enacted, That each and every person of such township committee shall be allowed one dollar per day, and fifty cents for a half day, for the

the time he shall be engaged in the duties of his office in virtue of this act, to be paid by the person or persons employing him; and in case such person or persons shall refuse or neglect to pay the said committee their legal fees, within thirty days after the service done, they may severally recover double the amount of such fees, by action of debt, with costs of suit. And each one of the committee may be a witness for or against his companion in any such suit. A. D. 1799.

XVI. And be it enacted, That the act, entitled, "An Act for regulating fences," passed the eighth day of July, in the year, seventeen hundred and thirty, and the several supplements thereto, and all and every other act and acts, part and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed. Former laws repealed.

An ACT *relative to posthumous children.*

Passed the 24th of January, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if the father die intestate, his posthumous child or children shall take, possess, and inherit his estate, real and personal, in the same proportion and manner, as if such child or children were born in the lifetime of the father. Posthumous children to inherit, when the father dies intestate.

II. And be it enacted, That if the father die testate, his posthumous child or children, in case no provision be made for him, her or them, by such last will and testament, shall, unless expressly excluded or barred thereby, take, possess and inherit the estate, real and personal, of his, her or their father, in the same proportion and manner, as if the said father had died intestate; and the share or shares of such child or children shall be taken from the devisees and legatees, to whom the said estate is given and devised, ratably and in proportion to their respective interests therein. If the father die testate, his posthumous children to take and inherit, unless expressly excluded by his will.

An ACT *to assist poor persons in the prosecution of their suits.*

Passed the 28th of January, 1799.

Whereas justice ought to be administered to such poor persons, as are not of ability to sue according to law for the redress of injuries and wrongs, or the recovery of their demands and rights; Therefore, Preamble.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every such poor person, as shall have cause of action against any person in this State, shall have at the discretion of the court, before which he or she would sue, a writ or other process, according to the nature of his or her case, without paying for the same. Poor persons to have process gratis.

II. And be it enacted, That the said court shall, at their discretion, assign to such poor person, counsel, learned in the law, attornies and other officers, requisite to prosecute the said action, who shall perform their respective duties therein without fee or reward. Courts to assign them counsel, and other officers.

III. And be it enacted, That such poor person, being plaintiff or complainant in any such action, shall not be compelled to pay costs. Poor person, being plaintiff, not to pay costs.

An ACT

A. D. 1799.

An ACT *to ascertain the times and place of holding the court of appeals.*

Passed the 29th of January, 1799.

The court of appeals to hold, annually, two terms at Trenton.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the court of appeals in the last resort in all causes of law shall hold, annually, at Trenton, two terms; the one commencing the third Tuesday of May, and the other the first Tuesday of November; but if the legislature be elsewhere in session, at either of the said terms, the said court shall in such case be held at the place, where the legislature shall be so in session.

Governor and council may appoint a special court.

Of which two months notice shall be given.

II. AND BE IT ENACTED, That the governor for the time being, as often as the business of the said court shall require, shall be and is hereby authorized, by and with the advice of the council, or any three of them, to appoint one other time, in every year, of holding the said court, at Trenton: PROVIDED, That previous notice, for at least two months, shall be given in one or more of the newspapers published in this State, of the time and place of holding such court.

Secretary of the State to be clerk of the court.

III. AND BE IT ENACTED, That the secretary of the State, for the time being, shall be clerk of the said court of appeals.

Compensation to the judges and clerk of the court.

IV. AND BE IT ENACTED, That compensation of the members of the council, who shall sit as judges in the said court, shall be the same by the day, for every day they shall respectively attend the court, and for travelling to and from the same, as the members of the legislative council are or may be entitled to by law; and that the clerk of the said court shall be allowed the same daily compensation as the clerk of the legislative council: PROVIDED ALWAYS, That they shall not be entitled to any compensation as members and clerk of the legislative council, when sitting as a court of appeals.

Mode of payment.

V. AND BE IT ENACTED, That the compensation aforesaid, and the services of the serjeant at arms, and all necessary expenses, shall be paid by the treasurer of the State upon a certificate signed by the governor.

Certain acts repealed.

VI. AND BE IT ENACTED, That the act, entitled, "An Act to regulate and fix the terms for holding the court of appeals or errors," passed the twenty second day of December, in the year of our Lord, one thousand, seven hundred and eighty four, and the supplement thereto, passed the fifth day of November, in the year of our Lord, one thousand, seven hundred and ninety one, be, and they are hereby repealed.

An ACT *for the further division of the township of Roxbury, and altering the line of the township of Washington, in the county of Morris.*

Passed the 29th of January, 1799.

Preamble.

WHEREAS a number of the inhabitants of the township of Roxbury, in the county of Morris, by their petition have set forth, that notwithstanding the said township was lately divided, yet it remains too large for the town business to be done with convenience, and praying that the said township may be further divided; and the prayer of the petitioners appearing reasonable; Therefore,

Bounds of the new township.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all that part of the township of Roxbury, in the county of Morris, lying within the following boundaries, to wit; beginning at a bridge that crosses Black River, near William Coleman's house, from thence to run northeasterly on the westerly side of said river, to the corner of William Coleman's land, from thence along the line of said Coleman and John Hathaway, to the top of the first hill, and from thence to run southwesterly to the end of a certain long line, that divides the hill farms of

A. D. 1799.

of the long valley, from thence to run southwesterly along said line to the end of said long line, from thence to continue on the same course until it strikes the line of Washington, from thence to run southwardly on the line, that divides Roxbury and Washington, until it strikes the house of Robert Carlile, junior, thence a straight course to the west corner of the house of Sammons Oliver, thence a straight course to the forge of Skinner and Emmons, thence along the line of Roxbury and Washington to the line of Somerset county, thence to run along said Somerset line until it strikes the line of Mendham, from thence to run along the old boundary between Roxbury and Mendham to the place of beginning, shall be, and the same is hereby set off from the township of Roxbury, and the same is hereby established a separate township, to be called by the name of, "The Township of Chester."

Its name.

II. AND BE IT ENACTED, That the inhabitants of the said township of Chester shall be, and they are hereby vested with and entitled unto all the powers, privileges and authorities, and shall be, and are hereby made subject to the like regulations and government, which the inhabitants of the aforesaid township of Roxbury are subject and entitled to; and that the inhabitants of the township of Chester shall be, and they hereby are incorporated, styled, and known by the name of, "The inhabitants of the township of Chester, in the county of Morris," and entitled to all the privileges, authorities, and advantages, that the other townships in the said county are entitled unto, by virtue of an act, entitled, "An Act incorporating the inhabitants of townships, designating their powers, and regulating their meetings," passed the twenty first day of February, in the year of our Lord, one thousand, seven hundred and ninety eight; provided, that this act shall not be in force until the first Monday in April next.

The said township vested with the usual powers and privileges of a township.

IV. AND BE IT ENACTED, That the inhabitants of the said township of Chester shall meet at the house where John C. Corwin, innkeeper, now dwells, on the day appointed by law for the first annual town meeting after the passing of this act, and proceed in all respects agreeably to the laws of this State for the regulation of town officers.

Town meeting where to be held.

An ACT *concerning promissory notes, inland bills of exchange, and notaries public.*

Passed the 30th of January, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every bill of exchange, of the sum of eight dollars or upwards, drawn or to be drawn, in, or dated, or to be dated at and from, any city, town, or other place in the State of New-Jersey, upon any person or persons of or in any city, town, or other place in the said State, and payable at a certain number of days, weeks, or months after date or sight thereof, shall, in case of non acceptance by the drawee, when presented for acceptance, or, if accepted, in case of non payment by the drawee, when due and presented for payment, be protested by a notary public in like manner as foreign bills of exchange, and shall in every respect, except where this act otherwise directs, be regulated and governed by the same law, custom and usage, as regulate and govern foreign bills of exchange: PROVIDED, That such protest shall, for want or in default of a notary public, be made by any justice of the peace, whose act, in such case, shall be of equal efficacy and virtue with that of a notary public.

Inland bills of exchange of eight dollars or upwards, put on the same footing as foreign bills.

II. AND BE IT ENACTED, That in case any such inland bill of exchange shall happen to be lost or miscarried, within the time before limited for payment of the same, then the drawer of the said bill is and shall be obliged to give another bill of the same tenor with that first given, the person or persons, to whom the same is and shall be so delivered, giving sufficient security, if demanded, to the said drawer, to indemnify him against all persons whatsoever, in case the said bill of exchange, so alleged to be lost or miscarried, shall be found again.

Where bill is lost, drawer to give another on security.

III. AND BE IT ENACTED, That if any person accept any such inland bill of exchange, for and in satisfaction of any former debt, or sum of money formerly

Acceptance of an inland bill for a precedent debt shall be es-

 due

A. D. 1799.

teemed payment, if due diligence be not exercised.

due to him or her, the same shall be accounted and esteemed a full and complete payment of such debt, if such person, accepting of any such bill for his or her debt, doth not take his or her due course to obtain payment thereof, by endeavouring to get the same accepted and paid, and make his protest as aforesaid, in case of non acceptance and non payment thereof.

Promissory notes may be endorsed, and action maintained thereon, as on inland bills of exchange.

IV. And be it enacted, That all notes in writing, already made, or hereafter to be made, and signed by any person or persons, body politic or corporate, or by the servant, factor, or agent of any corporation, banker, merchant or trader, who is usually entrusted by him, her, or them to sign such promissory notes for him, her, or them, whereby such person or persons, body politic or corporate, his, her, or their servant, factor, or agent as aforesaid, doth or shall promise to pay to any other person or persons, body politic or corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall, by virtue thereof, be taken and construed to be due and payable to any such person, or persons, body politic or corporate, to whom the same is or shall be made payable; and also every such note, payable to any person or persons, body politic or corporate, his, her, or their order, shall be assignable or endorsible over to any other person or persons, body politic or corporate, in the same manner as inland bills of exchange are or may be; and that the person or persons, body politic or corporate, to whom such sum of money is or shall be, by such note, made payable, shall and may maintain an action for the same, in such manner as he, she or they might do upon any inland bill of exchange against the person or persons, body politic or corporate, who, or whose servant, factor, or agent as aforesaid, signed the same; and that any person or persons, body politic or corporate, to whom such note, that is payable to any person or persons, body politic or corporate, his, her, or their order, is or shall be endorsed or assigned, or the money therein mentioned, ordered to be paid by endorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons, body politic or corporate, who, or whose servant, factor, or agent as aforesaid, signed such note, or against any of the persons, who endorsed the same; and in every such action, the plaintiff or plaintiffs shall recover his, her, or their damages, and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, or defendant or defendants, respectively recovering, may sue out execution for such damages and costs by capias ad satisfaciendum, or fieri facias, as is usual in other cases: Provided always, That the said plaintiff or plaintiffs shall allow all just set offs or discounts on any note to be made and signed as aforesaid, after the first day of June next, not only against himself, but against the assignor or assignors of such note, before notice of such assignment shall have been given to the defendant or defendants; unless it shall be expressed in the said note, that the said sum therein mentioned shall be paid, without defalcation or discount.

In what cases discounts shall or shall not be allowed on promissory notes.

Governor may appoint notaries public.

V. And be it enacted, That the governor of this State, for the time being, may appoint and commission such and so many notaries public as to him shall seem necessary, who shall hold their respective offices during good behaviour.

Their fees.

VI. And be it enacted, That it shall and may be lawful for every notary public and justice of the peace to demand and take the following fees, to wit; for every attestation, protestation, and other instrument of publication, under his seal of office, relative to a foreign bill of exchange, one dollar, and for recording the same in a book kept for that purpose, seventy five cents; for every attestation, protestation, and other instrument of publication, under his seal of office, relative to inland bills of exchange or promissory notes, if said notes or bills exceed one hundred dollars, the sum of fifty cents, and if one hundred dollars or less than one hundred dollars, the sum of thirty cents, and for recording the same in a book kept for that purpose, the sum of twenty five cents.

An ACT

An ACT *relative to dower.*

A. D. 1799.

Passed the 31st of January, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the widow, whether alien or not, of any person dying intestate, or otherwise, shall be endowed, for the term of her natural life, of the one full and equal third part of all the lands, tenements and other real estate, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the coverture, to whichshe shall not have relinquished or released her right of dower, by deed executed and acknowledged in the manner prescribed by law for that purpose.

A widow to have the one third part of her husband's lands for her dower.

II. AND BE IT ENACTED, That until such dower be assigned to her, it shall be lawful for the widow to remain in, and to hold and enjoy the mansion house of her husband, and the messuage or plantation thereto belonging, without being liable to pay any rent for the same.

Widow to remain in the mansion house until dower be assigned.

III. AND BE IT ENACTED, That if the widow be deforced of her dower, or cannot have it without suit, or if her dower be unfairly assigned, or not assigned within forty days after the death of her husband, then she may sue for and recover the same, with damages; that is to say, the value of the whole dower to her belonging, from the time of her husband's death if he died or shall die seized, or from the time of demanding dower, if the husband was or shall be seized, but did not or shall not die so seized, unto the day that she shall recover seizen of her dower by judgment of the court.

Widow deforced of dower, may recover the same with damages.

IV. AND BE IT ENACTED, That the writ of dower, called, unde nihil habet, shall not abate by the exception of the tenant, that the demandant hath received her dower of another person, before her writ was sued out; unless he can shew, that the dower, so received, was in satisfaction of her right of dower in the lands or tenements whereof she demands dower.

A writ of dower, unde nihil habet, not to abate for receiving dower of any other than the tenant.

V. AND BE IT ENACTED, That if the husband, being impleaded for land, give up the same unto his adversary by covin, his widow shall recover her dower of the said land; and if the husband lose the land in demand, by default, the widow, demanding her dower thereof, shall be heard, and if it be alleged against her, that her husband lost the land, whereof dower is demanded, by judgment, whereby she ought not to have dower, and then it be enquired, by what judgment, and it be found, that it was by default, whereunto the tenant must answer; then the tenant must answer further, and shew, that he had and hath right in the said land, according to the form of the writ, that the tenant before sued out against the husband; and if he shew, that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the tenant shall go quit, and the widow shall not recover her dower therein; but if he shew not the same, the widow shall recover her dower.

Judgment against the husband by default or covin, shall not bar the widow of her dower.

VI. AND BE IT ENACTED, That where a widow, having no right to demand dower, sues out a writ of dower against the guardian of the heir, such heir being within age, and the guardian endows the widow by favor, or makes default, or by collusion defends the plea faintly, whereby she is awarded her dower in prejudice of the heir, in every such case, the heir when he comes to full age, shall have the like action to demand the seizen of his ancestor against such widow, as he should have against any other deforcer. But the widow shall, in such action, be allowed to shew that she had right to her dower, and if she shew such right, she shall go quit and retain her dower, and if she shew it not, the heir shall recover his demand. *And be it further enacted*, That in like manner the widow shall be aided, if the heir or other person implead her for her dower, or if she lose her dower by default; in which case, the default shall not be so prejudicial to her, but that she shall recover her dower, if she have right thereto, and she shall have a writ in this form:

An infant heir shall recover against a widow, who has been endowed by favor, default, or collusion of the guardian, unless she can shew right to her dower.

Judgment by default &c. against a widow impleaded for her dower, shall not bar her right.

Command

A. D. 1799.

Form of writ.

Command A, that justly and without delay, he render to B, who was the wife of C, so much land, (specifying the land) with the appurtenances, in D, which she claims to be her reasonable dower, or, of her reasonable dower, of which the aforesaid A deforceth her, &c.

And to this writ the tenant shall have his exception, to shew that she had no right to be endowed; and if he can verify his exception, he shall go quit, and if not, the widow shall recover the land, whereof she was before endowed.

Guardian to have writ of admeasurement of dower; but in case of collusion, the heir not bound,

VII. And be it enacted, That a writ of admeasurement of dower shall be granted to a guardian, and the heir, when he comes of full age, shall not be bound by the suit of such guardian, if it be by collusion; but he may admeasure the dower after, as it ought to be admeasured by law.

Mode of proceeding in writs of admeasurement of dower and of pasture.

VIII. And be it enacted, That in the writ of admeasurement of dower, as well as in the writ of admeasurement of pasture, if the defendant come at the day contained in the writ, to answer the plaintiff, the plea shall pass between them, and if he come not, admeasurement shall be made upon his default.

Supreme court to have cognizance of dower.

IX. And be it enacted, That no sheriff shall hold plea of admeasurement of dower or of pasture: And further, that every writ of dower, and of admeasurement of dower or pasture, shall issue out of and be returnable to the supreme court of this State, and no other; which court is hereby declared to have cognizance of the same.

Married women, having a jointure, shall not have dower.

X. And be it enacted, That where any man hath purchased, or hath an estate made and conveyed of and in any lands, tenements or hereditaments, unto him and his wife, and to the heirs of the husband or wife, or to the husband and to his wife, and to the heirs of their two bodies begotten, or to the heirs of one of their bodies begotten, or to the husband and to his wife for the term of their lives, or for the term of the life of the said wife, or where any such estate or purchase of any lands, tenements or hereditaments hath been, or hereafter shall be made, to any husband and to his wife, in manner and form above expressed, or to any other person or persons, and to their heirs and assigns, to the use and behoof of the said husband and wife, or to the use of the wife, as is before mentioned, for the jointure of the wife; that then, and in every such case, every married woman, having such jointure made, or hereafter to be made, shall not claim or have any dower of the residue of the lands, tenements or hereditaments, which at any time were her said husband's, by whom she hath or shall have any such jointure, nor shall demand or claim her dower of or against them or any of them, who have or shall have the lands, tenements or hereditaments of her said husband.

Widow evicted of her jointure, without fraud, shall be endowed.

XI. Provided always, *and be it further enacted*, That if a widow be lawfully expulsed or evicted from her said jointure, or from any part thereof, without fraud or covin, by lawful entry or action, or by discontinuance of her husband, she shall be endowed of as much as the residue of her husband's lands, tenements or hereditaments, whereof she was before dowable, as the same lands, tenements or hereditaments, from which she shall be so evicted or expulsed, shall amount or extend unto.

In what cases a widow may elect to have her jointure or dower.

XII. And be it enacted, That if any deed, conveyance or assurance of lands, tenements or hereditaments, for jointure as aforesaid, be made before the marriage and during the infancy of the feme, or be made after marriage, in either case, the widow may, at her election, forego and wave such jointure, and demand and have her dower.

Widows not to have both their dower, and the lands intended to be in lieu thereof.

XIII. And be it enacted, That when any deed, conveyance or assurance of lands, tenements or hereditaments by way of jointure as aforesaid, and in lieu of dower shall, through any defect, fail to be a legal bar to dower, and the widow, availing herself of such defect, shall demand her dower, then the estate and interest, so conveyed or assured to such widow, shall thereupon cease and determine.

XIV. And

A. D. 1799.

XIV. And be it enacted, That if a wife voluntarily leave her husband, and go away and continue with her adulterer, she shall be disabled and for ever barred from having her jointure or dower, unless her husband be voluntarily reconciled to her and suffer her to dwell with him; in which case she shall be restored to her jointure or dower.

A wife, who elopes, shall be barred of her jointure or dower.

XV. And be it enacted, That if a wife, after being ravished, consent to the ravisher, she shall be disabled and for ever barred from having her jointure or dower, unless her husband be voluntarily reconciled to her, and suffer her to dwell with him, and then she shall be restored to her jointure or dower.

A wife consenting to her ravisher, not to have jointure or dower.

An ACT *respecting writs of error.*

Passed the 1st of February, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That errors happening in the supreme court of this State shall be heard, rectified and determined by the court of appeals in the last resort in all causes of law.

Errors in the supreme court to be rectified by the court of appeals.

II. And be it enacted, That it shall and may be lawful for the attorney general, in behalf of this State, or for any party, his legal representative, or other person, who may be damnified or aggrieved by any judgment rendered or to be rendered in the supreme court, to sue forth a writ of error, to be directed to the judges of the said supreme court for the time being, commanding them to cause the record of such judgment, and all things concerning the same, to be brought before the said court of appeals.

Procedure on writs of error to the supreme court.

III. And be it enacted, That the party, prosecuting such writ of error, shall, without delay, cause a transcript of the said record to be made, and the said judges, to whom the said writ of error may be directed, or any one of them, shall annex the said transcript to, and endorse a proper return on the said writ, and return the same under his or their signature and seal.

The plaintiff in error to make a transcript of the record, and one of the judges to return the same.

IV. And be it enacted, That if a sufficient number of the members of the court of appeals, to constitute the said court, shall not attend on the first day of the term or time appointed for holding the same, it shall be lawful for the members attending to adjourn the court from day to day until a sufficient number shall attend, or to adjourn till the next term, in which case the writs and process then returnable, and all suits, pleadings and proceedings depending before the said court, shall be continued of course till such subsequent term.

Of the adjournment of the court of appeals, when a quorum of members do not attend.

V. And be it enacted, That all errors, happening in any of the inferior courts of common pleas, shall be heard, rectified and determined by the supreme court of this State, which is hereby declared to have jurisdiction of the same, and out of which a writ for that purpose shall be issued, at the instance of the State, or of any party, his legal representative or other person, who may be damnified or aggrieved by any judgment rendered or to be rendered, in any of the said inferior courts of common pleas.

Errors in the common pleas to be rectified by the supreme court.

VI. And be it enacted, That no execution shall be stayed or delayed by any writ of error, or supersedeas thereon, for the reversal of judgment in any action of debt, founded upon a prior judgment, or upon any single or penal bill for the payment of money only, or upon any obligation, with condition for the payment of money only, or upon any action of debt for rent, or upon any contract, sued in the supreme court, or any of the inferior courts of common pleas or other court of record in this State, unless the plaintiff in such writ of error, or other responsible person in his behalf, with two sufficient sureties, to be approved and allowed by the court wherein such judgment is given, shall first become bound to the party, for whom such judgment is given, by recognizance, to be acknowledged in the same court, in double the sum adjudged to be recovered by the said judgment, to prosecute the said writ of error with effect, and also to pay and satisfy

Execution not to be stayed by writ of error on judgment for debt on judgment, or on bill or bond for payment of money, or for rent, or on contract, unless the plaintiff in error enter into recognizance to prosecute, and pay the debt, damages, and costs, if judgment be affirmed.

A. D. 1799.

if the said judgment be affirmed, all the debt or debts, damages and costs, adjudged on the former judgment, and all costs and damages to be awarded for the delay of execution.

Execution not to be stayed by writ of error after verdict and judgment in any personal action, unless upon recognizance as aforesaid.

VII. And be it enacted, That no execution shall be stayed or delayed, in any of the courts mentioned in the section next preceding, by any writ of error, or supersedeas thereon, after verdict and judgment on such verdict, in any personal action whatsoever, unless recognizance, in the manner above directed, shall be first acknowledged in the court, where such verdict is entered and judgment thereon is given.

Nor in dower or ejectment, after verdict.

VIII. And be it enacted, That no execution shall be stayed or delayed by writ of error to be brought upon judgment after verdict in dower, or in ejectment, unless the plaintiff in such writ of error, or other responsible person in his behalf, with two sufficient sureties as aforesaid, shall first become bound, by recognizance, to the plaintiff in the writ of dower or action of ejectment, in such reasonable sum as the court, to which the writ of error is directed, shall think fit; with condition, that if judgment be affirmed in the said writ of error, or if the said writ of error be discontinued by default of the plaintiff therein, or if the said plaintiff be nonsuit in the said writ of error, that then the said plaintiff shall pay such costs, damages, and sum or sums of money, as shall be awarded upon or after such judgment affirmed, discontinuance, or nonsuit. And to the end, that the same damages, and sum or sums of money may be ascertained, the court, wherein execution ought to be granted, shall, upon such affirmation, discontinuance, or nonsuit, issue a writ to enquire as well of the mesne profits, as of the damages by any waste committed after the first judgment in dower or in ejectment; and upon return thereof, judgment shall be given and execution awarded for such mense profits and damages, and also for the costs of suit.

In which case the court shall award a writ of enquiry to ascertain the damages, &c.

To what actions the three preceding sections shall not extend.

IX. Provided always, *and be it further enacted*, That the sixth, seventh and eighth sections of this act shall not extend to any writ of error to be brought by any executor or administrator, nor to any action popular, or action on any penal statute, nor to any indictment, presentment, inquisition or information.

No writ of error before final judgment.

X. And be it enacted, That a writ of error shall not be granted or issued in any case, until final judgment be rendered.

Writs of error to be brought five years after judgment.

XI. And be it enacted, That writs of error shall not be brought but within five years after rendering the judgment complained of; or in case the person entitled to such writ of error, be an infant, feme covert, or insane, then within five years, as aforesaid, exclusive of the time of such disability.

An ACT *relative to guardians.*

Passed the 1st of February, 1799.

Testamentary guardian to give bond for the faithful execution of his office, unless it be otherwise directed by the will.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every guardian, appointed by last will and testament, which shall be legally proved and recorded, shall, before he exercises any authority over the minor or his estate, appear before the orphan's court, and declare his acceptance of the guardianship, which shall be recorded, and shall give bond, with such sureties and in such sum as the said court may approve of and order, for the faithful execution of his office, unless it is otherwise directed by the testator's will.

Court, appointing guardian to take bond, with surety.

II. And be it enacted, That every court, or other competent authority, appointing a guardian, shall take bond of him, with good sureties and in sufficient sum, for the faithful execution of his office.

Guardian to deliver an inventory to the orphan's court, and to

III. And be it enacted, That every testamentary guardian, guardian in soccage, or other guardian, shall, within three months after his acceptance of, or appointment

pointment to his office, deliver to the clerk of the orphan's court, an inventory upon oath, of all the estate, real and personal, which he shall have received or taken possession of, to be entered of record in a separate book, to be kept by the said clerk, and shall exhibit once in every year, or oftner, if he be required, accounts of the produce of the said estate, of the sale and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such person or persons as they shall appoint, and being found and certified, or reported to be properly and fairly stated, and the articles thereof, to be supported and justified by the vouchers, and the report, in case of a reference, being approved and confirmed by the said court, shall, with such certificate or confirmation, be entered of record in the book aforesaid; and if any article of such accounts be at any time afterwards excepted to by the ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered.

exhibit to the said court once a year, his accounts, which shall be examined, and if approved, recorded.

IV. And be it enacted, That any guardian, who shall not deliver in such inventory, or render such account as aforesaid, shall, by order of the orphan's court, to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty, or be displaced.

Guardian not delivering an inventory, or accounting, may be displaced.

V. And be it enacted, That the orphan's court, when they shall at any time know or have cause to suspect, that the sureties of a guardian, or any of them are or is failing, or in dubious circumstances, may require and compel such guardian to give additional sureties or surety, and if he refuse or neglect to do so, may displace him.

Orphan's court may require guardian to give further security.

VI. And be it enacted, That if the personal estate, and rents and profits of the real estate, be not sufficient for the maintenance and education of the ward, the orphan's court of the proper county, on full investigation thereof, may, from time to time order the guardian to sell such parts of the ward's lands, tenements, hereditaments and real estate, as they shall direct, and judge adequate for his or her maintenance and education.

In what case the orphan's court may order the guardian to sell the lands of his ward.

VII. And be it enacted, That the lands, tenements, hereditaments and real estate of the ward, so ordered to be sold, shall be advertised by the guardian in five of the most public places of the county, for the space of two months previous to the time appointed for the sale thereof; and the guardian, at the time and place so advertised, shall sell the same by public vendue to the highest bidder, and shall make report in writing of his proceedings thereon to the next orphan's court after such sale: Provided always, That the said guardian may adjourn the said sale, from time to time, at his discretion.

Guardian to advertise the lands for two months before the time of sale.

VIII. And be it enacted, That the guardian shall make a deed to the purchaser for the lands, tenements, hereditaments and real estate so sold; which deed shall set forth the said order at large, and shall vest in the said purchaser as good and perfect an estate in the premises therein mentioned, as the ward was seized of or entitled to, at the time of making the said order.

Guardian to make deed for the lands so sold.

An ACT *to facilitate pleadings.*

Passed the 1st of February, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall be lawful for the plaintiff in replevin, and for the defendant or tenant in every other action, to plead, in any court of record, with leave of such court, as many several matters as he shall think necessary for his defence; but if on dumurrer, any such matter be adjudged to be insufficient, or if a verdict be found on any issue in such action for the plaintiff, costs shall thereupon be awarded by the court.

Defendants authorized to plead several pleas.

II. And

A. D. 1799.

Defendant may plead the general issue, and give the special matter in evidence.

II. And be it enacted, That it shall be lawful for the defendant in any action, except in cases of mutual dealings, to plead the general issue, and to give any special matter in evidence, which, if pleaded, would be a bar to such action, giving notice, with the same plea, of the matter or matters so intended to be given in evidence.

This act not to extend to a justice's court.

III. And be it enacted, That this act shall not extend to the courts constituted for the trial of small causes.

An ACT *respecting bail in civil actions.*

Passed the 2d of February, 1799.

Where bail is required, affidavit to be made of the cause of action.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That where bail shall be required in any civil action, an affidavit shall be made and filed of the cause of such action, which affidavit may be made before any judge, or commissioner, authorized to take special bail, or any justice of the peace of this State, or, if the plaintiff be out of this State, before any judge of any court of judicature, or notary public of the State, kingdom or nation, in which he resides or happens to be; and the sum specified in such affidavit shall be endorsed on the writ or process, for which sum, so endorsed, the sheriff or other officer, to whom such writ or process shall be directed, shall take bail, and for no more; and if the party, making such affidavit, swear to the best of his knowledge or belief, the same shall be deemed to be sufficient.

The sum, so sworn to, shall be endorsed on the writ, for which the sheriff is to take bail.

Who may be special bail.

II. And be it enacted, That no person shall be permitted to be special bail in any such action, unless he be a freeholder, and resident in this State, and of sufficient property, if the writ or process issue out of the supreme court; or, if it issue out of any of the inferior courts of common pleas, unless he be a freeholder of sufficient property, and resident in the county, where such court is held.

Who shall not be bail.

III. And be it enacted, That no attorney at law, under sheriff, sheriff's deputy, bailiff, or other person concerned in the execution of process, shall be permitted to be special bail in any action.

But any court or judge may order bail as heretofore.

IV. Provided always, *and be it enacted*, That nothing in this act shall prevent any of the said courts, or any judge thereof, from ordering, as heretofore, the defendant in any action to be held to special bail, in such sum as the said court or judge, under all the circumstances of the case, shall think proper to direct; which sum shall be endorsed on the process, and the sheriff or officer shall take bail for the same, and no more.

An ACT *relative to suits instituted by common informers.*

Passed the 2d of February, 1799.

The time of bringing actions by informers, to be noted.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That upon every action or information, which shall be instituted or exhibited by any informer on a penal statute, a special note shall be made of the very day, month, and year, of its institution or exhibition, and that such action or information shall be of record from that time, and not before; and further, that no manner of antedating thereof shall be made or allowed.

Name of prosecutor and title of statute to be endorsed on process.

II. And be it enacted, That upon every process which may be sued out on such action or information to compel the appearance of the defendant, shall be endorsed the name of the party, who prosecutes, and the title of the statute, upon which the said action or information is founded. And any clerk, issuing process contrary to this provision, shall forfeit to the party against whom such process is awarded

awarded, ten dollars for every offence, to be recovered by action of debt, with costs, in any court having cognizance of that sum. A. D. 1799.

III. And be it enacted, That if any action or information shall be brought or exhibited for an offence against any penal law made or to be made, it shall be lawful for the defendant, in such action or information, to plead the general issue, that he is not guilty, or that he oweth nothing, and to give in evidence any special matter, which, if pleaded would be a bar to the said action or information, giving notice, with the same plea, of the matter so intended to be given in evidence. Defendant may plead the general issue and give the special matter in evidence.

IV. And be it enacted, That no recovery, by verdict or otherwise, obtained by covin or collusion, in an action popular, shall be a bar to any other action prosecuted with good faith. Recovery by covin no bar to an action prosecuted with good faith.

V. And be it enacted, That if any prosecutor of an action or information, for the recovery of any penalty not wholly appropriated to the use of such prosecutor, shall compound with the defendant, or direct such action or information to be discontinued, unless it be by leave of the court, in which the said action or information shall be depending, then such prosecutor shall be liable for so much of the penalty to the State of New-Jersey, or any other, as the said State or other would have been entitled to, if the defendant had been convicted. In what cases a prosecutor compounding without leave of the court, shall be liable for a proportion of the penalty.

VI. And be it enacted, That every informer or prosecutor on a penal statute shall pay costs to the defendant, if he discontinue or be nonsuit, or if a verdict or judgment pass against him; for which costs the said defendant shall have execution against the goods, chattels, and person of such informer or prosecutor. Where prosecutor shall pay costs.

VII. And be it enacted, That this act shall not extend to any certain person, body politic or corporate, to whom or to whose use any forfeiture, penalty, or suit is or shall be specially limited or granted by any statute; but that every such certain person, body politic or corporate may, in such case, sue, prosecute, or inform, as he or they might have done, if this act had not been made. This act shall not extend to persons to whom any penalty is specially given.

An ACT *relative to indictments.*

Passed the 2d of February, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That every indictment shall be tried the term or session, in which issue is joined, or the term after, unless the court, for just cause, shall allow further time for the trial thereof, and if such indictment be not so tried as aforesaid, the defendant shall be discharged. When indictments shall be tried.

II. And be it enacted, That if an indictment be quashed, or a verdict pass, or judgment be given for the defendant in the said indictment, then no costs shall be awarded against such defendant. Where defendant shall not pay costs.

III. And be it enacted, That if any recognizor, who is or shall be bound to answer any charge of a criminal nature, be discharged from his recognizance for want of prosecution, he shall not be liable to pay costs for such discharge. If a recognizor be discharged for want of prosecution, he shall not pay costs.

IV. And be it enacted, That if several persons are or shall be jointly indicted for one and the same offence, and shall be thereof convicted, the costs, except caption fees, shall amount to no more than on an indictment against one person only. On a joint indictment against several, the costs shall be the same as against one.

V. And be it enacted, That the act, entitled, "An Act for preventing malicious prosecutions on indictments and other suits of the crown, and rectifying sundry abuses in the proceedings thereon," passed the tenth day of February, in the year of our Lord, one thousand, seven hundred and twenty seven---eight, Former act repealed.

A. D. 1799.

and every other act or part of any act, within the purview of this act, be, and they are hereby repealed.

An ACT *to regulate in certain cases, the issuing of writs of certiorari to the courts of general quarter sessions and justices of the peace.*

Passed the 6th of February, 1799.

Writs of certiorari for the removal of indictments from the courts of general quarter sessions, before trial, how to be granted by the supreme court in term time.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the supreme court of this State, at the instance of the party indicted or presented, may on motion, and by rule, award a writ of certiorari to remove into the said court any indictment or presentment, before trial, from any of the courts of general quarter sessions of the peace, upon the following and no other terms; that is to say, that the party, indicted or presented, and prosecuting such certiorari, shall, before the allowance thereof, with two sufficient sureties, enter into recognizance to the State of New-Jersey, in such sum as the said supreme court shall direct, with condition, that the party, so indicted or presented, and prosecuting the certiorari, shall, at its return, appear and plead to the said indictment or presentment in the said supreme court, and at his, her, or their own costs and charges, cause and procure the issue, that shall be joined upon the said indictment or presentment, or any plea relating thereto, to be tried at the next circuit court to be held for the county, wherein the said indictment or presentment was found, after such certiorari shall be returnable, if the said supreme court shall not appoint any other time for the trial thereof, and if any other time be so appointed, then at such other time, and shall not depart the said supreme court until discharged by the same, and shall pay costs, if convicted of the offence charged in the said indictment or presentment.

How such writs shall be granted, in vacation, by a justice of the supreme court.

II. AND BE IT ENACTED, That a writ of certiorari for the removal of an indictment or presentment, before trial, from any of the said courts of general quarter sessions of the peace into the said supreme court, may, in vacation, and at the instance of the party so indicted or presented, be granted, by any of the justices of the said supreme court, upon the following and no other terms, that is to say; that the party, indicted or presented, and prosecuting such certiorari, shall, before the allowance thereof, with two sufficient sureties, enter into recognizance to the State of New-Jersey before such justice, in such sum as the said justice shall direct, and with such condition as is specified in the preceding section of this act.

If no recognizance accompany the certiorari, the court of quarter sessions to proceed on the indictment.

III. AND BE IT ENACTED, That every recognizance, taken by virtue of either of the preceding sections, shall be delivered to the court, to which the certiorari is directed, together with the said writ, and the recognizance, so taken, shall be certified into the said supreme court, with the said certiorari, and indictment or presentment, and there filed; and if such recognizance be not delivered, together with the certiorari, to the court as directed, then it shall be the duty of the said court to proceed to the trial of the said indictment or presentment, in the same manner as if no such certiorari had been allowed or presented.

Writs of certiorari for the removal of judgments or orders from any justice of the peace, or court of sessions, how to be granted in term time, and vacation.

IV. AND BE IT ENACTED, That no writ of certiorari shall be allowed to remove into the supreme court of this State any judgment or order, given or made by any justice or justices of the peace, or court of general quarter sessions of the peace, unless the party prosecuting such certiorari, or some responsible person in his behalf, shall, before the allowance thereof, with two sufficient sureties, enter into recognizance to the State of New-Jersey, before the supreme court, if in term time, or before one of the justices of the said supreme court, if in vacation, in the sum of one hundred and fifty dollars, with condition, that the party, obtaining such certiorari, shall prosecute the same to effect, without delay, and shall perform such judgment or order as the said supreme court shall give or make thereon, with costs, if costs be awarded. AND FURTHER, That every recognizance, to be taken by virtue of this section, shall be delivered, together with the writ of certiorari, to the justice or justices, or court, to which such writ shall be directed, and the said recognizance shall be certified into the said supreme court, with the said certiorari, and the judgment or order removed thereby, and there filed; and if

if such recognizance be not so delivered with the certiorari, then it shall be the duty of the said justice or justices, or court of general quarter sessions of the peace to proceed on such judgment or order in the same manner as if no certiorari had been allowed or presented: PROVIDED ALWAYS, That this section shall not extend to orders or judgments in actions for debts or demands, between party and party, made cognizable before any justice of the peace in and by the act, entitled, "An Act constituting courts for the trial of small causes."

But this section not to extend to judgments in courts for the trial of small causes.

V. AND BE IT ENACTED, That no writ of certiorari shall be granted to remove any indictment, presentment, judgment, order, process, or other proceedings, unless it be signed by one of the justices of the supreme court; and for want thereof, such writ shall be absolutely void and of no effect.

Writs of certiorari to be void, unless signed by a justice of the supreme court.

VI. AND BE IT ENACTED, That every writ of certiorari for the removal of any indictment, presentment, judgment or order, from any court of general quarter sessions of the peace, shall be delivered to the same in open court.

Writs of certiorari to be delivered in open court.

An ACT *concerning ferries.*

Passed the 6th of February, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the board of chosen freeholders shall be, and they hereby are empowered and directed to fix the rates to be taken at the several ferries within their respective counties, and the same, from time to time to revise, alter, amend, or make anew at their discretion.

Board of freeholders to fix the rates to be taken at ferries.

II. AND BE IT ENACTED, That the owner or keeper of every ferry shall put up and maintain, where such ferry is kept, a post, with a table of the rates, fairly printed, written or painted in large capitals, fixed and allowed by the said board, annexed thereto, and set up such post, with the table aforesaid, so near the place where the passengers enter the boat used for such ferry, that the said table and rates shall be open and visible to the said passengers. And if the owner or keeper of any ferry fail, neglect or refuse to put up and maintain a post and table of rates in the manner and form aforesaid, he shall, for every day he may so fail, neglect or refuse, forfeit and pay one dollar, to be recovered by action of debt, with costs of suit, by any person who will prosecute for the same.

A table of the rates to be posted up at the ferry.

Penalty for neglect.

III. AND BE IT ENACTED, That the clerk of such board shall be entitled to receive for a copy of the rates aforesaid, certified under his hand, the sum of fifty cents.

Clerk's fees for a copy of rates.

IV. AND BE IT ENACTED, That if any ferrymen, keeper of a ferry, or his servant, shall demand or take a greater sum for ferriage, than the rate fixed by the said board, he shall, for every such offence, forfeit and pay three dollars, to be recovered by action of debt, with costs of suit, by any person who will prosecute for the same.

Penalty for taking greater ferriage than the rate fixed.

V. AND BE IT ENACTED, That the owner or keeper of every ferry shall, at all times be provided with good and tight boats, flats, wherries or other vessels, suited to such ferry, sufficient in size, strength, steadiness, and accommodation, for the safe and speedy transportation of passengers, horses, cattle, carriages and goods, well furnished with sails, oars, setting poles, or other necessary implements, and men, prudent, skilful, able bodied, sufficient and competent to such business and service.

Every ferry to be provided with good boats and skilful ferrymen.

VI. AND BE IT ENACTED, That no ferryman shall carry or attempt to carry any person over any ferry in any boat, flat, wherry or other vessel, that is not good and sufficient according to this act, under the penalty of ten dollars, to be recovered by action of debt, with costs of suit, by any person who will prosecute for the same.

Penalty for using insufficient boats.

VII. AND

A. D. 1799.

Penalty for not having sufficient implements, or skilful ferryman.

VII. And be it enacted, That every owner or keeper of a ferry, who shall not provide good and sufficient sails, oars, setting poles, or other necessary implements as aforesaid, and such man or men as the condition of the passage shall require, qualified according to this act, for the safe and speedy transportation of passengers, horses, cattle, carriages and goods, shall, for every default therein, pay two dollars, to be recovered by action of debt, with costs of suit, by any person who will sue for the same.

Penalty on ferrymen who shall deny or delay to carry over passengers.

VIII. And be it enacted, That every ferryman shall give constant and diligent attendance at his ferry, and shall not deny or unnecessarily delay the carrying over any passenger, horses, cattle, carriages or goods, upon the penalty of three dollars for every such offence, to be recovered by action of debt, with costs of suit, by any person who will sue for the same; and such ferryman shall also be liable to an action for damages, at the suit of the party aggrieved: Provided always, That no ferryman shall be obliged to put off from his wharf or shore, and pass the said ferry, when it manifestly appears to be hazardous or dangerous for him so to do, on account of any storm, tempest, fresh, or ice.

Ferrymen may keep or put persons out of their boats.

IX. And be it enacted, That every ferryman shall have authority to keep or put out of his ferryboat or other vessel, any person, who shall attempt or press to enter, or who shall enter or stay in his said boat or vessel, contrary to his order; and such person, so doing contrary to his order, shall pay one dollar for every offence, to be recovered by action of debt, with costs of suit, by any person who will sue for the same.

Persons shall be carried over ferries according to their arrival.

X. And be it enacted, That all persons shall be received into such ferryboats or vessels, and carried over the ferry according to their arrival or first coming to the said ferry; and any ferryman acting contrary to this rule, shall be liable to the penalties prescribed in and by the eighth section of this act: Provided nevertheless, That all public officers, and such as go on public or urgent occasions, as posts, couriers, physicians, surgeons and midwives, shall be carried over first or with the first.

Proviso as to public officers, &c.

Owners of ferries to keep good wharves and landing places.

XI. And be it enacted, That all owners or keepers of ferries shall make, keep and maintain good and safe wharves or places of landing, where they are wanted, upon penalty of forfeiting such sum, as the inferior court of common pleas of the county, where the same shall be wanted, shall, upon complaint to them made, determine and adjudge to be sufficient to make or repair such wharf or convenient landing; which forfeiture shall, by order of the said court, be appropriated and laid out for that purpose.

Former acts repealed.

XII. And be it enacted, That all and every act and acts, part or parts of any act, within the purview of this act, be, and they are hereby repealed.

An ACT *for the limitation of actions.*

Passed the 7th of February, 1799.

What personal actions must be commenced within six years.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all actions of trespass, quare clausum fregit, all actions of trespass, detinue, trover and replevin for taking away of goods and chattels, all actions of debt, founded upon any lending or contract, without specialty, or for arrearages of rent due on a parol demise, and all actions of account, and upon the case, except actions for slander, and except also such actions as concern the trade of merchandize between merchant and merchant, their factors, agents and servants, shall be commenced and sued within six years next after the cause of such actions shall have accrued, and not after.

What personal actions must be commenced within four years.

II. And be it enacted, That all actions of trespass for assault, menace, battery, wounding, and imprisonment, or any of them, shall be commenced and sued

sued within four years next after the cause of such actions shall have accrued, and not after. A. D. 1799.

III. And be it enacted, That every action upon the case for words shall be commenced and sued within two years next after the words spoken, and not after. Action for words to be brought within two years.

IV. Provided always, *and be it further enacted*, That if any person or persons, who is, are, or shall be entitled to any of the actions specified in the three preceding sections of this act, is, are, or shall be, at the time of any such cause of action accruing, within the age of twenty one years, feme covert, or insane, that then such person or persons shall be at liberty to bring the said action so as he, she or they institute or take the same within such time as is before limited, after his, her or their coming to or being of full age, discovert, or of sane memory, as by other person or persons, having no such impediment, might be done. Proviso in favor of infants, [illegible], and insane persons.

V. And be it enacted, That any prosecution, hereafter to be had or commenced upon any bond, heretofore given by any sheriff and his securities, for the faithful performance of the office of sheriff, shall in no wise operate against, or in any manner affect the said securities mentioned or bound in said bond, unless such prosecution shall be commenced within six years after the passing of this act; nor shall any prosecution, had or commenced upon any bond hereafter to be given by any sheriff and his securities as aforesaid, in any wise operate against, or affect the said securities named and bound in said bond, unless such prosecution shall be commenced within nine years after the date of the said bond, and not after. Actions on sheriff's bonds, heretofore given, to be brought in six years, and hereafter given, in nine years.

VI. And be it enacted, That every action of debt, or covenant for rent or arrearages of rent, founded upon any lease under seal, whether indented or poll, and every action of debt upon any single or penal bill for the payment of money only, or upon any obligation, with condition for the payment of money only, or upon any award under the hands and seals of arbitrators for the payment of money only, shall be commenced and sued within sixteen years next after the cause of such action shall have accrued, and not after; but if any payment shall have been made on any such lease, specialty, or award, within or after the said period of sixteen years, then an action instituted on such lease, specialty, or award, within sixteen years after such payment, shall be good and effectual in law, and not after: Provided always, That the time during which the person, who is or shall be entitled to any of the actions specified in this section, shall have been within the age of twenty one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of sixteen years. Action of debt or covenant for rent, or of debt on a specialty to be brought within sixteen years.

Proviso in favor of infants, femes covert, and insane persons.

VII. And be it enacted, That judgments in any court of record of this State may be revived by scire facias, or an action of debt may be brought thereon, within twenty years next after the date of such judgment, and not after: Provided, That the time, during which the person, who is or shall be entitled to the benefit of such judgment, shall have been under the age of twenty one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of twenty years. Judgments to be revived by scire facias, or action of debt to be brought thereon within twenty years.

VIII. And be it enacted, That if any person or persons, against whom there is or shall be any such cause of action as is specified in any of the preceding sections of this act, is, are, or shall be out of this State, at the time of such cause of action accruing, then such person or persons, who is, are, or shall be entitled to such action, shall be at liberty to bring the said action against such person or persons, after his, her, or their coming or return to this State, so as he, she, or they take or institute the same after such coming or return to this State, within such time as is before limited for the bringing of the said action by this act. If the defendant be out of this State, an action, on his return, may be brought against him, and within what time

IX. And be it enacted, That no person, who now hath, or hereafter may have any right or title of entry into any lands, tenements or hereditaments, shall make any entry therein, but within twenty years next after such right or title shall accrue; and such person shall be barred from any entry afterwards: Provided always, That the time, during which the person, who hath or shall have such right No entry to be made into lands, but within twenty years.

Proviso in favor of infants, femes covert, and persons insane.

A. D. 1799.

right or title of entry, shall have been under the age of twenty one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of twenty years.

After the first of January, one thousand, eight hundred and three, no action to be brought for lands but within twenty years.

Proviso in favor of infants, femes covert, and insane persons.

X. And be it enacted, That from and after the first day of January, which will be in the year of our Lord, one thousand, eight hundred and three, every real, possessory, ancestrel, mixed, or other action, for any lands, tenements or hereditaments, shall be brought or instituted within twenty years next after the right or title thereto, or cause of such action shall accrue, and not after: Provided always, That the time, during which the person, who hath or shall have such right or title, or cause of action, shall have been under the age of twenty one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of twenty years.

Equity of redemption barred, if mortgagee be in possession for twenty years.

XI. And be it enacted, That if a mortgagee and those under him be in possession of the lands, tenements and hereditaments, contained in the mortgage, or any part thereof, for twenty years after default of payment by the mortgagor, then the right or equity of redemption therein shall be for ever barred.

Proviso, that the plaintiff, on judgment being reversed or arrested, may bring a new action within one year.

XII. Provided nevertheless, *and be it further enacted*, That if in any of the said actions, specified in any of the preceding sections of this act, judgment be given for the plaintiff, and the same be reversed by writ of error, or if a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, then the said plaintiff, his or her heirs, executors, or administrators, as the case shall require, may commence a new action within one year after such judgment reversed or given against the plaintiff, and not after.

No action to be brought by this State for lands or rents but within twenty years.

XIII. And be it enacted, That no person or persons, bodies politic or corporate, shall be sued or impleaded by the State of New-Jersey, for any lands, tenements or hereditaments, or for any rents, revenues, issues or profits thereof, but within twenty years after the right, title, or cause of action to the same shall accrue, and not after.

Within what time the orphan's court may direct creditors to exhibit their demands to executors or administrators.

Proviso, that the executors and administrators shall take bond to refund, which shall be filed for the use of certain creditors.

XIV. And be it enacted, That the orphan's court of the proper county is hereby empowered to direct executors and administrators to give public notice to the creditors of the estate of the decedent, to bring in their debts, demands and claims against the same, within such time as the said court shall limit and appoint, not exceeding two years, nor less than one year, by setting up such notice in five of the most public places in the said county, for the space of two months, and also by advertising the same, for the like space, in one or more of the newspapers in this State, and any further notice, in case such court shall judge the same necessary. And if any creditor shall neglect to exhibit his or her debt, demand, or claim within the time so limited, after public notice given as aforesaid, such creditor shall be for ever barred of his or her action therefor, against such executors or administrators: Provided always, That the said executors and administrators, on the payment of any part of the decedent's estate to any legatee or person claiming distribution thereof, shall take bond to refund as heretofore, and within six months after the expiration of the time, so as aforesaid limited by the orphan's court for creditors to come in and claim, shall cause the same to be filed in the clerk's office of such orphan's court, for the use and benefit of such creditor or creditors as may not have come in and claimed; which said bond or bonds, on application to the said orphan's court and order thereupon, the said creditor or creditors may put in suit against such legatee, or person claiming distribution and their sureties, at his, her, or their own costs and charges, and for his, her, or their own use and benefit; but shall recover no costs thereupon.

Within what time actions or informations on penal statutes shall be brought or exhibited.

XV. And be it enacted, That all actions or informations, which shall be brought or exhibited for any forfeiture upon any penal statute made or to be made, whereby the said forfeiture is or shall be limited to the State of New-Jersey only, shall be brought or exhibited within two years next after the offence committed or to be committed against such penal statute, and not after. And that all actions or informations, which shall be brought or exhibited for any forfeiture upon any penal statute

statute made or to be made, the benefit and suit whereof is or shall be, by the said statute, limited or given to any person or persons, who shall prosecute for the same, or to the State of New-Jersey and to any other, who shall prosecute in that behalf, shall be brought or exhibited by any person or persons, who may lawfully pursue for the same as aforesaid, within one year next after the offence commited or to be committed against the said statute; and in default of such pursuit, that then the same shall be brought or exhibited for the State of New-Jersey, at any time within one year after the termination of the aforesaid year, and not after. And that all actions or informations, which shall be brought or exhibited for any forfeiture or cause upon any statute made or to be made, the benefit and suit whereof is or shall be limited or given to the party aggrieved, shall be brought or exhibited within the space of two years next after the offence committed or to be committed, or cause of action accrued, and not after: PROVIDED ALWAYS, That where any action or information is or shall be limited by any statute to be brought or exhibited within a shorter time than is limited by this section, then the said action or information shall be brought or exhibited within such shorter time so limited by such statute.

A. D. 1799.

Proviso, that if a shorter period be limited by any statute, then to be brought or exhibited within such period.

XVI. AND BE IT ENACTED, That the act, entitled, "An Act for the limitation of actions and for avoiding suits in law," passed the tenth day of February, in the year of our Lord, one thousand, seven hundred and twenty seven--eight, be, and hereby is repealed.

A certain act repealed.

An ACT *to regulate the practice of the courts of law.*

Passed the 14th of February, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every person of full age and sound memory may appear and prosecute, or defend any action in any of the courts of judicature of this State, in person, or by his solicitor in chancery or attorney at law.

Every person of full age and sound memory may sue or defend in person or by attorney

II. AND BE IT ENACTED, That no person, except in his own case, or in the case of an infant, shall be permitted to appear and prosecute, or defend any action in any of the said courts, but such as is a licensed solicitor or attorney at law, who shall be under the direction of the court in which he acts.

No person, unless in his own case, &c. shall prosecute or defend any suit, unless he be a licensed solicitor or attorney.

III. AND BE IT ENACTED, That if any counsellor, solicitor or attorney at law shall be guilty of malepractice in any of the said courts, he shall be put out of the roll, and never after be permitted to act or practise as a counsellor, solicitor or attorney at law, unless he shall obtain a new license and be again enrolled in due form of law.

An attorney guilty of malepractice in court to be put out of the roll.

IV. AND BE IT ENACTED, That when any solicitor or attorney shall die, or cease to act, or be put out of the roll, the person, for whom he was solicitor or attorney, shall be warned to appoint another in his stead, and if he fail to do so, the adverse party may proceed in the action.

Attorney dying, &c. another to be appointed in his stead.

V. AND BE IT ENACTED, That if an infant be entitled to any action, his guardian or next friend shall be admitted to prosecute for him; and if he be sued, a guardian shall be appointed to defend the suit for him; but in no case shall the parol demur, or the proceedings be deferred or stayed till the infant arrives at full age.

Infants, how to prosecute and defend.

The parol not to demur.

VI. AND BE IT ENACTED, That if any solicitor or attorney at law shall neglect or mismanage any cause, in which he shall be employed, he shall be liable to make good all damages sustained by his client, to be recovered by action of trespass on the case, with costs.

Attorney liable to an action for neglect or mismanagement of a cause.

VII. AND

A. D. 1799.

Taxed bill of costs or copy to be filed before execution shall issue.

VII. And be it enacted, That every attorney at law, before he issue execution, shall file the taxed bill of costs or a copy thereof in the office of the clerk of the court, out of which the same is to issue; and if he fail so to do, he shall forfeit ten dollars to the party aggrieved, to be recovered by action of debt, with costs.

The party paying costs may demand a bill of particulars.

VIII. And be it enacted, That when any solicitor or attorney at law shall receive the costs accruing on any suit, he shall, if required by the party at the time of payment, or at any time within six months afterwards, draw up and deliver the bill of particulars, with a receipt, to the party paying, or who shall have paid the same; and if he fail so to do, he shall forfeit ten dollars to the party aggrieved, to be recovered by action of debt, with costs.

Penalty on an attorney, who shall charge for services not done, or not allowed, or who shall take more than legal fees.

IX. And be it enacted, That if any solicitor or attorney at law, shall charge in his bill of costs for services not actually done, or for services not allowed by law, or shall take any greater fee or reward for any service by him done, than is or shall be allowed by law, he shall pay to the party aggrieved thirty dollars, to be recovered by action of debt, with costs.

The foregoing penalties to be sued for in one year.

X. And be it enacted, That the penalties mentioned in the three preceding sections of this act shall be sued for within one year after the offence committed, and not after.

An attorney shall deliver a copy of the taxed bill of costs to his client, before he sues for the same.

XI. And be it enacted, That no solicitor or attorney shall commence or maintain any suit for the recovery of any fees, charges or disbursements, in equity or at law, against his client or legal representative, until after such solicitor or attorney shall have delivered to such client or his representative, or left for him at his dwelling house, or last place of abode, a copy of the taxed bill of such fees, charges, and disbursements.

What officers are to tax and retax bills of costs in chancery, and at law.

XII. And be it enacted, That it shall be the duty of the chancellor, and of any of the masters in the court of chancery, to tax and retax, when necessary, the bills of costs, which shall accrue in the said court; and it shall also be the duty of the judges of the supreme court, and of the inferior courts of common pleas, to tax and retax as aforesaid, the bills of costs which shall accrue in the said courts, respectively; but every retaxation shall be demanded within six months after the party or his attorney had notice of the taxation of the same bill.

Warrant of attorney not to be included in bond.

XIII. And be it enacted, That every warrant of attorney for confessing judgment, which shall be included in the body of any bond, bill or other instrument for the payment of money, shall be void and of none effect; and such bond, bill, or other instrument shall have the same force and no other, as if the said warrant of attorney had not been incorporated therein.

Attorney, confessing judgment, to produce warrant, a copy of which shall be filed.

XIV. And be it enacted, That every attorney, who shall confess judgment in any case, shall, at the time of making such confession, produce his warrant for making the same, to the court or judge, before whom he makes the confession; and a copy of the said warrant shall then be filed with the clerk of the court, in which the judgment shall be entered.

Judgment shall not be entered on a warrant of attorney after ten years, without leave of the court, and affidavit.

XV. And be it enacted, That if judgment be not entered within ten years after the date of the warrant of attorney, it shall not be done, without leave of the court; and a motion to enter such judgment shall be founded on an affidavit, that the said warrant was duly executed, that the defendant is living, and that the debt or part of it is unsatisfied.

Of warrants of attorney given by persons in custody.

XVI. And be it enacted, That no warrant of attorney for confessing a judgment, executed by any person in custody upon mesne process, in a civil action, to a plaintiff, at whose suit he is in custody, shall be of any force, unless some attorney, on behalf of such person in custody, and expressly named by him, be present as a witness, and to inform him of the nature of such warrant.

Warrant of attorney to confess judgment irrevocable.

XVII. And be it enacted, That a warrant of attorney to confess judgment shall not be revocable by the party making the same.

XVIII. And

A. D. 1799.

The first process in personal actions to be a summons, or capias ad respondendum.

XVIII. And be it enacted, That the first process to be made use of in personal actions in any of the courts of law of this State, in cases where the plaintiff is not entitled to bail, shall be a summons, a copy whereof shall be served on the defendant, or left at his dwelling house or usual place of abode, at least six entire days before its return. And in cases where the plaintiff is entitled to bail, the first process shall be a capias ad respondendum, and shall be executed as hereafter directed.

Name of the attorney, or party, and clerk to be subscribed or endorsed on process.

XIX. And be it enacted, That every summons, capias ad respondendum, and writ of execution shall, before the service or execution thereof, be subscribed or endorsed with the name of the attorney, or party, and clerk, by whom such summons, capias ad respondendum, or execution shall be sued forth and sealed.

Sheriff to make return of process, or to be amerced.

XX. And be it enacted, That it shall be the duty of the sheriff or officer, to whom any summons, capias ad respondendum, or other process is directed, to return the same at the time and place therein mentioned, which shall be filed by the clerk of the court; and if the said sheriff or officer fail to make such return, he shall be amerced by the court, in any sum not exceeding the plaintiff's debt or demand, to and for the use of the said plaintiff.

If the summons be returned, served, the party to be considered as in court.

XXI. And be it enacted, That when the said sheriff or other officer shall return such summons, "served," or "summoned," the party shall be considered as being in court, and may be proceeded against accordingly.

A capias ad respondendum how to be executed, and returned.

XXII. And be it enacted, That the sheriff or other officer shall execute the said writ of capias ad respondendum, by taking the body of the defendant, and in such case shall return thereon, that he hath taken the body, or that he hath taken the body into custody; the first usually abbreviated and expressed thus, C. C. and the second thus, C. C. C.

Sheriff to endorse the names of the bail on the capias, and to return a copy of the bail-bond.

XXIII. And be it enacted, That the sheriff or other officer shall endorse on the capias ad respondendum, the names of the bail by him taken, and shall deliver a copy of the bail-bond to the clerk of the court, at or before the return day of the same writ; which copy shall be safely kept by the said clerk in his office.

Special bail, when to be filed.

XXIV. And be it enacted, That special bail shall be filed on the return day of the capias ad respondendum, or on the day after.

Plaintiff how to proceed, if special bail be not filed in due time.

XXV. And be it enacted, That if special bail be not put in and perfected in due time, the plaintiff may proceed on the bail-bond, or rule the sheriff to bring in the body of the defendant.

If bail and a copy of the bail-bond be not returned, or the plaintiff be dissatisfied with the bail taken by the sheriff, he may rule the sheriff to bring in the body, and if he fail to do so, he shall be amerced.

XXVI. And be it enacted, That if on a return that he hath taken the body, or C. C. the sheriff or other officer shall not return bail, and a copy of the bail-bond, or if the plaintiff be dissatisfied with the bail taken by such sheriff or officer, and the defendant shall fail to appear and give special bail, within the time above prescribed, the court shall rule such sheriff or officer to bring in the body of the defendant within that same term; and if he fail to do so, the said sheriff or officer shall be amerced by the court in any sum not exceeding the plaintiff's debt or demand, with costs; which amercement shall have the force and effect of a judgment, whereupon an execution, in the name and for the use of the said plaintiff, may instantly, on motion in open court, and without any further proceedings, be awarded and issued against the goods and chattels, lands, tenements, hereditaments and real estate of the said sheriff or officer so amerced as aforesaid: Provided nevertheless, If such sheriff or other officer shall cause special bail to be put in and justified, if justification be required, during the same term, he shall be excused from bringing in the body, and no amercement shall be entered against him on the said rule; And provided further, That this section shall extend to persons, whose office is expired, as well as to sheriffs and officers for the time being.

If the sheriff bring in the body, the defendant to be committed, and the plaintiff

XXVII. And be it enacted, That if the sheriff or officer, when ruled to do so, shall, on a cepi corpus, bring in the body of the defendant, such defend-

A. D. 1799.

to proceed in the action.

ant shall be committed, and upon the entry of such committitur, the plaintiff may proceed in the action, and declare against the defendant as a prisoner or being in custody.

The sheriff or his bail may put in special bail for the defendant.

XXVIII. And be it enacted, That the sheriff or other officer, in order to save himself, may put in special bail for the defendant against his consent; and the bail to such sheriff or officer may do the same for their indemnity.

If special bail be duly filed, within what time the plaintiff shall except, and the bail shall justify.

XXIX. And be it eenactd, That if special bail be filed during the first or second day of the term, to which process is returnable, exception thereto shall be taken and entered in the clerk's book during the said term, of which the defendant shall take notice at his peril; and in such case, the defendant shall procure his bail to justify in eight days, exclusive, after such exception entered as aforesaid, or shall add other bail, who shall justify within the said eight days; and where bail is filed as aforesaid, an exception entered after the expiration of the said time, shall be of no validity

What notice of justification of bail shall be given.

XXX. And be it enacted, That two days notice of justification of bail, or of new or additional bail, and justification thereof, shall be given by the defendant or his attorney, to the plaintiff or his attorney, exclusive of the day it is given, and if Sunday intervene, three days notice shall be given.

Bail, not justifying shall be out of court.

If allowed, how to proceed.

XXXI. And be it enacted, That if the bail do not justify at the time appointed, they shall be out of court; and when they do justify and are allowed, an order of such allowance shall be drawn, and a copy thereof served on the plaintiff or his attorney.

When justification of bail shall not be permitted without the consent of the plaintiff or his attorney.

XXXII. And be it enacted, That without the consent of the plaintiff or his attorney, in cases where the sheriff or other officer shall be ruled to bring in the body, justification of bail shall not be permitted after the expiration of the term, in which the said rule is entered.

XXXIII. And be it enacted, That the recognizance of special bail shall be to the effect following:

A. B. against C. D. } In debt, or case, or as the action may be.

New-Jersey, county to wit:

Form of recognizance of special bail.

Be it remembered, That on the day of in the year of our Lord, one thousand, C. D. E. F. and G. H. of the said county of personally appeared before me J. K. one of the justices of the supreme court of the State of New-Jersey (or one of the judges of the inferior court of common pleas in and for the said county of or one of the commissioners to take bail, as the case may be) and severally acknowledged themselves to owe unto A. B. the sum of (double the sum endorsed on the writ) each, to be levied upon their several goods and chattels, lands, tenements, hereditaments, and real estate, upon condition, that if the defendant, C. D. shall be condemned in this action at the suit of A. B. the plaintiff, he shall pay the costs and condemnation of the court, or render himself into the custody of the sheriff of the said county for the same, or if he fail so to do, that the said E. F. and G. H. will pay the costs and condemnation for him.

Taken and acknowledged, the day and year above written, before me J. K. }

And that on acknowledging the aforesaid recognizance, the bail piece shall be to the effect following, to wit:

New-Jersey,

A. D. 1799.

New-Jersey, supreme court, (or court of common pleas.) Of the term of in the year of our Lord, one thousand,

Form of special bail piece.

C. D. of the county of is delivered to bail, on a capi corpus, unto E. F. of the township of in the said county, yeoman, and G. H. of the township of in the said county, yeoman, at the suit of A. B. in a plea of debt (or of trespass on the case, or as the action may be.)

L. M. Attorney for the defendant.

Mode of justifying special bail in the supreme court.

XXXIV. And be it enacted, That in actions, which are or shall be instituted in the supreme court of this State, special bail may justify by affidavit in the said court, or before one of the judges thereof, either in term time or in vacation, or before one of the commissioners for taking bail; and that such affidavit shall set forth, that the bail are freeholders and residents in the State of New-Jersey, and that they are respectively worth so much (mentioning the sum they are bail for) after all their debts are paid.

Mode of justifying special bail in common pleas.

XXXV. And be it enacted, That in actions, which are or shall be instituted in any of the inferior courts of common pleas of this State, special bail may justify by affidavit in the said court, or before one of the judges thereof, either in term time or in vacation; which affidavit shall set forth, that the bail are freeholders and residents in the county of (naming the county for which the said court is held) and that they are respectively worth so much (mentioning the sum they are bail for) after all their debts are paid.

Of the assignment of the bail-bond.

XXXVI. And be it enacted, That if special bail be not put in and perfected in due time, the plaintiff, if he be satisfied with the bail taken by the sheriff or officer, may take an assignment of the bail-bond in the words, or to the effect following: "I, the within named A. B. do hereby assign and set over the within "bond to the within named C. D. the plaintiff, pursuant to the statute. Witness "my hand and seal, this day of in the year of our Lord, one thou-"sand,

Signed, sealed and delivered in the presence of E. F. G. H. } "A. B." (L S)

And this shall be deemed a good assignment in law to ground an action on such bail-bond.

When proceedings on bail-bond may be set aside, and when stayed.

XXXVII. And be it enacted, That the proceedings on the bail-bond may be set aside, if irregular, or stayed, if regular, upon terms, in order that a trial may be had in the original action.

On what terms proceedings on bail-bond may be stayed, where the plaintiff has not lost a trial.

XXXVIII. And be it enacted, That where the plaintiff has not, in the original action, for the want of special bail being filed in due time, lost a trial, the court or a judge may stay the proceedings on the bail-bond, upon putting in and perfecting special bail, paying the costs incurred by the assignment and prosecution of the bail-bond, receiving a declaration in the original action, pleading issuably, and taking short notice of trial, so that the cause may be tried the same term, if the plaintiff think fit.

On what terms the proceedings on bail-bond may be stayed, where the plaintiff has lost a trial.

XXXIX. And be it enacted, That where the plaintiff has lost a trial in the original action, for the want of special bail being filed in due time, it shall be the duty of the court, before proceedings be stayed on the bail-bond, further to require, that the bail consent, that judgment be entered against them on the bail-bond, for the plaintiff's security; and in such case, if the defendant fail in the original action, the bail shall be liable to immediate execution, and shall not discharge themselves by a render of the principal.

In what case proceedings on bail-bond shall not be stayed.

XL. And be it enacted, That if the plaintiff might have had judgment in the original action, if bail had been filed in due time, then the proceedings shall not be stayed on the bail-bond.

XLI. And

A. D. 1799.

In what cases the party must give notice of putting in and perfecting special bail in open court.

XLI. And be it enacted, That wherever the defendant is guilty of a neglect in not putting in special bail in due time, by which the bail-bond becomes forfeited, the notice, in case the party means to put in special bail in order to stay proceedings upon the bail-bond, shall be, that he will put in and perfect special bail, in open court, on such a day, specifying the day; and in that case the plaintiff may oppose the bail in court, without its being a waver of the bail-bond.

In bail, the fact to be taken as sworn.

XLII. And be it enacted, That every court and judge shall take the fact as sworn to in the affidavit to hold the party to bail, without going into the merits.

At what time the defendant may render or be rendered in discharge of his bail.

XLIII. And be it enacted, That subsequent to the return of the capias ad respondendum, the defendant may render himself, or be rendered in discharge of his bail, either before or after judgment: Provided, That such render be made at or before the appearance day of the first scire facias against the bail returned scire feci, or of the second scire facias returned nihil, and not after; but in either case, the special bail shall pay the costs of the said scire facias, and judgment for the same shall be entered against them accordingly.

When principal shall be rendered, if debt on recognizance be brought.

XLIV. And be it enacted, That if the plaintiff proceed against the bail by action of debt on the recognizance, the render of the principal shall be made during the term, to which process against such bail is returnable, and not after; but the bail shall pay the costs of the said action.

An entry to be made of the render and commitment.

XLV. And be it enacted, That the court or judge, before whom the render is made, shall make an entry or minute of such render and commitment; and thereupon the defendant shall be committed to the custody of the sheriff, or gaoler attending the said court or judge.

And the same being certified to the clerk, he shall enter an exoneretur on the bail-piece.

XLVI. And be it enacted, That on such render and commitment duly certified to the clerk of the court, if in vacation, or not done in open court, it shall be the duty of the said clerk to enter an exoneretur on the bail-piece, and thereupon the bail shall be discharged: And further, That the said bail shall give immediate notice of such render to the plaintiff or his attorney.

The effect of the return of C. C. C.

XLVII. And be it enacted, That where a sheriff or officer returns on a capias ad respondendum, that he hath taken the body into custody, or C. C. C. such return shall have the same effect, as if the sheriff, on a rule for that purpose, had brought the body of the defendant into court, and the court had thereon committed such defendant to the custody of the sheriff; upon which the plaintiff shall declare against the said defendant as a prisoner or in custody.

The bail liable for the sum sworn to, &c. or any less sum, that the plaintiff may recover.

XLVIII. And be it enacted, That where the plaintiff in any action shall declare for or recover a greater sum than is expressed in the capias ad respondendum, upon which he declares, the bail shall not be discharged, but be liable for so much as is sworn to, or ordered by the court or a judge, and endorsed on the said process, or for any less sum, which the plaintiff in such action shall recover, together with the costs of the original action.

Old sheriff to be ruled to bring in the body within six months after the expiration of his office.

XLIX. And be it enacted, That no sheriff or officer shall be liable to be called upon to produce the body of any defendant on a capias ad respondendum, returned cepi corpus, unless he be required so to do within six months after the expiration of his office; and if, on such rule, he shall not bring in the body, he may be proceeded against by amercement in the manner herein before mentioned.

Plaintiff not to declare on a capias until special bail be filed, unless he waves his right.

L. And be it enacted, That the plaintiff shall not in any action, instituted by capias ad respondendum, be permitted to declare until special bail be filed and perfected, if required, or the defendant be returned in custody or brought into court, on a rule for that purpose, and a committitur entered, unless the said plaintiff will wave his right, and enter such waver on the minutes of the court; and then if the sheriff or other officer hath returned on the said capias ad respondendum, that he hath taken the body, or that he hath taken the body into custody

tody, the defendant shall be considered as in court, and may be proceeded against accordingly. A. D. 1795.

In what time plaintiff shall declare, or be nonprossed.

LI. And be it enacted, That the plaintiff shall file his declaration against the defendant within twenty days after being returned, summoned, or after the entering of special bail and perfecting the same, or his being returned, in custody, or the entering of a committitur, or waver as aforesaid, or on failure thereof shall become nonprossed, unless the court, under special circumstances, shall grant the plaintiff further time; and in such case, the plaintiff shall declare within the time so granted, or become nonprossed.

In what time the defendant shall plead, or judgment be entered against him.

Further pleadings, when to be filed.

LII. And be it enacted, That the defendant shall file his plea within thirty days after the expiration of the time limited or granted for filing the declaration, or on failure thereof, judgment shall be entered against him, unless the court, under special circumstances, shall grant the defendant further time; and in such case, the defendant shall plead within the time so granted, or judgment be entered against him. And if further pleadings shall be necessary, they shall be filed within thirty days each after the other, or on failure thereof, the like judgment as aforesaid shall be entered against the party so failing, unless the court, under special circumstances, shall grant further time as aforesaid.

No imparlance allowable.

LIII. And be it enacted, That the defendant shall plead within the time limited or granted as aforesaid, without any imparlance.

Plaintiff to deliver copy of account, &c. to the defendant, if required.

LIV. And be it enacted, That the plaintiff or his attorney, if required before plea be filed, shall deliver to the defendant or his attorney, a copy of the account, or a bill of the particulars of the demand, or a copy of the bill, bond, deed, bargain, contract, note, instrument or other writing, whereon the declaration is founded.

Defendant, to deliver a copy of contract, account &c. to the plaintiff, if required.

LV. And be it enacted, That the defendant or his attorney, if required, shall deliver to the plaintiff or his attorney, a copy of any deed, instrument or writing, of which, in his plea, he shall make a profert in court, or a copy of any bill, bond, deed, note, receipt, bargain, contract, instrument or writing, or a bill of the particulars of any account or demand, which, under the plea of payment, he may, by law, set off or discount against the plaintiff's action.

Notice of filing pleadings not necessary.

LVI. And be it enacted, That the party whether plaintiff or defendant, shall take notice of the filing of the declaration or other pleading in the cause, at his peril, without service of a copy or notice of the filing of such declaration or other pleading.

Declaration by the bye, not allowable.

LVII. And be it enacted, That neither the plaintiff or any other person shall be permitted to declare by the bye against the defendant in any action.

Court may consolidate actions and strike out superfluous counts.

LVIII. And be it enacted, That the defendant at any time before issue joined, may move the court to consolidate unnecessary actions, or to strike out superfluous counts in the declaration.

If the defendant be in custody, process shall be served upon him in a new action as in other cases.

LIX And be it enacted, That if the defendant, on a capias ad respondendum, be returned in custody, or, when produced in court, be committed by order of the court, the plaintiff, if he have other cause of action, or any other person having cause of action, against the said defendant, shall issue process against such defendant, in the same manner as if he was at large, and not in custody or in prison; and on such process, when served, the like proceedings shall be had as in other cases.

If the plaintiff or defendant amend, what time shall be allowed to plead or reply anew.

Amendments to be made on equitable terms

LX. And be it enacted, That if the plaintiff amend his declaration, the defendant shall have twenty days to alter his plea or to plead anew; and if the defendant amend his plea, the plaintiff shall have twenty days to alter his replication or to reply anew; and the like time shall be allowed if any of the subsequent pleadings be amended; but all amendments shall be made on such equitable terms as the court shall direct.

A. D. 1799.

Party to join in demurrer in thirty days.

LXI. And be it enacted, That if the plaintiff or defendant shall not join in demurrer in thirty days after the filing thereof, such plaintiff, shall be nonprossed and such defendant shall have judgment awarded against him.

Either party may move for argument of demurrer.

LXII. And be it enacted, That when the issue is upon matter of law, either party may move the court for a day to be appointed for the argument of the demurrer; but no demurrer books shall be made up.

The issue in law to be determined before issue in fact.

LXIII. And be it enacted, That where there are several issues, in law and in fact, the issue in law shall be first determined, before the issue in fact shall be tried.

At what term, after issue joined, causes shall be tried.

LXIV. And be it enacted, That every cause shall be tried at the next court after issue joined, or on failure thereof, judgment shall be awarded for the defendant as in case of a nonsuit; unless the court, upon just cause and reasonable terms, allow further time for the trial of said cause; and if the plaintiff neglect to try such cause within the time so allowed, then the said court shall proceed to give such judgment as aforesaid, which shall be of the like (and no other) force and effect, as a judgment upon nonsuit; and the defendant shall, upon such judgment, be awarded his costs in any action, where he would upon nonsuit be entitled to the same, and in no other: Provided, That there be, between the joining of the said issue and the next term, sufficient time to give the requisite notice of trial, and if there be not, then the trial shall be had at the subsequent term.

Ten days notice of trial to be given.

LXV. And be it enacted, That notice of trial shall be in writing, and given to the defendant, if he appear in person, or to his attorney, or to the sheriff or keeper of the gaol, if the defendant be in custody or in prison, at least ten entire days, exclusive of Sundays, before such intended trial. And it shall be the duty of the said sheriff or gaoler to deliver, without delay, the said notice to the defendant therein named; and in default thereof, the said sheriff or gaoler shall be liable to the said defendant for all damages occasioned thereby.

Countermand of such notice to be given five days before trial.

LXVI. And be it enacted, That every countermand of notice of trial shall be in writing, and given at least five entire days, exclusive of Sunday, before such intended trial; and on failure thereof, costs shall be awarded in like manner, as if notice of trial had not been countermanded.

Short notice to be given three days before trial.

LXVII. And be it enacted, That short notice of trial, when directed by the court, shall be given three entire days, exclusive of Sunday, before such trial.

Trial by proviso, and notice thereof.

LXVIII. And be it enacted, That if the plaintiff do not bring on the trial of the cause in due time after issue joined, the defendant, instead of taking judgment as in case of a nonsuit, may move the court for a trial by proviso; and of such trial, the defendant shall give the like notice to the plaintiff, as the plaintiff would have been obliged to give to the defendant; and if the defendant do not proceed to trial according to notice, or countermand the same in due time, the plaintiff shall be entitled to costs.

Notices of trial when to be filed.

LXIX. And be it enacted, That all notices of trial shall be filed with the clerk at least two days before the term; whose duty it shall be to furnish the judges, on the first day of every term, with a list of the causes to be tried and argued, in their course and order.

Clerk to furnish the judges with a list of causes to be tried and argued.

Courts to assess damages in certain cases.

LXX. And be it enacted, That where interlocutory judgment, in actions of assumpsit, shall be entered by default against the defendant, the court shall assess the damages, and give final judgment, unless the plaintiff or defendant shall request a writ of enquiry.

What notice to be given of executing writs of enquiry.

LXXI. And be it enacted, That the same notice shall be given of executing writs of enquiry and of countermand, as is required for the trial of issues in fact.

Plaintiff to pay costs, if he does not execute writ of enquiry.

LXXII. And be it enacted, That if the plaintiff shall not proceed to execu-

A. D. 1799.

cute the writ of enquiry according to notice, or countermand such notice in due time, the defendant shall be entitled to costs.

Plaintiff, if a non-resident, shall, if required, give bond, with sureties, for the payment of costs.

LXXIII. And be it enacted, That if the plaintiff reside out of this State, he shall, if required before issue joined, give bond to the defendant in one hundred dollars, with sufficient sureties, being freeholders and residents in this State, with condition to prosecute his action with effect, and to pay costs if he discontinue, be nonsuited, or a judgment pass against him; which bond shall be filed in the clerk's office of the court in which such action is or shall be pending.

Of motion for new trial and in arrest of judgment.

LXXIV. And be it enacted, That the party, against whom a verdict hath been rendered, may first move for a new trial, and if it be denied, may then move in arrest of judgment; but he shall not be permitted to move for a new trial, after he hath moved in arrest of judgment and failed.

All the pleadings in a cause to be filed together.

LXXV. And be it enacted, That the declaration, pleadings, and other papers relative to every cause, shall be all filed together in the office of the clerk of the court.

Records to be made of all causes, which shall be determined.

LXXVI. And be it enacted, That when any civil cause, of whatever nature it be, shall be finally determined, the clerk of the court shall enter the warrants of attorney, declaration, pleadings, proceedings and judgment in such cause, so as to make a complete record thereof, in a separate book to be kept for that purpose, with a complete alphabetical index to the same; which record shall be signed by one of the judges of the said court, as of the day on which the judgment was entered; and the clerk for such service shall be allowed one dollar and, no more.

No judgment roll to be made up.

LXXVII. And be it enacted, That no judgment roll shall be made up in any action in any of the courts of this State; but the entry, in manner aforesaid, of the warrants of attorney, declaration, pleadings, proceedings and judgment, shall constitute the record.

Not inspection of judgment and process.

LXXVIII. And be it enacted, That the inspection of judgment and process, shall not be deemed necessary in any case.

The sum due to be endorsed on the capias ad satisfaciendum.

LXXIX. And be it enacted, That the plaintiff shall endorse on every capias ad satisfaciendum, before the delivery thereof to the sheriff, the real debt or damages due and claimed by such plaintiff, and the costs of suit, in words at length.

When the plaintiff may proceed against the special bail.

LXXX. And be it enacted, That after a capias ad satisfaciendum shall have been returned, non est inventus, by the sheriff or officer, the plaintiff may proceed against the special bail upon their recognizance.

When and how proceedings against special bail may be stayed, when error is brought by the principal.

LXXXI. And be it enacted, That on a scire facias or action of debt against the special bail, on their recognizance, when a writ of error is brought by the principal and allowed, and the said bail apply within the time limited for surrendering the principal, the court may stay the proceedings against such special bail, if they enter into recognizance to the party, for whom judgment is given, in double the sum recovered, to pay the condemnation money, or surrender the principal to the custody of the sheriff, within twenty days next after the determination of the said writ of error, if it be in favour of the defendant in error.

When such proceedings shall not be stayed.

LXXXII. And be it enacted, That the court shall not stay proceedings against the special bail, pending the writ of error, by their principal, if they do not make application for that purpose, till their time to surrender the principal be expired.

No execution on the second judgment, pending a writ of error on the first.

LXXXIII. And be it enacted, That if the defendant bring a writ of error, and the plaintiff bring an action on the judgment and recover, he shall not sue out execution on the second judgment, till the writ of error be determined.

LXXXIV. And be it enacted, That where it is apparent to the court, that

A. D. 1799.

Where a writ of error shall not supersede an execution.

a writ of error is brought against good faith, or for the mere purpose of delay, or it is returnable of a term previous to the entry of final judgment, or special bail, when requisite, is not put in and perfected in due time, it shall not be a supersedeas or stay of execution.

Of costs on arrest of judgment.

LXXXV. And be it enacted, That where judgment is arrested, each party shall pay his own costs.

Special bail required in every cause removed by habeas corpus into the supreme court.

LXXXVI. And be it enacted, That no cause shall be removed into the supreme court of this State, by writ of habeas corpus or otherwise, unless the defendant shall enter into recognizance to the plaintiff, with two sufficient sureties, in double the sum demanded, for the payment of the condemnation money, and costs, in case judgment shall pass against him.

Special bail to be filed on the return day of the habeas corpus.

LXXXVII. And be it enacted, That the special bail, required by the preceding section, shall be filed on the return day of the writ of habeas corpus; or else a procedendo shall be awarded.

In what time and what exceptions shall be taken against, and justification made by such bail.

LXXXVIII. And be it enacted, That exception to and justification of special bail upon a habeas corpus, shall be taken and made within the time and in the manner herein before prescribed in other cases; and if such bail when excepted to, shall not be perfected in due time, the plaintiff shall have a procedendo.

On the habeas corpus, the pleadings to be filed as in other cases.

LXXXIX. And be it enacted, That upon the return of the habeas corpus, the plaintiff shall be deemed to be in court, and the declaration and pleadings of the parties shall be filed within the time allowed or granted in other cases; or else the plaintiff shall be nonprossed, or judgment be awarded against the defendant.

Of special verdict and demurrer to evidence.

XC. And be it enacted, That every special verdict and demurrer to evidence shall be entered on the minutes of the court; after which either party may move the court to assign a day for argument.

Plaintiff in ejectment to give ten days notice to the tenant in possession.

XCI. And be it enacted, That no plaintiff shall proceed in ejectment to recover any lands or tenements against a casual ejector, without ten days previous notice being given to the tenant in possession, if any there be, and making him or his landlord, or both, or other proper person with the tenant, defendant in the action, if such tenant, or landlord, or other proper person choose to be made defendant.

Within what time the tenant, &c. shall enter into the common rule or judgment be had against the casual ejecter.

XCII. And be it enacted, That the plaintiff, on affidavit of the delivery of the declaration in ejectment, shall have judgment against the casual ejector, unless the tenant in possession, or landlord, or both, or other proper person with such tenant, shall apply to be made defendant, and enter into the common or consent rule, within the term, to which the said tenant had notice to appear.

How proceedings in ejectment may be stayed, where the plaintiff or his lessor is unknown.

XCIII. And be it enacted, That in ejectment, where the plaintiff or his lessor is unknown to the defendant, the latter may call for an account of his residence, or place of abode, from the opposite attorney; and if he refuse to give it, or give in a fictitious account of a person who cannot be found, the court, if moved before issue joined, may stay the proceedings until security be given for the payment of costs.

How, if the lessor of the plaintiff be a non-resident, an infant, or dead.

XCIV. And be it enacted, That in ejectment, where the lessor of the plaintiff resides out of this State, or is an infant, or dead, the court, if moved before issue joined, may stay proceedings until a real and substantial person be named, or security be given for the payment of costs.

How, in an action for the mesne profits by the nominal plaintiff in ejectment.

XCV. And be it enacted, That if an action for the mesne profits shall be brought in the name of the nominal plaintiff in ejectment, the court, if moved before issue joined, may stay proceedings until security be given for the payment of costs.

XCVI. And

A. D. 1799.

XCVI. And be it enacted, That the plaintiff in error in the supreme court, shall assign and file errors, and serve a copy thereof on the defendant in error, or his attorney, in thirty days after the first day of the term to which the writ is returnable, or be nonprossed, unless the court shall grant further time, and in such case, the plaintiff shall assign and file errors, and serve a copy of the same on the defendant or his attorney, within the time so granted, or be nonprossed.

Plaintiff in error in the supreme court to assign errors in thirty days.

XCVII. And be it enacted, That the defendant shall join in error within thirty days after the expiration of the time limited or granted for assigning, filing and serving errors, or the errors shall be taken as confessed, and the cause be set down to be heard ex parte.

The defendant to join in error in thirty days thereafter.

XCVIII. And be it enacted, That after joinder in error, either party may move the court to appoint a day for the argument of the cause; but no paper-books shall be necessary.

After joinder either party may move for argument.

XCIX. And be it enacted, That the party, prosecuting such writ of error, shall procure the same to be returned to the day in term, to which it is made returnable, or shew good cause, why it is not returned, or on failure thereof, the said writ shall be null and void.

Within what time writ of error shall be returned.

C. And be it enacted, That the inferior courts of common pleas of this State, are hereby respectively empowered and required, to mark and lay out the bounds and rules of the prisons in their several counties, not exceeding three acres of land adjoining to such prison; which marks and bounds shall be recorded by the clerk of the said court, and may be altered or renewed from time to time as occasion may require; and every prisoner, in any civil action, giving bond to the sheriff, with sufficient sureties, being freeholders and residents in the county, in double the sum for which he is committed, that he will keep within the said bounds, shall have liberty to walk therein; and if he walk out of the said bounds, the said bond shall be forfeited, and the sheriff, at the request of the plaintiff, or his attorney, shall assign such bond to the said plaintiff, by endorsing the same, and attesting it under his hand and seal, in the presence of two or more witnesses, and the said plaintiff may bring an action thereon in his own name.

The inferior courts of common pleas to lay out and mark prison-bounds.

CI. And be it enacted, That the justices of the supreme court, and the judges of the courts of common pleas in every county of this State, shall make such rules and regulations for expediting and conducting suits, and the management of business in their respective courts, as they shall from time to time judge proper, provided the same be not contrary to this act; which rules and regulations shall be fairly engrossed or printed, and put up by the clerks of said courts respectively, and constantly kept up in some conspicuous place in the clerk's office and court-house of the supreme court, and clerk's office and court-house of every county in the State. And in order that the rules of practice and proceedings of the several courts of common pleas may be uniform, and as near as may be, conformable to the rules of the supreme court, the justices of the supreme court shall order the clerk of said court to transmit copies of their rules and regulations to the clerks of the courts of common pleas in every county, that the judges of the said courts may, from time to time, make rules and regulations agreeably thereto, as near as may be, for the practice of their courts respectively.

Courts may make rules of practice.

CII. And be it enacted, That nothing in this act, nor any matter or thing therein contained, shall be considered as applicable to or in any way affect the courts established in this State, by virtue of "An Act constituting courts for the trial of small causes."

This act not to affect courts for the trial of small causes.

CIII. And be it enacted, That the act, entitled, "An Act to amend and "continue an act, entitled, "An Act to provide a more effectual remedy against "excessive costs in the recovery of debts above ten pounds, and for other pur-"poses therein mentioned," passed the nineteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty three, and the act, entitled, "An Act for regulating and shortening the proceedings in the courts of law," passed the thirtieth day of August, in the year of our Lord, one thousand, seven hundred and eighty four, and the act to amend the same, passed the twenty sixth

Certain acts repealed.

A. D. 1799.

day of November, in the year of our Lord, one thousand, seven hundred an eighty eight, be, and they hereby are repealed: PROVIDED, That such repea shall not affect any action brought by virtue of the aforesaid act, entitled, "A "Act for regulating and shortening the proceedings in the courts of law;" bu the same may be proceeded upon to judgment and execution, in the like manne as if this act had not been made.

An ACT *respecting the office of treasurer.*

Passed the 16th of February, 1799.

Treasurer to take an oath of office and to give bond for the performance of the duties of his office.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the treasurer of this State, shall, prior to entering upon the duties of his office, take and subscribe an oath of office, and give bond, with sufficient sureties, to be approved of by the legislature, in the sum of fifty thousand dollars, payable to the State of New-Jersey, with condition for the faithful performance of the duties of his office, and for the fidelity of the person or persons to be by him employed; which oath and bond shall be deposited in the office of the secretary of this State.

II. AND BE IT ENACTED, That the said oath of office shall be in the following words, to wit:

Form of his official oath.

I, appointed treasurer of the State of New-Jersey, do solemnly promise and swear, that I will, to the utmost of my knowledge and ability, well, honestly, and faithfully perform the duties of the office of treasurer of the said State; and that I will not, on any pretence or occasion, apply any money, securities or stock, which shall come to my hands, as belonging to the said State, to any private use or purpose.

So help me God.

Which oath, the vice president, or any of the justices of the supreme court is hereby empowered and required to administer.

III. AND BE IT ENACTED, That the condition of the aforementioned bond shall be in the words or to the effect following, that is to say;

Condition of the treasurer's bond.

The condition of this obligation is such, that if the above bounden shall, from time to time, and at all times, render a just and true account to the legislature of the State of New-Jersey, when by them thereunto required, of all the monies, securities, stock, and other property of the said State, which shall come to his hands, or be committed to his charge, and deliver the monies, securities, stock, and other property of the said State in his hands, together with all documents, instruments of writing, papers, and books belonging to or for the use of the said State, to his successor in office, and shall well, honestly, and faithfully perform all the duties of the office of treasurer of the said State, and shall answer for all improper appropriations, waste, embezzlements, or destruction of the said monies, securities, stock, property, documents, instruments of writing, papers or books, which shall be done or committed by any person or persons to be by him employed in the said office; then this obligation to be void, otherwise to be and remain in full force and virtue.

Which bond shall be executed before the vice president, or one of the justices of the supreme court of this State.

When the legislature may require the treasurer to give further security.

IV. AND BE IT ENACTED, That the legislature or either branch thereof may, when they suspect the obligors in the said bond to be insufficient, require the treasurer to give another bond, with sureties, to be approved of as aforesaid.

V. AND BE IT ENACTED, That if the said treasurer die, resign, be displaced, or

A. D. 1799.

or cease to hold his office, then such treasurer, or, if he be dead, his heirs, executors, or administrators, shall fairly and regularly state the account, and deliver the monies, securities, stock, property, instruments of writing and books of the State, in his or their possession, to the succeeding treasurer, who shall make report thereon to the legislature; and the said report, if confirmed by the legislature, shall be a discharge of the said bond, which in such case shall be delivered to the said treasurer, or his heirs, executors or administrators.

If the treasurer die, resign, &c. in what manner his accounts are to be settled, and the official papers disposed of.

VI. And be it enacted, That it shall be the duty of the said treasurer to receive and keep the monies of this State, to disburse the same agreeably to law, and to take receipts for all monies, which he shall pay, to keep accounts of the receipts and expenditures of the public money, and of all debts due to or from this State; to superintend the collection of the revenue, to direct prosecutions for delinquencies of officers of the revenue, and for debts, that are or shall be due to this State; to make reports and give information to either branch of the legislature, in person or in writing, as he may be required, respecting all matters referred to him by the council or house of assembly, or which shall appertain to his office, and generally to perform all such services relative to the finances, as he shall be directed to perform.

Duties of the treasurer.

VII. And be it enacted, That it shall be the duty of the treasurer to state in books the account of monies, which he shall receive for taxes, impositions, debts, fines, penalties, forfeited estates, or on any other account, for or in behalf of this State, and which he shall pay in pursuance of acts and resolutions of the legislature, in such a manner as that the net produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in payment of the several demands, may distinctly appear, and lay from time to time the same accounts, and all other his proceedings relative to his office, before the legislature.

How the treasurer is to keep his accounts.

VIII. And be it enacted, That all and every act and acts, part or parts of any act, within the purview of this act, be, and they are hereby repealed.

Repealing clause.

An ACT *for the relief of persons, who are scrupulous of taking an oath in the usual form.*

Passed the 16th of February, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every person, who shall be permitted or required to take an oath in any case, where, by law, an oath is allowed or required, may take the same with the ceremony of lifting up the hand and swearing by the ever living God, instead of that of touching and kissing the book of the Gospels; and every person, who is or shall be empowered and required to tender and administer an oath in the usual form, shall be and hereby is empowered and required, on request of the party to be sworn, to administer the same in the manner herein before prescribed.

Persons permitted to swear by lifting up the hand.

II. And be it enacted, That an oath, which shall be administered and taken agreeably to the mode prescribed in the preceding section of this act, shall be as good and effectual, as if the same had been administered and taken in the usual form of laying the hand on and kissing the Gospels.

The validity of such oath.

III. And be it enacted, That in all cases, where by any act of the legislature of this State now in force or hereafter to be made, an oath is or shall be allowed or required, the same shall, on the request of the party to be sworn, be taken with the ceremony of holding up the hand and swearing by the ever living God, instead of that of touching and kissing the book of the Gospels, although no provision for that purpose is or shall be made in such act.

Such oath may be taken in every case, where an oath in such form is or shall be required.

IV. And be it enacted, That if the person, who shall take such oath and swear as aforesaid with the uplifted hand and by the ever living God, shall falsly, wilfully and corruptly swear or depose any matter or thing, which, if the same had been

The person taking such oath and swearing falsly to be guilty of perjury.

A. D. 1799.

been sworn or deposed in the usual form, would have amounted to wilful and corrupt perjury; then such person, so offending, shall be deemed and adjudged to be guilty of wilful and corrupt perjury, and, on conviction thereof, shall be punished accordingly.

Persons, conscientiously scrupulous of taking an oath, may declare or affirm.

V. And be it enacted, That every person, who shall be permitted or required to take an oath in any case, where by law, an oath is allowed or required, and who shall allege, that he or she is conscientiously scrupulous of taking an oath, shall instead of the form of an oath, be permitted to make his or her solemn affirmation or declaration. And if such person shall choose to affirm, it shall be in the words following, to wit;

Form of affirmation.

I, do solemnly, sincerely and truly declare and affirm:

But if such person shall choose to declare, it shall be in the words following, to wit;

Form of Declaration.

I, do declare, in the presence of Almighty God, the witness of the truth of what I say:

The validity of such affirmation or declaration.

Either of which forms shall be as good and effectual in law, as an oath taken in the usual form. In which affirmation or declaration, the words, "So help me God," at the close of the usual oath, shall be omitted.

Authority given to administer such affirmation or declaration.

VI. And be it enacted, That every person, who is or shall be empowered and required to tender and administer an oath in the usual form, shall be, and hereby is empowered and required to tender and administer the affirmation or declaration aforesaid, when requested to that purpose by any such scrupulous person as aforesaid.

Such an affirmation or declaration may be taken in every case, where an oath in usual form is or shall be required.

VII. And be it enacted, That in all cases, where by any act of the legislature of this State now in force or hereafter to be made, an oath is or shall be allowed or required, the affirmation or declaration, in the form above prescribed, of any such scrupulous person as aforesaid, shall be allowed and taken instead of an oath in the usual form, although no provision for that purpose is or shall be made in such act.

A false affirmation or declaration to be punished as perjury.

VIII. And be it enacted, That if any person, who shall make such affirmation or declaration, shall falsly, wilfully, and corruptly affirm or declare any matter or thing which, if the same had been sworn or deposed in the usual form, would have amounted to wilful and corrupt perjury; then such person, so offending, shall be deemed and adjudged to be guilty of wilful and corrupt perjury, and, on being convicted thereof, shall be, punished accordingly.

Former acts repealed.

IX. And be it enacted, That all and every act and acts, and part and parts of any act, within the purview of this act, shall be and they are hereby repealed.

A SUPPLEMENT *to the act constituting courts for the trial of small causes.*

Passed the 16th of February, 1799.

Justice to record return of execution, &c.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the constable, to whom any execution shall be delivered, by virtue of the before recited act, shall within thirty days thereafter, make return to the justice, who issued the same, of the proceedings had thereon, and the justice shall make a record thereof; and when it shall so happen, that goods and chattels cannot be found upon the delivery of such person with the execution to the sheriff, under sheriff or gaoler, that such of said persons, to whom the prisoner is delivered, shall give his receipt to the constable for the same, who shall produce said receipt to the justice to be recorded as aforesaid, which justice shall be entitled to receive nine cents for each record.

II. And

II. And be it enacted, That when any judgment shall be had against any constable for any delinquency in his office, execution shall immediately be issued against him for debt and costs.

A. D. 1799.

On judgment against constable, execution to issue immediately.

III. And be it enacted, That the twenty eighth section of the act, entitled, "An Act constituting courts for the trial of small causes," be, and the same is hereby repealed.

Section 28th of former act repealed.

An ACT *making lands liable to be sold for the payment of debts.*

Passed the 18th of February, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That all lands, tenements, hereditaments and real estate, shall be and hereby are made liable to be levied upon and sold by executions to be issued on judgments, which are or shall be obtained in any court of record of this State (except justices' courts constituted for the trial of small causes) for the payment and satisfaction of the debt, damages, sum of money, and costs, so recovered or to be recovered.

Lands made liable to be taken and sold by executions.

II. And be it enacted, That no judgment shall affect or bind any lands, tenements, hereditaments or real estate, but from the time of the actual entry of such judgment on the minutes or records of the court.

Land is bound from the time of entering judgment.

III. And be it enacted, That no writ of execution shall bind the property of the goods of the person, against whom such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer, his deputy, or agent, to be executed; and for the better manifestation of the said time, such sheriff, under sheriff, coroner, or other officer, his deputy, or agent shall, upon the receipt of any such writ, endorse thereon, without fee for so doing, the day of the month and year, when he received the same; and if two or more writs of execution shall be delivered against the goods of the same person, on the same day, that which was first delivered shall be first executed and satisfied.

Goods bound from the time of delivering execution to sheriff.

Time of such delivery to be endorsed on the execution.

IV. And be it enacted, That where sundry writs of execution shall be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the same person, and sufficient cannot be found to satisfy all the sums commanded to be made, then the like priority and preference shall be given in such cases, as is given by the preceding section of this act, in writs of execution against the goods only, and all disputes respecting the same shall be adjudged and determined accordingly; and for that purpose the like endorsement as aforesaid shall be made on the said writs, by the proper officer, of the time, that he shall have respectively received the same.

The like rule of preference to obtain in executions against lands as in executions against goods, when delivered on the same day.

V. And be it enacted, That upon judgment obtained or to be obtained for debt, damages, and costs, or other sum of money, in the supreme court, or any of the inferior courts of common pleas of this State, the party, obtaining the same, may have an execution against the body, or against the goods and chattels, or against the goods and chattels, lands, tenements, hereditaments and real estate of the party, against whom such judgment is or shall be awarded; but no execution shall be issued against the proper goods and chattels, lands, tenements, hereditaments and real estate of any executor, administrator, heir or devisee, unless he or she shall have made his or her estate liable for the money so recovered by false pleading or otherwise.

Execution may be issued against the body or estate of the party.

VI. And be it enacted, That in every writ of execution, which shall be issued against lands, tenements, hereditaments and real estate, the sheriff or other officer, to whom the said writ may be directed, shall be commanded, that of the goods and chattels, in his county, of the party, against whom such execution issues, he cause to be made the debt, damages, and costs, or sum of money mentioned in the said execution; and if sufficient goods and chattels of the said party cannot be found in his county, that then he cause the whole or the residue, as

In what form and manner execution shall issue against lands and real estate.

A. D. 1799.

the case may require, of the said debt, damages and costs, or sum of money to be made of the lands, tenements, hereditaments, and real estate, whereof the said party was seised on the day, when the said lands, tenements, hereditaments and real estate became liable to such debt, damages and costs, or sum of money specifying the day particularly, or at any time afterwards, in whose hands soever the same may then be; but when such execution shall be issued against terretenants, or heirs, or devisees (unless they shall have made their estate liable by false pleading or otherwise) it shall only command the sheriff or other officer that of the lands, tenements, hereditaments and real estate, whereof the ancestor testator, or person deceased, was seised on the day, when the said lands, tenements, hereditaments and real estate, became liable as aforesaid, or at any time afterwards, or at the time of his or her death, as the case may require, he cause to be made the debt, damages, and costs, or sum of money, in the said writ mentioned.

Sum due to be endorsed on the execution.

VII. And be it enacted, That the party, at whose instance any writ of execution shall issue against the body, or against the goods and chattels, or against the goods and chattels, lands, tenements, hereditaments and real estate of any person, shall endorse on the said writ, before it be sealed, the debt, damages, and costs, or sum of money, really due and to be made.

Executions against lands to be recorded.

VIII. And be it enacted, That every writ of execution, which shall be sued forth against lands, tenements, hereditaments and real estate, shall, before it be delivered to the sheriff or other officer, be recorded in a book by the clerk of the court, out of which the same was issued; and the record of such writ, so made, shall be as good evidence as the writ itself.

Lands taken in execution to be advertised two months before the time of sale.

IX. And be it enacted, That the sheriff or other officer, who, by virtue of such writ of execution, levies on any lands, tenements, hereditaments and real estate, shall give notice, by advertisements, signed by himself, and put up at five or more public places in the county, one whereof to be in the township, where the said lands, tenements, hereditaments and real estate do lie, of the time and place where they will be exposed to sale, at least two months before the time appointed for selling them; and shall, at the time and place so appointed, between the hours of twelve and five in the afternoon, expose the said lands, tenements, hereditaments and real estate to sale by public vendue, and strike off the same to the highest bidder.

The sheriff may adjourn the said sale two, and no more, and not exceeding one month each time.

X. And be it enacted, That it shall be lawful for the said sheriff or other officer to make two adjournments, and no more, of the sale of lands, tenements, hereditaments and real estate, so by him taken in execution, to any time not exceeding one month for each adjournment; and if the said sheriff or other officer shall adjourn such sale or vendue oftner, or for a longer time, without permission, in writing, previously obtained of the party, at whose instance the said writ of execution was issued, he shall be, and hereby is made liable to the amount of the debt, or damages and costs, or sum or sums of money, mentioned in the said writ, with interest; and for the recovery thereof may be amerced and proceeded against in the manner prescribed in and by the twenty second section of the act, entitled, "An Act concerning sheriffs." Provided always, That if the said sheriff or other officer shall, after two adjournments as aforesaid, sell the lands, tenements, hereditaments and real estate, and bring the whole amount of the product of such sale (after deducting his lawful fees) into the court, from whence such execution issued, at any time before the entry of such amercement against him as aforesaid, the said sheriff or other officer shall be exonerated from all liability to the said amercement.

But if the sheriff, after two adjournments, and before amercement, bring the money into court, he shall be exonerated.

The party, whose lands are taken in execution, may elect what part thereof shall be sold.

XI. And be it enacted, That the person, whose lands, tenements, hereditaments and real estate are so taken in execution, may, if part of them be sufficient to satisfy such execution, elect what part thereof shall be sold; and thereupon it shall be the duty of the said sheriff or other officer to sell the part so elected, and no other, if it be sufficient: Provided always, That such election shall be made in writing, signed by such person, and delivered to the said sheriff or other officer, at least twenty days previous to the time appointed for the sale.

XII. And

A. D. 1799.

Sheriff to make deeds for lands by him sold in virtue of executions; which deeds shall be as good and effectual as if they had been made by the party.

XII. And be it enacted, That the sheriff or other officer, who, by virtue of such writ or writs of execution, shall sell as aforesaid the lands, tenements, hereditaments and real estate, or any part or parcel of them, so levied upon, shall make to the purchaser thereof as good and sufficient a deed or conveyance for the lands, tenements, hereditaments and real estate so sold, as the person, against whom the said writ or writs of execution were issued might or could have made for the same at or before the time of rendering judgment against him or her; which deed or conveyance shall transfer to and vest in the said purchaser, as good and perfect an estate to the premises therein mentioned, as the person, against whom the said writ or writs of execution were issued, was seised of or entitled to at or before the said judgment, and as fully, to all intents and purposes as if such person had sold the said lands, tenements, hereditaments and real estate to such purchaser, and had received the consideration money, and signed, sealed, and delivered a deed for the same: And further, That the said deed or conveyance, so to be made by the said sheriff or officer, shall recite the writ or writs of execution, by virtue whereof the said lands, tenements, hereditaments, and real estate therein described, were sold as aforesaid.

Land sold by sheriff to be clear of all judgments, on which executions have not been issued.

XIII. And whereas other judgments, statutes, and recognizances, besides those, or some of those, by virtue whereof the sale aforesaid was made, might affect the lands, tenements, hereditaments and real estate so sold, if no provision be made to remedy the same; and whereas the persons, who have not taken, or will not take out executions upon their judgments, statutes, or recognizances, ought not to hinder or prevent such as do take out executions from having the proper effect and fruits thereof; Therefore, *Be it enacted*, That the purchaser, his heirs and assigns, shall hold the lands, tenements, hereditaments and real estate, by him or her purchased as aforesaid, free and clear of all other judgments, recognizances, statutes-merchant and statutes-staple whatsoever, on or by virtue of which no execution has been taken out and executed on the lands, tenements, hereditaments and real estate so purchased.

Reversal of judgment for error not to affect lands sold prior to such reversal.

XIV. And be it enacted, That if any judgment or execution (the said execution being recorded as aforesaid) by virtue whereof such sale as aforesaid shall be made of any lands, tenements, hereditaments and real estate, shall be reversed for error, such reversal shall not be given in evidence, or be of any force or avail against any bona fide purchaser under the said judgment or execution; but the said purchaser, his heirs and assigns, shall hold the said lands, so bona fide purchased, notwithstanding such reversal, if it be posterior to the said purchase; and further, such reversal shall only operate against the defendant in error, his heirs, executors and administrators, to compel compensation to be made to the party aggrieved to the full value of the lands, tenements, hereditaments and real estate so sold as aforesaid.

How and in what cases a succeeding sheriff may make deed for lands sold by his predecessor in office.

XV. And be it enacted, That if any sheriff, who hath made or shall make sale of any lands, tenements, hereditaments and real estate, by virtue of an execution against the same, shall abscond, or depart from the State, or be disqualified by law, or rendered unable by death, or otherwise incapable, to make a deed or conveyance for the same, it shall be lawful for any succeeding sheriff of the county, on receiving a certificate from the inferior court of common pleas of such county, signed by the clerk by order of the said court, setting forth, that sufficient proof hath been made to the said court, that such sale was fairly and legally made, and on tender of the purchase money, or if the purchase money or any part of it has been paid, then on proof of such payment, and on tender of the residue, if any be, to sign, seal and deliver to the said purchaser, or his legal representative, a deed or conveyance of the lands, tenements, hereditaments and real estate so sold; which deed shall be as good and valid, and shall have the same force and effect, as if the sheriff, who made such sale, had signed, sealed, and delivered a deed of conveyance for the same in due form of law.

How to pay the money received thereon.

XVI. And be it enacted, That if such succeeding sheriff receive any money by virtue of the preceeding section of this act, he shall pay the same to the person thereunto entitled by law.

XVII. And be it enacted, That all proprieties, rights, share and shares of propriety

A. D. 1790.

Proprietary rights may be levied on and sold by executions.

propriety, and rights to unlocated lands, shall be, and hereby are made liable to b levied upon and sold by executions to be issued on judgments, for the payment o the debt, or damages, and costs, or sum of money thereby recovered, in the sam manner as lands, tenements, hereditaments and real estate are made liable to b levied upon and sold by virtue of this act; but every such execution shall issu out of the supreme court; and if the said shares or rights be within the wester division, shall be directed to the sheriff of the county of Burlington, and if with in the eastern division, shall be directed to the sheriff of the county of Middlesex and further, that the said sheriff shall give notice, by advertisements, signed by himself, and put up in five or more public places in the said county, and by an advertisement in one of the newspapers published in this State, of the time and place of exposing such shares or rights to sale, at least two months before the time appointed for selling the same.

Judgment or execution against executors or administrators, not to affect lands of the testator or intestate.

XVIII. And be it enacted, That no lands, tenements, hereditaments or real estate, of any testator or intestate, shall be sold or in any wise affected by any judgment or execution against executors or administrators.

If the personal estate of the testator or intestate be insufficient to pay his debts, the executor or administrator may make application to the orphan's court; whose duty it shall be to order all persons interested to appear before them on a certain day to shew cause, why the real estate should not be sold.

XIX. And be it enacted, That when any executor or administrator shall discover or believe, that the personal estate of his testator or intestate is insufficient to pay his debts, then it shall be the duty of such executor or administrator, as soon as conveniently may be, to make and exhibit, under oath, a just and true account of the said personal estate and debts, as far as he can discover the same, to the orphan's court of the county, where the lands, tenements, hereditaments and real estate, of which the said testator or intestate died or shall die seised, do lie, and request their aid in the premises; and the said court shall thereupon make an order, directing all persons interested in such lands, tenements, hereditaments and real estate to appear before them at a certain day and place, in the said order to be mentioned, not less than two nor more than three months after the day of making such order, to shew cause, why so much of the said lands, tenements, hereditaments and real estate of the said testator or intestate should not be sold, as will be sufficient to pay his debts, or the residue thereof, as the case may require; which order, signed by the surrogate or clerk of the said court, shall be immediately thereafter set up at three of the most public places in the said county for six weeks successively, and be published for the same time in one or more of the newspapers printed in this State.

If the personal estate be inadequate to pay the debts of the testator or intestate, the orphan's court may direct the real estate to be sold.

XX. And be it enacted, That the said orphan's court shall, at the time and place mentioned in the said order, or at such other time and place as they may then appoint, hear and examine the allegations and proofs of the said executor or administrator, and other persons interested; and if on full examination the said court shall find, that the personal estate of the said testator or intestate is not sufficient to pay his debts, the said court shall order and direct the executor or administrator to sell the whole, if necessary, of the lands, tenements, hereditaments and real estate of the said testator or intestate, for the payment of his debts, or so much thereof as will be sufficient for that purpose; and when a part only of the said lands, tenements, hereditaments and real estate is sufficient, such order shall specify the part to be sold: Provided always, That where any houses, and lots, or lands are so circumstanced, that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, the said court may, at their discretion, order the whole or a greater part, than is necessary to pay such debts, to be sold; and the surplus money arising from such sale shall be distributed among the heirs or devisees, according to the law of descents in the former, and the will of the testator in the latter case; and futher, that the heir or devisee, whose lands, tenements, hereditaments and real estate, so descending or devised to him, have been sold as aforesaid, for the payment of the debts of his intestate or testator, may compel all others claiming or holding under such intestate or testator, to contribute in proportion to their respective interests, so as to equalise the burden or loss.

Lands ordered to be sold by the orphan's court to be advertised two months before the time of sale.

XXI. And be it enacted, That the executor, or administrator, who may be ordered to sell any lands, tenements, hereditaments or real estate of any testator or intestate, shall give notice by advertisements, signed by himself, and set up at five or more public places in the county, of the time and place of selling the

the premises, at least two months before the time appointed for selling them, and shall, at the time and place so appointed, between the hours of twelve and five in the afternoon, expose the said lands, tenements, hereditaments and real estate to sale by public vendue, and strike off the same to the highest bidder; and the executor or administrator, making the said sale, shall report in writing all proceedings thereon to the next orphan's court, after such sale: PROVIDED ALWAYS, That the said executor or administrator may adjourn the said sale from time to time, not exceeding two months in the whole. A. D. 1790.

XXII. AND BE IT ENACTED, That the said executor or administrator shall, and hereby is authorised to make a deed to the purchaser for the lands, tenements, hereditaments and real estate so sold; which deed shall set forth the said order at large, and shall vest in the said purchaser as good and perfect an estate in the premises therein mentioned, as the heirs or devisees of the said testator or intestate were seised of or entitled to, at the time of the making of the said order by such orphan's court. For lands sold by executor or administrator to make deeth

XXIII. AND BE IT ENACTED, That the monies, arising from such sale of the lands, tenements, hereditaments and real estate of such testator or intestate, shall be received by the said executor or administrator, and be considered as assets in his hands for the payment of debts, and the surplus, if any, shall be distributed among the heirs or devisees in the proportion and manner directed by the twentieth section of this act. Monies received by executor or administrator from sale of lands, to be assets for the payment of debts.

XXIV. PROVIDED ALWAYS, *and be it further enacted*, That no part of the lands, tenements, hereditaments and real estate of any testator or intestate, shall be ordered by the said orphan's court to be sold as aforesaid, until the executor or administrator shall have applied the personal estate, or such part thereof as may have come to his hands, towards payment of the debts of such testator or intestate; and no more of the said lands, tenements, hereditaments and real estate, except as is excepted in the twentieth section of this act, shall be sold, than may be necessary to pay the residue of the said debts: PROVIDED ALSO, That nothing herein contained shall prevent or bar any person from bringing and maintaining any action against an executor or administrator, for or in respect of the personal estate of his testator or intestate, or for or in respect of any waste or misapplication thereof by such executor or administrator. Lands of testator or intestate not to be sold till the personal estate be applied to the payment of debts.

This act not to prevent suits against executor or administrator for waste, &c.

XXV. AND BE IT ENACTED, That the act, entitled, "An Act subjecting real "estates in the Province of New-Jersey to the payment of debts, and directing the "sheriff in his proceedings thereon," passed the second day of December, in the year of our Lord, one thousand, seven hundred and forty three; and the act, entitled, "An Act to amend an act, entitled, "An Act subjecting real estates in "the Province of New-Jersey to the payment of debts, and directing the sheriff "in his proceedings thereon," passed the eighth day of June, in the year of our Lord, one thousand, seven hundred and seventy nine; and the act, entitled, "An "Act directing the mode by which shares of propriety and rights to unlocated "lands in the State of New-Jersey, may be sold for the payment of debts," passed the twenty third day of November, in the year of our Lord, one thousand, seven hundred and eighty five; and the eleventh and twelfth sections of the act, entitled, "An Act to ascertain the power and authority of the ordinary and his "surrogates, to regulate the jurisdiction of the prerogative court, and to establish an "orphan's court in the several counties of the State," passed the sixteenth day of December, in the year of our Lord, one thousand, seven hundred, and eighty four, and all and every other act and acts, and part and parts of any act, within the purview of this act, be, and they are hereby repealed; but such repeal shall not extend to or affect any execution heretofore issued, out of any of the courts of record in this State, against lands, tenements, hereditaments and real estate, or against proprietary shares and rights to unlocated lands, or any order heretofore made by any orphan's court for the sale of real estate; but such execution and order shall be of the same validity, and be proceeded upon to effect in the like manner, as if this act had not been made. Certain acts repealed.

But such repeal not to affect executions and orders.

A. D. 1799. *An* ACT *to issue commissions for the examination of witnesses, and to take their deposition in certain cases.*

Passed the 18th of February, 1799.

In what cases the courts may grant commissions to examine material witnesses.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if a material witness in any action or suit in the court of chancery, or in the supreme court, or any of the inferior courts of common pleas of this State, reside out of this State, or, if in this State, be ancient or very infirm, or be sick, or bound on a voyage, or about to go out of this State, it shall and may be lawful for the said court, in which such action or suit is depending, on affidavit or proof thereof to the satisfaction of the said court, and upon motion made by or in behalf of either party in open court, and on such terms as the said court shall direct, to award and issue, under the seal of the said court, a commission to such person or persons, as the said court may think fit, authorising such person or persons, or any two or more of such persons, to examine de bene esse the said witness on oath or affirmation, upon the interrogatories annexed to the said commission, and to reduce such examination to writing, and to return the same annexed to the said writ, unto the said court, with all convenient speed; and the name of every witness, to be so examined by virtue of such commission, shall be inserted in the said commission; and the interrogatories for the examination of such witness shall be drawn and signed by the parties or their counsel in the cause in which the testimony is to be used, or such of them as shall request the said commission, and be approved of by the said court, or one of the judges thereof, and shall be annexed to the same commission; and each party shall be at liberty, with the approbation of the said court or judge, to insert in the said interrogatories such questions, as he or she may think proper or necessary.

In what manner the commissioners are to proceed in the examination, and to make return of the commission.

II. AND BE IT ENACTED, That the said commissioner or commissioners, or any two or more of them, shall and may, on oath or affirmation, examine every witness named in the said commission, or such as can be met with, and cause the examination of the said witness to be reduced to writing, and signed by such witness, and the said commissioner or commissioners shall then also sign the same, and such examination, and all exhibits produced to the said commissioner or commissioners, and proved by such witness, shall be annexed to the said commission, and returned to the court out of which such commission issued, closed up, and under the hand and seal of the said commissioner, or the hands and seals of two or more of the said commissioners; and if it be not convenient for the said commissioner, or for any of the said commissioners, to carry the same to the chancellor, or one of the judges of the said court, then he may deliver the same to the agent or attorney of the party, on whose behalf such witness is examined; and such agent or attorney, or in case of his death, the person into whose hands the same shall come, shall deliver or transmit the same to the chancellor, or one of the judges of the said court, making oath or affidavit before a judge or justice of the peace, or other competent authority, that he received the same from the hands of the said commissioner, or of one of them, (or if the agent or attorney be dead, then such affidavit shall set forth in what manner the same came into the hands of the person, who shall so deliver or transmit the same) and that the same has not been opened or altered since he so received it; and the said chancellor or judge shall then open the same, and endorse on the commission, from and by whom he received the same, and subscribe his name to the said endorsement, and shall then deposit the said commission and return, with the said affidavit, in the office of the clerk of the said court, there to remain as a record.

The commission, so returned, to be filed in the clerk's office.

Parties entitled to take copies of depositions.

III. AND BE IT ENACTED, That the parties in the said action or suit shall be entitled to take copies of such deposition, at their respective costs and charges, as soon as the same is deposited in the clerk's office.

Court may proceed, if commission be not returned in a reasonable time.

IV. AND BE IT ENACTED, That if the said commission be not returned within such reasonable time, as the said court shall from time to time allow for the

that purpose, then the said court may proceed in the said action or suit, as if no such commission had been awarded or issued.

In what cases and manner depositions de bene esse may be taken.

V. And be it enacted, That if a material witness in an action or suit, in any of the aforementioned courts, be in this State, but is ancient, or very infirm, or is sick, or is bound on a voyage, or is about to go out of this State, then the deposition of such witness may, at the option of either party, and in lieu of the commission aforesaid, be taken de bene esse before the chief justice, or any of the justices of the supreme court of this State, or any judge of the inferior court of common pleas in the same: Provided, That the magistrate, before whom the deposition is to be taken, shall cause notice to be given to the adverse party immediately, or at such short day as the case, in the opinion of the said magistrate may require, to attend and be present at the taking thereof, and to put questions, and to cross examine, if he shall think fit.

Witness to sign deposition, which the magistrate, before whom it is taken, shall seal up, direct, and deliver or transmit to the court.

VI. And be it enacted, That every person, deposing as last aforesaid, shall be carefully examined and cautioned, and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given, after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence. And the deposition, so taken, shall be retained by such magistrate, until he deliver the same with his own hand into the court, for which it is taken, or shall, together with a certificate of the reasons as aforesaid of its being taken, and of the notice, if any, given to the adverse party, be by him the said magistrate sealed up, directed and transmitted to such court, and remain under his seal until opened in court; and when so opened, the same shall be deposited in the office of the clerk of the said court, there to remain as a record.

Parties entitled to copies of such deposition.

VII. And be it enacted, That either party in the said action or suit may, at his or her costs and charges, take copies of such deposition, as soon as it is deposited in the office aforesaid.

Witness may be compelled to appear and depose.

VIII. And be it enacted, That any material witness of the description aforesaid, and being in this State, may be compelled to appear, and be examined, and depose before any commissioner or commissioners as aforesaid in this State, or any of the said magistrates, in the same manner and under the same penalties as to appear and testify in the court, wherein the said action or suit is depending.

Every examination or deposition, so taken and returned, shall be read in evidence, if the witness cannot attend.

IX. And be it enacted, That every examination or deposition, so taken and returned by virtue of this act, shall be read, used and deemed as good and competent evidence in the cause, in which it shall be taken, as if such witness had been present, and sworn or affirmed, and examined, viva voce, in open court, on the hearing or trial thereof, if it appear to the satisfaction of the said court, that such witness reside, or is gone out of this State, or is dead, or by reason of age, sickness or bodily infirmity, is unable to travel and attend the said court, but not otherwise. And unless the same shall be made to appear to the said court, on the hearing or trial of the said cause, then such examination or deposition shall not be admitted or used in the said cause.

Fees of witness, who shall make deposition, what, and by whom to be paid.

X. And be it enacted, That every witness, who is in this State, and whose examination or deposition is taken as aforesaid, shall be allowed, by way of compensation for his time and attendance therein, after the same rate as if he had personally appeared and given testimony in the cause, before the court in which it is depending; and the party requiring such examination or deposition, shall be at the sole expense thereof, and shall not have any allowance for the same, in the taxation of costs.

An ACT

A. D. 1799.

An ACT *prescribing certain oaths.*

Passed the 20th of February, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every person, who is or shall be required by law, to give assurance of fidelity and attachment to the government of this State, shall take the following oath:

Form of the oath of allegiance.

I, do sincerely profess and swear, that I do and will bear true faith and allegiance to the government established in this State, under the authority of the people. So help me God.

What officers and persons are required to take the same.

II. AND BE IT ENACTED, That the governor, for the time being, of this State, and every person, who shall be appointed or elected to any office legislative, executive, or judicial, under the authority of this State, or to any office, in the militia thereof, and every counsellor, solicitor, and attorney at law, shall, before he enters upon the execution of his trust, office, or duty, take and subscribe the foregoing oath of allegiance.

III. AND BE IT ENACTED, That every person, who shall be elected governor of this State, or who shall at any time administer the government thereof, shall, before he enters upon the execution of his said office, take and subscribe the following oath, to wit;

Official oath of the governor.

I, elected governor of the State of New-Jersey, do solemnly promise and swear, that I will diligently, faithfully and to the best of my knowledge, execute the said office, in conformity with the powers delegated to me; and that I will, to the utmost of my skill and ability, promote the peace and prosperity, and maintain the lawful rights of the said State. So help me God.

IV. AND BE IT ENACTED, That the members of the court of appeals in the last resort in all causes of law, the chancellor, the judges of the supreme court, and the judges of the inferior court of common pleas, and orphan's court, shall, before they enter upon the execution of their respective offices, take and subscribe the following oath, to wit;

Oath of the chancellor and judges.

I, do solemnly promise and swear, that I will administer justice without respect to persons, and faithfully and impartially perform all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the constitution and laws of the State of New-Jersey. So help me God.

V. AND BE IT ENACTED, That every person, who shall be chosen or appointed to the office of register, or clerk of any judicial court of this State, shall, before he enters upon the execution of his office, take and subscribe the following oath, to wit;

Oath of registers, or clerks of courts.

I, being appointed register (or clerk, as the case may be) of the do solemnly promise and swear, that I will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court; that I will justly and honestly keep the records, parchments, papers, writings, and books to me committed, and to be committed, by virtue of my said office; and that I will faithfully and impartially perform all the duties of the said office, according to the best of my abilities and understanding. So help me God.

VI. AND BE IT ENACTED, That every counsellor, solicitor, or attorney at law, shall, before he be permitted to practise in any court of this State, take and subscribe, in open court, the following oath, to wit;

Oath of counsellors, solicitors, and attorneys at law.

I, do solemnly promise and swear, that I will faithfully and honestly demean myself in the practice of an attorney (or of a counsellor, or solicitor, as the

the case may be) and will execute my office according to the best of my abilities and understanding. So help me God. A. D. 1799.

VII. And be it enacted, That where the form of an official oath is not or shall not be specially prescribed, then one shall be taken in the following words, to wit;

Oath of office, where no one is specially prescribed.

I, do solemnly promise and swear, that I will faithfully, impartially, and justly perform all the duties of the office of according to the best of my abilities and understanding. So help me God.

VIII. And be it enacted, That any member of the legislative council shall be, and hereby is authorised to administer the oaths of office and allegiance to the person, who shall be elected governor of this State; which oaths shall be administered in council, if the legislature be in session.

Oaths to be administered to the governor, by any member of the legislative council.

IX. And be it enacted, That any member of the legislative council or of the general assembly shall be, and hereby is empowered to administer the oath of allegiance to his fellow members of the same house.

Oath of allegiance to be administered to members of the legislature.

X. And be it enacted, That the supreme court and each judge thereof shall be, and hereby is authorised to administer the oath of office and of allegiance to any person, who shall be elected or appointed to the office of chancellor, or secretary, or attorney general of the State, or judge, or clerk of the said supreme court.

By whom the oaths shall be administered to the chancellor, judges, or clerk of the supreme court, secretary, attorney general, &c.

XI. And be it enacted, That it shall be the duty of the clerk for the time being, of the inferior court of common pleas of each county in this State, and of none other, to administer the oaths of office and allegiance to every person, who shall be chosen or appointed a judge of the said court, or a justice of the peace, sheriff, or coroner in and for the said county.

Clerk of the common pleas to administer oaths to the judges of the common pleas, justices, sheriffs and coroners.

XII. And be it enacted, That it shall be the duty of the said clerk to enrol the name of every person, to whom he shall administer the said oaths, together with the time of administering the same, on paper or parchment, to be by him for that purpose kept, and filed in his office, and to transmit, at or before the next session of the legislature, the name of the person so sworn, and the time, to the secretary of the State, to be by him laid before the then next joint meeting of the council and assembly.

The said clerk to enrol the names of such officers and to transmit a copy thereof to the secretary of State.

XIII. And be it enacted, That if the clerk of the court of common pleas be absent, removed, or dead, then it shall and may be lawful for any judge of the said court to administer the oaths of office and allegiance to the persons, or any of them, required to take the same in and by the eleventh section of this act; and the said judge shall report the name of the person, to whom the said oaths were administered, and the date thereof, to the said clerk or his successor, who shall enrol the same, and transmit a copy of such enrolment to the secretary of the State, as is directed by the section next preceding.

If the clerk of the common pleas be absent, &c. that any judge of the said court may administer the oaths of office and allegiance.

XIV. And be it enacted, That any judge of the inferior court of common pleas shall be, and hereby is authorised to administer the oaths of office and allegiance to the person, who shall be chosen or appointed clerk of the said court; and it shall thereupon be the duty of the said clerk, to enrol his own name and the time of his being sworn into office, and transmit as aforesaid a copy of such enrolment to the secretary of State for the purpose abovementioned.

Any judge of the court of common pleas to administer the oaths of office and allegiance to the clerk of the said court.

XV. And be it enacted, That if the clerk of any inferior court of common pleas shall neglect or refuse to perform, in due time, any service or duty enjoined on him by this act, he shall, for every such offence, forfeit thirty dollars, to be recovered by action of debt, with costs, by any person, who will sue for the same.

Penalty on clerks for neglect of duty.

XVI. And be it enacted, That it shall be the duty of any court of judi-

Courts to administer the oath of allegiance and where necessary,

A. D. 1799.

cature of this State to administer the oath of allegiance to such person, as shal be by law required to take the same in the said court.

The authority administering the official oath, to administer the oath of allegiance also.

XVII. And be it enacted, That it shall be lawful for every court, body corporate, judge, justice of the peace, or other person or persons, before whom it is or shall be incumbent for any person, who shall be elected or appointed to office, to take his official oath, to administer at the same time the oath of allegiance to such person, if he is or shall be by law required to take the same.

The judges of the pleas and justices of the peace may administer the oath of allegiance, where no oath of office is required.

XVIII. And be it enacted, That where the oath of allegiance is or shall be required by law, without any official or other oath, then it shall be lawful for any judge of the inferior court of common pleas, or any justice of the peace, in and for his proper county, to administer the same, unless it is or shall be otherwise directed by this or any other act: And further, The said judge and justice are hereby respectively empowered and required to administer the oath of allegiance to any person, who shall apply to take the same.

Penalty on grand and petit jurors refusing to take the oath of allegiance.

XIX. And be it enacted, That if any grand or petit juror, who hath not already taken and subscribed the oath of allegiance to this State, shall refuse, if required by the court, to take and subscribe the oath of allegiance, prescribed by this act, in any court, to which he shall be summoned, he shall, for every such offence, be fined by the said court, in any sum not less than eight nor more than thirty dollars; and the clerk of the said court shall deliver a certified list of the name of the juror and the fine awarded to the sheriff of the county, who shall thereupon levy and make the same, by distress and sale of such juror's goods, with costs.

Such penalty to be recovered by distress and sale.

Within what time schoolmasters shall take the oath of allegiance, or be fined.

XX. And be it enacted, That if any schoolmaster or usher shall neglect or refuse to take and subscribe the said oath of allegiance, for the space of one month after he enters upon the duties of his profession, he shall, for every week after the expiration of the said month that he continues to keep school or teach as an usher, until he shall take and subscribe the said oath, forfeit four dollars, to be recovered by action of debt, with costs, by any person, who will sue for the same.

Officers elected by joint meeting to qualify in two months, or election to be void.

XXI. And be it enacted, That if any person, who shall be elected to any office by the council and assembly in joint meeting, shall neglect or refuse to qualify into such office, for and during the space of two months, after being informed of his election by any member of the council or assembly for the county, in which he resides, or by the clerk of the court of common pleas of such county, his said election shall thenceforth be void.

Former acts repealed.

XXII And be it enacted, That all and every act, and part and parts of any act, within the purview of this act, be, and they are hereby repealed.

An ACT *for the establishment of workhouses in the several counties of this State.*

Passed the 20th of February, 1799.

The board of chosen freeholders authorised to build or purchase a workhouse.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the board of chosen freeholders of every county in this State are hereby authorised, whenever they may think proper, to build or purchase a workhouse, at such place in the county, as the said corporation shall think fit.

The said board to have the government of such workhouse.

II. And be it enacted, That the said workhouse shall be under the direction, superintendance, and government of the said corporation, who are hereby authorised to appoint and hire some fit person to be master of the said workhouse, and other officers and servants, if necessary, and to make such regulations ordinances and by-laws, relative to the well ordering and governing the said workhouse, and keeping the persons confined therein to labour, and the manne

of their being confined, and relative to the due execution of this act, as they shall from time to time deem necessary or convenient; provided the same be not contrary to the constitution or laws of this State. A. D. 1799.

III. And be it enacted, That every person, sentenced to hard labour and imprisonment, according to the act for the punishment of crimes or other law, for any time not exceeding six months, shall, by the sheriff or other proper officer of the county, in which the conviction was had, be delivered to the master of the workhouse, together with a copy of the sentence of the court, certified under the hand and seal of the clerk of the said court, or an order under the hand and seal of one or more of the justices of the peace of the said county, by whom the said sentence may be imposed, and shall be there received and safely kept to hard labour by the said master, agreeably to such sentence, and if he be fined, as well as sentenced to hard labour, then also to be kept to such labour, until he pay the said fine, and likewise the costs of prosecution in the former, as well as in the latter instance, or be discharged by due course of law. But this section shall not extend to any offender, whose sentence shall be imprisonment, or the payment of a fine, or imprisonment and the payment of a fine, without the addition of hard labour in either case.

Persons sentenced to hard labour and imprisonment, for any time not exceeding six months, to be sent to the workhouse.

IV. And be it enacted, That all disorderly persons and others, who are or shall be ordered by law to be sent to such workhouse, shall be kept therein, at the charge and expense of the county, unless otherwise directed by law, and the said corporation are hereby empowered to procure suitable articles, materials and things for their labour, work and employment; and the money, necessary to be expended for the purposes specified in this act, shall be granted and raised by the order of the said corporation, in the like manner as money for other county purposes is directed to be granted, assessed, collected, and raised in and by the act, entitled, "An Act to incorporate the chosen freeholders in the respective counties of the State."

Money, how to be raised for purchasing of materials for the employment of persons sent to workhouse.

V. And be it enacted, That it shall be lawful for any justice of the peace to commit to the said workhouse, to hard labour, any stubborn, disobedient, rude or intemperate slave or male servant, on complaint of his or her master or mistress; and also, after due investigation of such complaint, to order such person to be punished, by such confinement and labour, as the said justice shall think reasonable.

What slaves and servants may be sent to the workhouse.

VI. And be it enacted, That when any servant or slave of the description specified in the preceding section, shall be sent to such workhouse, the master or mistress shall pay for the food and diet of his or her servant or slave such reasonable compensation as the said corporation shall fix.

Masters to pay for the materials for their work, and also for their diet.

VII. And be it enacted, That the master of such work house shall receive all such disorderly persons and others aforesaid, as shall be legally sent to him, and shall keep them to such work and labour as they are capable of and able to perform, during their continuance in the said house; and if they are guilty of indecent language or behaviour, or of profane cursing or swearing, or are disobedient, stubborn, rude; refractory or abusive, or are negligent or idle, or do not perform their task properly and in good condition, or wilfully mismanage their work, or destroy or injure the materials provided for them, then the said master is hereby authorised and required to punish them, by abridging them of their food and diet, as the case may require, until they be reduced to obedience, submission and order.

Duties of the master of workhouse.

VIII. And be it enacted, That if any person committed to the said workhouse, shall unlawfully abscond, or make his escape, or depart therefrom, then such person, on being returned to the said workhouse, shall be punished by imprisonment, at hard labour, for double the time, which may remain unexpired of the original sentence, or by abridging him or her of his or her food and diet, in such manner as the board of chosen freeholders may direct by the rules and regulations, which may be established for the government of the said workhouse.

Persons escaping how to be further punished.

IX. And be it enacted, That the master of every such workhouse shall keep an exact account of the time of the commitment and liberation of the said offenders

A. D. 1799.

ders, of their maintenance, of the articles and materials provided for them to work, and of the earnings and proceeds of their labour, and present the same to the said corporation, at their annual meeting, and also whenever he shall be them be thereunto required: AND FURTHER, That he shall pay the amount of such earnings and proceeds to the said corporation, at the time of exhibiting his accounts as aforesaid; which said earnings and proceeds shall be appropriated by the corporation to the uses of such county.

The master of every workhouse to keep an account of the maintenance, labour, &c. of offenders, and present the same to the corporation.

X. AND BE IT ENACTED, That if the master of such workhouse neglect or refuse to account and pay as aforesaid, or neglect or refuse to perform any of the duties required of him by this or any other law, he shall, for every offence, forfeit fifty dollars, to be recovered, with costs, by action of debt, in any court having cognizance of the same, in the name and for the use of the said corporation.

Penalty on the master of the workhouse for neglecting or refusing to account, or do his duty.

XI. AND BE IT ENACTED, That the boards of chosen freeholders of any two or more counties, are hereby authorised to unite in building or purchasing a workhouse, in common for the said counties, at such place as they shall agree upon, which shall be under the joint direction, superintendance and government of the said corporations, who shall have the powers and do the duties herein before given to and enjoined upon any of the said boards; and the monies, necessary for the said purposes, shall be apportioned between the said counties in such manner as the said corporations shall fix upon; and the sums, so fixed, to be paid by each county, shall be granted and raised, in the same manner as money for other county purposes is directed to be granted, assessed, collected and raised, by the act to incorporate the chosen freeholders in the respective counties of the State.

Two or more counties may unite in building or purchasing a workhouse.

XII. AND BE IT ENACTED, That the court, justices of the peace, and other competent authority of that county, uniting to build or purchase as aforesaid, wherein such workhouse happens not to be, shall have as full power to send and commit any person to the said house, as the said court, justices of the peace or other competent authority would by law have, if the said house were within the county to which they belong.

The courts and other authority of both counties may commit persons to such workhouse.

XIII. AND BE IT ENACTED, That the master of the workhouse, so built or purchased by two or more of the said corporations, shall do the like services and duties, and be under the like regulations and penalties, as are herein before directed and enjoined upon the masters of other workhouses.

The duties of the master of such workhouse.

An ACT *regulating the money of account in this State.*

Passed the 21st of February, 1799.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That from and after the fourth day of July next, the money of account of this State shall be expressed in dollars or units, dismes or tenths, cents or hundredths, and milles or thousandths; a disme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the treasury of this State, all accounts in the treasuries of the different counties of this State, all assessment rolls and duplicates, and all decrees, verdicts, judgments, and executions, in the courts of justice of this State, from and after the said fourth day of July next, shall be made, kept, entered, and expressed in conformity to this act, and not otherwise.

Money of account to be expressed in dollars, dismes, cents and milles.

An ACT *authorising the Governor of this State to purchase field artillery.*

Passed the 21st of February, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the governor of this State for the time

Governor to purchase field artillery.

time being be, and he is hereby authorised and directed to purchase thirteen pieces of field brass artillery, seven of six, and six of three or four pounds caliber each, whichever may be purchased cheapest, together with the carriages and other apparatus necessary for actual service; and shall deliver one of each description to the commanding officer of each brigade of infantry, for the use of the artillery companies attached to his brigade. A. D. 1799.

II. And be it enacted, That the expense of furnishing the said artillery shall be defrayed out of the surplus of the militia funds, now in the treasury of this State; and that the governor be, and he is hereby authorised to draw on the treasurer for any sum, not exceeding two thousand pounds, to be appropriated by him for that purpose, and shall report the expense attending the same, to the legislature at their next session. Appropriation of monies for the purpose.

An ACT *to ascertain the toll of Millers.*

Passed the 25th of May, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every miller shall be allowed for toll one tenth part of a bushel, and no more, out of every bushel of grain, which he shall grind, including bolting; except malt, out of each bushel of which he shall be allowed one quart, and no more. Toll allowed to millers.

II. And be it enacted, That if any miller shall take or receive a greater toll for grinding than is allowed by this act, he shall, for every such offence, forfeit and pay three dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same. Penalty for taking unlawful toll.

III. And be it enacted, That every miller shall keep in his mill an exact measure of one tenth part of a bushel, and of one twentieth part of a bushel, for his toll measures, with a fit instrument to strike the said measures, which shall be stricken whenever toll is taken; and if he fail in any of these particulars, he shall forfeit and pay three dollars, to be recovered as aforesaid. Millers to keep toll measures.

An ACT *to register births and deaths, when required.*

Passed the 27th of May, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the clerk of every township shall provide, at the expense of the township, a book for the purpose of registering births and deaths, when required so to do, in the manner herein after mentioned. Town clerk to provide a book to register births and deaths.

II. And be it enacted, That the parent or parents of every child hereafter born, and the executors or administrators, or next of kin in this State, of every person who shall hereafter die, may, within three years after the birth of such child, or death of such person, apply to the clerk of the township, in which such birth or death shall have happened, to have the same registered according to the directions of this act; and on proof being made of such birth or death, within the said three years, in the manner herein after mentioned, the said clerk shall, and he is hereby required to enter in the said book the name of such child, the time and place of his or her birth, and the name of his or her parent or parents, and in case of death, the name of the person, who shall have departed this life, and the time and place of such person's death. Within what time, and by whom application may be made for registering a birth or death. Mode of registering.

III. And be it enacted, That the proof of a birth shall be by a certificate, which shall contain the name of the child, and of his or her parent or parents, and the Proof of birth, how to be made.

A. D. 1799.

the time and place of his or her birth, the truth of which certificate shall be sworn or affirmed to by the parents of such child, or one of them, or by some person present at the birth.

Proof of death, how to be made.

IV. And be it enacted, That the proof of a death shall be by a certificate, which shall contain the name of the person deceased, and the time and place of his or her death; the truth of which certificate shall be sworn or affirmed to by a witness, who was present at the death of such person, or actually saw such person dead.

Proofs before whom to be made.

Clerk's fees.

V. And be it enacted, That every justice of the peace of the county, where such birth or death shall happen, is hereby authorised to administer the said oath or affirmation; and the said certificate, so sworn or affirmed to, shall be filed by the clerk of the township, whose fees shall be twelve cents for registering each birth or death, and six cents for filing each certificate.

Books to be evidence.

VI. And be it enacted, That the said books or registers of births and deaths, and other books heretofore kept for the same purposes agreeably to law, shall be admitted in evidence in every court of this State.

Penalty on clerk for not registering births and deaths in due time.

VII. And be it enacted, That if the said clerk shall not, within two weeks after such application and certificate to him made and produced as aforesaid, and the fees aforesaid tendered to him, enter or register in the form and book aforesaid any such birth or death, he shall forfeit four dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same.

Punishment for false swearing to certificate, and for false entry of birth or death.

VIII. And be it enacted, That if any person shall wilfully, knowingly, and falsely swear or affirm to any certificate of such birth or death, or if any clerk shall wilfully and knowingly make in the said book a false entry of such birth or death; then the said person or clerk, so offending, shall be adjudged to be guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment or both, or by fine or imprisonment at hard labor, or both, at the discretion of the court, the fine not to exceed eight hundred dollars, and the imprisonment not to exceed seven years.

Former act repealed.

IX. And be it enacted, That the act, entitled, "An Act for the registering of marriages, births, and deaths, where the parties, or their relatives may require the same," passed the eighth day of November, in the year of our Lord, one thousand, seven hundred and ninety, be, and is hereby repealed.

An ACT *relative to the college of New-Jersey.*

Passed the 27th of May, 1799.

Preamble.

I. WHEREAS it appears, that George the second, king of Great-Britain, by his charter of incorporation, bearing date the fourteenth day of September, in the year of our Lord, one thousand, seven hundred and forty eight, did incorporate sundry persons, to the number of twenty three, by the name of "The trustees of the college of New-Jersey;" and did thereby, among other things, grant unto them power and authority to erect, endow, and govern a college for the instruction of youth in the learned languages, and liberal arts and sciences; as by the said charter of incorporation, recorded in the secretary's office in book C, number 2, pages 196 to 204 inclusive, reference being thereunto had, may more fully appear: and whereas it is proper, that the said charter, with certain alterations and amendments, should be established and confirmed under the present government; Therefore, *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the said charter, with the advantages, privileges, and immunities, and all other matters and things therein contained, such clauses and parts only excepted as are by this act repealed, altered, or amended, is hereby established and confirmed; and shall for ever hereafter be held and esteemed as good and effectual in law, to all intents, constructions and purposes, as the same hath heretofore been held and esteemed, and as if the same

The charter of the college of New-Jersey confirmed with certain alterations and amendments.

were

were herein particularly recited, any misuser, nonuser or other default heretofore committed or suffered notwithstanding. A. D.

II. And be it enacted, That the said trustees of the college of New-Jersey, and their successors, shall and may have, hold and enjoy all the advantages, privileges and immunities, granted in the said charter, and hereby confirmed unto them and their successors, in as full, ample and beneficial a manner, as if the same were given and granted by a law of this State, and as if the said advantages, privileges and immunities were, in the said law, particularly specified and enumerated, any law, usage or custom relating to charters notwithstanding. The [illegible] rights of the [illegible] tion confirmed.

III. And be it enacted, That the clause in the said charter, requiring every trustee and officer of the said corporation to take and subscribe the oaths and declarations established by certain statutes of Great-Britain, be, and it hereby is revoked and annulled. A certain clause in the charter revoked.

IV. And be it enacted, That if any person, being an inhabitant of this State, shall be elected a trustee or officer of the said corporation, he shall, before he enters upon the duties of his office, take and subscribe the oath to support the constitution of the United States, and the oath of allegiance to this State prescribed by law; which oath any member of the said corporation is hereby authorised to administer; and if any person being an inhabitant of any other of the United States, shall be elected a trustee or officer of the said corporation, he shall, before he enters upon the duties of his office, produce a certificate from some justice of the peace of the State, in which he resides, setting forth, that he hath taken the oath to support the constitution of the United States, and the oath of allegiance to the said State: And further, That it shall be lawful for any member of the said corporation to administer the oath of office to the person so elected. Oaths to be taken by the trustees and officers of the corporation.

V. AND WHEREAS the said corporation have represented, that, by their charter, thirteen members are requisite to constitute a quorum, to the great injury of the institution and their trust, by reason of the nonattendance of members, who live at a distance, and have prayed, that the said quorum may be lessened: *Be it therefore enacted*, That any nine or more of the trustees of the said college, when duly convened, shall constitute a quorum, and be competent to perform and execute all the duties, business, matters and things of the said corporation, as fully and effectually as if thirteen of them had so convened, and shall have the like powers, authorities and interests, as, by the said charter, are given to and vested in thirteen of the said trustees or members when duly convened, and shall be under the same directions, regulations, conditions, restrictions, provises and limitations, as to the benefit, conveniency, and meetings of the said corporation, as are contained in the said charter with respect to the quorum of thirteen trustees or members. Provided always, That the governor of this State for the time being, or in case of his death or absence, the president of the said college for the time being, and in case of the death or absence of both the said governor and president, then the senior trustee of the said college, shall always be one of the said nine trustees, so at any time constituting a quorum as aforesaid. Nine or more of the trustees to constitute a quorum, of which the governor, president, or senior trustee shall be one.

VI. And be it enacted, That the said trustees of the college of New-Jersey, and their successors, may have, hold and enjoy any estate whatsoever, the clear yearly value whereof shall not exceed twenty thousand dollars. [illegible] [illegible]

VII. And be it enacted, That the act, entitled, "An Act for amending and establishing the charter of the college of New-Jersey," passed the thirteenth day of March, in the year of our Lord, one thousand, seven hundred and eighty, and the act, entitled, "An Act to continue an act, entitled, A supplemental act to an act, entitled, An Act for amending and establishing the charter of the college of New-Jersey," passed the twentieth day of November, in the year of our Lord, one thousand, seven hundred and eighty six, be, and they are hereby repealed. [illegible] ed.

An ACT

A. D. 1799.

An ACT *to punish the venders of unwholesome liquors and provisions.*

Passed the 27th of May, 1799.

Punishment of persons selling unwholesome liquors or provisions

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if a butcher or other person shall sell offer, or expose to sale, the flesh of any animal, dying otherwise than by slaughter, or slaughtered when diseased, or any contagious, or unwholesome flesh, o if a baker, brewer, distiller, or other person, shall sell unwholesome bread, drin or liquors, he shall be adjudged to be guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding fifty dollars, or by imprisonmen not exceeding four months.

An ACT *to alter part of the public road in the township of Greenwich, in the county of Gloucester, leading from Woodbury to Salem.*

Passed the 30th of May, 1799.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That so much of the road, called Salem road, a runs through the tract of land belonging to Thomas Clark, be, and the same is hereby vacated and made void: *Provided nevertheless, and it is further enacted,* That a road six rods in width, beginning in the middle of the said Salem road, between the said Thomas Clark's house and Samuel Mickle's house, and thence running along the line between said Samuel Mickle's land and said Thomas Clark's land south, fifty three degrees and thirty minutes west, forty four chains and twenty links, to the middle of said Salem road at Samuel Tomkin's line, shall be, and the same is hereby established as a public highway, in the place and stead of the road hereby vacated and made void.

An ACT *relative to Queen's college.*

Passed the 31st of May, 1799.

I. WHEREAS William Franklin, esquire, late governor of the then province of New-Jersey, by his charter, bearing date the twentieth day of March, in the year of our Lord, one thousand, seven hundred and seventy, did establish a college, by the name of Queen's college, in the said province; and whereas the trustees of the said college have, by their petition, prayed that the said charter, with certain alterations and amendments, may be confirmed: Therefore, *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the oath to support the constitution of the United States, and the oath of allegiance to this State, as by law prescribed, be substituted in the place of the oaths required by the said charter.

Oaths to be taken by the trustees.

Notice of their meeting, how to be published.

II. AND BE IT ENACTED, That the notice for the meetings of the trustees of the said college be given in any newspaper published in the State of New-Jersey or of New-York, instead of New-York only.

Certain restrictions taken off.

III. AND BE IT ENACTED, That such parts of the said charter as restrict those ordained ministers of the gospel, at any time elected trustees, not to exceed one third of the whole, and as direct that the governor of the colony for the time being, and, in his absence, the president of the council, and, in his absence, the chief justice, and, in his absence, the attorney general, shall be president of the trustees at their first and every meeting, be, and are hereby revoked and annulled; and that the governor of this State for the time being, shall, when attending, be president of the said trustees at their meetings.

Power of granting degrees extended.

IV. AND BE IT ENACTED, That the powers of granting degrees, vested in the

the president of the said college, by and with the consent of the majority of the said trustees, established as a quorum in the said charter, be, and they hereby are extended to the conferring of any degrees granted by any other college or university. A. D. 1799.

V. And be it enacted, That the said charter, with the beforementioned alterations and amendments, be, and the same hereby is ratified and confirmed. Confirmation of charter so altered and amended.

VI. And be it enacted, That the act, entitled, "An Act to alter, amend, and confirm the charter of Queen's college, in New-Jersey," passed the fifth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, be, and the same is hereby repealed. Former act repealed.

An ACT *concerning wrecks.*

Passed the 31st of May, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no violence, wrong, or injury, shall be offered to the persons or goods on board of any vessel, which shall be stranded or wrecked on the coast or territory of this State; but the said persons shall be harboured and relieved, and the said goods secured and preserved for the owners, if they appear in due time, or, on failure thereof, for the State. In case of wreck, persons to be relieved, and goods secured.

II. And be it enacted, That no goods or vessel, which shall be cast by the sea on the coast or land of this State, shall be adjudged to be a wreck, but shall be saved by the sheriff of the county, who shall cause the same to be appraised, and safely keep them, so that if the owner, being a person entitled by the laws of the land or the law of nations to a restoration thereof, shall, within a year and a day, claim and prove them to be his property, they shall be restored to him without delay, on his paying reasonable costs and salvage; and if no owner shall apply within the said time, the same shall be sold at public vendue by the said sheriff, who, after deducting all reasonable costs and expenses, shall pay the residue of the money to the treasurer of this State, for the use of the State. But if the goods be of a perishable nature, the sheriff may sell them, and retain the money, which he shall pay to the said owner or treasurer, as the case may require. Vessels and goods cast on shore to be saved for the owners, if they apply within a limited time.

III. And be it enacted, That it shall be the duty of the sheriff of every county, bordering on the sea, to give all possible and immediate assistance and relief to any vessel stranded, or in danger of being stranded, or in distress, and to the people on board the same; to use his utmost endeavours to save such vessel and people, and to secure and preserve, for the purposes aforesaid, the cargo and goods; and to that end, the said sheriff is hereby authorised and required to employ such and so many fit persons, as he shall think requisite or proper. Duty of the sheriffs respecting such vessels, and goods, and the people on board.

IV. And be it enacted, That the said sheriff and the men by him employed, shall be allowed a reasonable salvage for their assistance and services; that the said sheriff may detain the said goods until such salvage shall be paid; and if any dispute arise concerning the salvage, it shall be adjusted and ascertained by any two or more justices of the peace of the said county. Salvage how to be ascertained, and paid.

V. And be it enacted, That if any person, but such as is empowered by the said sheriff, shall enter, or endeavour to enter on board of any vessel stranded, or in danger of being stranded, or in distress, without leave of the commanding officer thereof, or shall molest them in saving the said vessel or goods, or shall endeavour or attempt to hinder the saving of such vessel or goods, he shall forfeit and pay, for every such offence, one hundred dollars, to be recovered by action of debt, with costs, by the county collector, for the use of the county. Penalty on persons who shall enter such vessel, without authority or leave, or who shall hinder the saving of the cargo.

VI. And be it enacted, That if any person shall take goods out of such vessel, or shall take any goods cast by the sea on the land, or found in any bay

A. D. 1799.

Punishment of persons, who shall take goods from such vessel, and not deliver them to the sheriff, or who shall secrete such goods.

or creek, and not deliver the same to the sheriff of the county, or give him notice thereof within four days thereafter, or shall secrete such goods, or convert them to his own use, he shall pay double damages to the owner, to be recovered with costs, and shall be adjudged to be guilty of a misdemeanor, and on conviction, shall be punished by fine, not exceeding three hundred dollars, or by imprisonment, not exceeding six months.

Punishment of persons, who put up false lights, or wound a person escaping from, or do any act tending to the loss of such vessel.

VII. And be it enacted, That if a person shall put up false lights in order to bring any vessel into danger, or shall prevent the escape of a person, who shall endeavour to save his life from any vessel so stranded, in danger of being stranded, or in distress, or shall wound such person, with intent to kill him, or shall make, or assist in making a hole in any vessel in distress, or steal her pumps, or wilfully do any act or thing tending to the immediate loss of such vessel, or whereby such vessel shall be lost or destroyed, then every person, so offending, shall be guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, and by imprisonment at hard labour, not exceeding three years.

This act not to affect treaties. Its continuance.

VIII. And be it enacted, That this act shall not be construed to contravene any treaty of the United States, and shall continue and be in force until Congress shall pass a law on the subject, and no longer.

An ACT *directing the clerks of courts to make return to the treasurer, of amercements, fines, and forfeitures.*

Passed the 31st of May, 1799.

Clerks of courts, to transmit, annually, abstracts of fines, &c. to the treasurer of the State.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall be the duty of the clerk of every court of this State to make out, within ten days after the session or term of the said court, a true abstract from the minutes of all fines and amercements awarded, and the amount of all judgments entered on forfeited recognizances, for the use of the State, during the said session or term; and to transmit the same to the treasurer of this State on or before the first day of November, annually; which abstract shall contain the names of the persons fined and amerced, and against whom judgment as aforesaid has been entered, and also the names of the sheriff and collector of the county for the time being.

Penalty on clerks for neglect, and how to be recovered.

II. And be it enacted, That if any clerk shall refuse or neglect to transmit such abstract to the treasurer at or before the time hereby appointed, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered by action of debt, with costs, in the name of the secretary of this State, for the use of the State.

Treasurer to return the names of delinquent clerks to the secretary, for prosecution.

III. And be it enacted, That it shall be the duty of the treasurer, within two days after the first day of November, annually, to make out and return the name of every delinquent clerk to the secretary, who, upon receipt thereof, shall prosecute such clerk for the recovery of the said penalty.

IV. And be it enacted, That every act and part of any act, within the purview of this act, be, and they are hereby repealed.

An ACT *concerning rams.*

Passed the 31st of May, 1799.

Rams not to run at large from the twentieth of August till the first of November.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That, from and after the twentieth day of August until the first day of November, in every year, no ram shall be permitted to go at large out of the enclosure of his owner; but every ram shall during

during the said period, be confined and kept within some enclosed pasture field or ground, secured by a fence so close and high, as not to admit sheep to pass the same. A. D. 1799.

Rams going at large, or trespassing, during the above period, may be castrated or impounded.

II. And be it enacted, That if, during the said period, any ram shall go over or break through the fence or enclosure of his owner, or shall trespass upon the enclosure of any other person, or shall run at large out of such enclosed pasture field or ground of the owner, it shall and may be lawful for any person to take the said ram and castrate him; or such person may impound the said ram, for which the owner shall pay him fifty cents.

Former act repealed.

III. And be it enacted, That the act, entitled, "An Act to prevent rams from running at large at certain seasons of the year," passed the sixth day of December, in the year of our Lord, one thousand, seven hundred and seventy five, be, and the same is hereby repealed.

An ACT *relative to the laying out, vacating, and altering of roads.*

Passed the 1st of June, 1799.

Width of public roads ascertained.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every public road or highway, which shall hereafter be laid out, shall not be more than four nor less than two rods wide.

Where a road is to be laid out, altered, or vacated in a county, a petition to be made to the court of common pleas, and advertised. The court thereupon to appoint six of the surveyors of the highways to meet for the purpose.

II. And be it enacted, That when ten or more persons, being freeholders, shall think a public road necessary, or any public road, which hath been or shall be laid out, unnecessary, or any alteration in such road necessary, in any part of the county, in which they reside, it shall be lawful for the said persons to make application in writing to the inferior court of common pleas of the said county, having given previous notice, for at least ten days, of such intended application, by advertisements under their hands, and set up at three of the most public places in the township or townships, in which the said road is proposed to be laid out, vacated or altered; and the said court, when applied to as aforesaid, are hereby authorised and required to appoint six of the surveyors of the highways of the said county to meet at such time and place as the said court shall direct, a copy of which appointment shall be served by the said applicants on each of the said surveyors, at least six days prior to the time of their meeting, and two of the said applicants shall, at least twelve days prior to the said time, sign and set up advertisements, at three of the most public places in the said township or townships, setting forth the time and place of the meeting of the said surveyors, agreeably to the directions of the court, and designating the points or places from and to which the said road is proposed to be laid out, vacated, or altered.

Surveyors to make and sign returns of highways laid out, altered, or vacated.

III. And be it enacted, That the said six surveyors, or a majority of them, when met as aforesaid, shall view the premises, and may, if they think it necessary, lay out, vacate, or alter the said public road, and shall cause the road, so laid out or altered, to be marked at proper distances on one or both sides, and shall draw a return of such road, in which shall be set forth and designated the courses, distances, boundaries, and the most remarkable places, points, or objects therein, with the time when the overseers of the highways shall open the same for public use; which return the said surveyors or a majority of them as aforesaid shall date, sign and deliver to some of the said applicants, who shall transmit it to the clerk of the said court, who is required to record the same in a book to be kept for that purpose; and every road, so laid out, or altered and recorded as aforesaid, shall be a lawful highway from the time appointed for the opening of the same; and if any public road be vacated, return thereof shall be made, signed, delivered and recorded as aforesaid: And further, That the said applicants shall, at their own expense, procure a surveyor, with chain and compass, to assist in the laying out or altering of the said road.

Such returns to be recorded by the clerk of the court.

Applicants to procure a surveyor.

IV. And be it enacted, That if any surveyor of the highways, who shall have

A. D. 1799.

Penalty on surveyors and clerks for neglect or refusal of duty.

have received due notice, or any clerk, shall refuse or neglect to perform any service or duty prescribed by this act, he shall, unless he assign good reason for such refusal or neglect, forfeit sixteen dollars, to be recovered by action of debt with costs, by any person, who shall sue for the same, to be paid to the county collector, for the use of the county.

Four surveyors to constitute a quorum.

When the said quorum may adjourn.

V. And be it enacted, That if any number, not less than four, of the said six surveyors shall attend at the time and place appointed by the said court, they shall be a quorum to execute the business for which they were convened, and be competent to lay out, alter, or vacate the said road, as the case may require: Provided, That the signature of four of them, so convened, shall be requisite to render the said return valid and effectual; and if any number, not less than four, of the said six surveyors, shall convene as aforesaid, they may, if a majority of the said applicants attending consent, adjourn to a future day, giving the parties then present verbal and the absent surveyor or surveyors, written notice of the time, to which they have adjourned; and if any number of the said surveyors, sufficient to constitute a quorum, shall convene pursuant to adjournment, they shall proceed to perform the service and duty required of them, in the manner herein before prescribed.

When a public road is necessary to be laid out, vacated, or altered, on the line between two counties, or part in one and part in another county, application to be made to the supreme court.

VI. And be it enacted, That when the aforesaid number of freeholders shall think a public road necessary, or any public road unnecessary, or an alteration in such road necessary, on any part of a line between two counties, or part in one county and part in another, they shall make application in writing to the supreme court, having first advertised such intended application for at least three weeks at four of the most public places in each of the said counties, nearest to the place, where such road is to be laid out, vacated or altered; and the said supreme court, on such application, shall appoint three of the surveyors of the highways in each of the said counties, to meet at such time and place as the said court shall direct; and the said applicants and surveyors shall thereupon proceed in the manner herein before prescribed; except that the return of every road so laid out, vacated, or altered, shall be recorded in the clerk's office of the court of common pleas of each of the said counties: Provided always, That the signatures of two of the said surveyors, in each of the said counties, shall be necessary to render the said return valid and effectual.

Width of private roads.

VII. And be it enacted, That every private road, which shall hereafter be laid out, shall not be more than thirty feet in width, but may be less, at the discretion of the surveyors of the highways.

How and by whom application is to be made for laying out, vacating, or altering a private road.

VIII. And be it enacted, That if any person shall think a private road necessary to or from his land, or to a mill, market, public landing, or public road, or shall think it necessary to have a private road vacated or altered, he shall make application in writing to the inferior court of common pleas of the county, having given at least ten days previous notice, by advertisements under his hand, and set up at three of the most public places in the proper township or townships, of such intended application; and the said court, on such application, shall appoint six of the surveyors of the highways of the said county to meet at such time and place as the said court shall direct, a copy whereof shall, by the said applicant, be served on each of the said surveyors, at least six days prior to the time of their meeting; and the said applicant shall, at least twelve days prior to the said time, sign and set up advertisements, at three of the most public places in the said township or townships, setting forth the time and place of the meeting of the said surveyors, agreeably to the directions of the court, and designating the points or places, from and to which the said road is proposed to be laid out, vacated, or altered; and the said surveyors, or the number sufficient to constitute a quorum shall, when convened, proceed in the exercise of their office, and their return be recorded in the manner and under the penalties prescribed in and by the third, fourth and fifth sections of this act; and the road so laid out, or altered, and recorded shall be a lawful private road.

By whom private roads shall be cleared and worked.

IX. And be it enacted, That every private road, which shall be laid out or altered by virtue of this act, shall be cleared, worked, repaired and maintained by the applicant or applicants for the said road; or in case of neglect, it shall be lawful

lawful for any other person or persons, who may have occasion to use the said road, to clear and work the same. A. D. 1798.

X. And be it enacted, That it shall be lawful for the owner of any land, over which a private road may pass, to hang swinging gates in the said road; and if any person shall stake, shore, or leave open, or cut, break, pull down, or destroy any such gate, he shall, for every offence, forfeit two dollars, to be recovered by action of debt, with costs, by any person, who shall prosecute for the same, and shall also pay to the owner of the soil, or his tenant, all damages, which he may have sustained thereby, to be appraised by three neighboring freeholders, or a majority of them; which damages, so assessed, shall be recovered by action of debt, with costs.

Swinging gates may be erected on private roads.

Penalty for leaving them open, &c.

XI. And be it enacted, That it shall not be lawful for any court to appoint surveyors of the highways to lay out, vacate, or alter any road oftner than once in the course of the same year, except where the return of the said surveyors shall have been set aside and annulled for irregularity or illegality of procedure, in which case, the said court is hereby authorised and directed, upon application for that purpose, immediately to appoint surveyors to lay out, vacate, or alter the said road, as the case may require.

Courts not to appoint surveyors to lay out, vacate, or alter a road oftner than once in the same year.

XII. And be it enacted, That when any person shall think himself aggrieved by any irregularity or illegality in the proceedings of the said surveyors, or of the applicants for the said road, it shall be lawful for him to apply to the court, in which the business originated, at the term next after the said surveyors shall have made their return, whose duty it shall be to hear and determine the same in a summary way; and if it appear, that the said proceedings have not been had and conducted agreeably to the directions of this act, the said court shall adjudge the return of the said surveyors to be invalid and void, which adjudication shall be entered by the clerk in the road book; but if no such irregularity or illegality appear, the said court shall adjudge the said return to be good and effectual, which shall be entered accordingly.

How the party may avail himself of any irregularity or illegality in the proceedings of the surveyors, or applicants for a road.

XIII. And be it enacted, That the court of common pleas, which shall appoint the said surveyors, shall have exclusive cognizance of the subject matter, and that no proceedings relative to the same, or to any road, shall be removed by certiorari, or any other writ, into the supreme court of this State; and where the said supreme court shall appoint surveyors to lay out, vacate, or alter any road, then such court shall, in the like summary way, hear and determine upon the proceedings respecting the same.

The court which appoints surveyors, shall have exclusive cognizance of their proceedings.

XIV. And be it enacted, That the clerk of the court shall not record the return of the said surveyors, until the expiration of ten days after he shall have received the same; so that any person, being aggrieved thereby, may, within the said ten days, enter a caveat, with the said clerk against recording the said return; which caveat, so entered, shall operate as a supersedeas to further proceedings, until the court shall decide thereon; and the said court, if they adjudge the return to be valid and effectual, shall ascertain the time for carrying the same into effect.

Clerk not to record returns for ten days in which time a caveat may be entered.

XV. And be it enacted, That if any by-road, heretofore used as such by the inhabitants of this State, although not laid out agreeably to law, shall be shut up or rendered impassable, whereby the said inhabitants may be put to immediate inconvenience or difficulty, then any person, so aggrieved, may apply by writing to three of the surveyors of the highways of the county, to lay out the said road; and the said surveyors are hereby authorised to lay out the same, which shall remain as a private road, until it be vacated, or altered in the manner herein before directed by the eighth section of this act.

By-roads heretofore used, being shut up, how to be laid out.

XVI. And be it enacted, That the highway or public road, which leads from Perth-Amboy to Salem, and the highway or public road, which leads from Elizabeth Town to Trenton, as they now run, shall be, and hereby are established and confirmed; that nothing in this act shall extend to, or affect the said roads;

A. D. 1799.

and that the same shall not be liable to be vacated or altered by the order of any court, or by any surveyors of the highways.

XVII. And be it enacted, That the following and no other fees shall be allowed and taken for services done and rendered by virtue of this act.

Rate of fees under this act.

COURTS.

For every appointment of surveyors of the highways,	fifty cents.
For every adjudication on the proceedings and return of the surveyors,	one dollar.

SURVEYORS *of the* HIGHWAYS.

To each surveyor, after the rate of seventy five cents a day.

CLERKS.

For reading and filing every application,	twelve cents.
For entering and filing caveat,	twelve cents.
For entering every order and adjudication of the court,	twelve cents.
For every copy thereof,	seven cents.
For recording and filing the return of surveyors,	twenty five cents.
For copy of such return,	twelve and one half cents.

The above fees to be paid by the applicant or applicants.

Former act repealed.

XVIII. And be it enacted, That the act, entitled, "An additional supplement to an act, entitled, An Act for regulating roads and bridges," passed the twenty first day of February, in the year of our Lord, one thousand, seven hundred and ninety four, and the act, entitled, "A supplement to an act, entitled, An Act for regulating roads and bridges," passed the twenty ninth day of November, in the year of our Lord, one thousand, seven hundred and ninety two, be, and they are hereby repealed.

An ACT *to regulate the fisheries in Raritan river, and to repeal a certain act therein mentioned.*

Passed the 1st of June, 1799.

Penalty for fixing fish-wears &c. across Raritan river, within certain limits.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, it shall not be lawful for any person to erect, fasten or fix any fish-wear, hoop-net, seine or other device for the purpose of catching fish, across any part of Raritan river, between the mouth thereof and the first milldams now erected across Millstone, and the north and south branches of Raritan river. And if any person shall offend against this act, he or she shall forfeit and pay, for every such offence, the sum of ten dollars, to be sued for and recovered, in the name of any person, who shall make complaint thereof, and when recovered, to be applied the one half to the overseers of the poor of the township, where the said offence shall be committed, for the use of the poor of the said township, and the other half to the person, who shall sue for the same: Provided, That nothing herein contained

contained shall be construed to extend to any person or persons whatsoever, who shall fasten any hoop-net or nets in the said river, adjoining either of the shores thereof, between the mouth of the same and a wharf on the south side of the aforesaid river, near the city of New-Brunswick, known by the name of the New Dock. A. D. 1799.

II. And be it enacted, That the act, entitled, "An Act to regulate the fishery within that part of the eastern division of this colony, from the mouth of Raritan river northward," passed the tenth day of May, in the year of our Lord, one thousand, seven hundred and sixty eight, be, and the same is hereby repealed. Former act repealed.

An ACT *to repeal certain acts.*

Passed the 3d of June, 1799.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An Act for preventing corruption in the courts of justice in this province," passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and thirteen-fourteen, and the act, entitled, "An Act to ascertain the size of casks, and the standards of weights and measures, and to empower the justices of the peace, at their quarter sessions, to appoint packers for packing provisions at the most convenient landings in each respective county within this province," passed the thirteenth day of August, in the year of our Lord, one thousand, seven hundred and twenty five, and the act, entitled, "An Act for securing the freedom of assemblies," passed the eighth day of July, in the year of our Lord, one thousand, seven hundred and thirty, and the act, entitled, "An Act to encourage the killing of wolves and panthers," passed the eighth day of July, in the year aforesaid, and a supplement thereto, passed the twenty third day of October, in the year of our Lord, one thousand, seven hundred and fifty one, and the act, entitled, "An Act to encourage the direct importation of rum from the British plantations in the West-Indies, and of such wines as may lawfully be imported from the places of their growth, product and manufacture, into the eastern division of New-Jersey," passed the second day of December, in the year of our Lord, one thousand, seven hundred and forty three, and the act, entitled, "An Act for preserving of timber in the eastern division of the colony of New-Jersey, and all sorts of trees in the bounds of the patent or charter of the township of Bergen, that lies in common," passed the second day of December, in the year of our Lord, one thousand, seven hundred and forty three, and the act, entitled, "An Act to enable the inhabitants of the county of Middlesex to build a work house and house of correction within the said county, and to make rules and orders for the government of the same," passed the sixteenth day of December, in the year of our Lord, one thousand, seven hundred and forty eight, and the act, entitled, "An Act to extend certain acts of parliament of Great Britain, passed in the twelfth year of her late Majesty Queen Anne, and the fourth year of his late Majesty King George the first, for the preserving all such ships and goods thereof, which shall happen to be forced on shore or stranded," passed the twenty eighth day of June, in the year of our Lord, one thousand, seven hundred and sixty six, and the act, entitled, "An Act for the better regulating constable, vendues, and taverns," passed the tenth day of May, in the year of our Lord, one thousand, seven hundred and sixty eight, and the acts therein repealed, and the act, entitled, "An Act to grant further allowance to the several sheriffs of this colony, for the subsistence of prisoners confined for felony and other crimes," passed the twenty first day of December, in the year of our Lord, one thousand, seven hundred and seventy one, and the act, entitled, "An Act for the regulating of constables," passed the fifteenth day of March, in the year of our Lord, one thousand, seven hundred and seventy seven, and the supplement thereto, passed the thirty first day of May, in the year of our Lord, one thousand, seven hundred and eighty, and the act, entitled, "An Act for the better regulating the quartering of soldiers, and furnishing of carriages, horses and other necessaries

A. D. 1799.

cessaries for the army," passed the twenty fourth day of March, in the year o our Lord, one thousand, seven hundred and seventy eight, and the act therei repealed, and the act, entitled, "An Act for apprehending and delivering up t justice all persons residing or taking refuge in this State, charged with crimes com mitted in any other of the United States, and for other purposes therein mentior ed," passed the second day of October, in the year of our Lord, one thousand seven hundred and seventy eight, and the supplement thereto, passed the seven teenth day of March, in the year of our Lord, one thousand, seven hundred an eighty, and the act entitled, "An Act for the encouragement of education," pas sed the tenth day of December, in the year of our Lord, one thousand, seven hun dred and seventy eight, and the act, entitled, "An Act to prevent persons from pas sing through this State, without proper passports," passed the tenth day of June in the year of our Lord, one thousand, seven hundred and seventy nine, and th act, entitled, "An Act to vest the justices of the supreme court, with power t grant process to compel the attendance of witnesses at courts martial," passed th eighth day of December, in the year of our Lord, one thousand, seven hundre and seventy nine, and the act, entitled, "An Act to empower the justices of th peace for the county of Somerset to commit offenders to gaol in any of the neigh bouring counties," passed the twenty fourth day of December, in the year of ou Lord, one thousand, seven hundred and seventy nine, and the act, entitled, "An Act to declare and ascertain the privileges of the subjects of his most Christian Majesty, residing within this State, passed the twenty fifth day of May, in th year of our Lord, one thousand, seven hundred and eighty one, and the act, en titled, "An Act to preserve the buildings in this State, belonging to the United States, from being destroyed, and for the punishment of those, that shall seize o or injure the same," passed the fifth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, and the act, entitled, "An Act to com pel the attendance of witnesses at militia courts martial," passed the ninth day o June, in the year of our Lord, one thousand, seven hundred and eighty one, an the act, entitled, "An Act authorising the governor to grant commissions fo guard boats and coasting vessels," passed the twenty seventh day of June, in th year of our Lord, one thousand, seven hundred and eighty one, and the act en titled, "An Act for regulating and establishing admiralty jurisdiction," passed th eighteenth day of December, in the year of our Lord, one thousand, seven hun dred and eighty one, and a supplement thereto, passed the twenty ninth day of No vember, in the year of our Lord, one thousand, seven hundred and eighty two and the act, entitled, "An Act to encourage the apprehending all prisoners of war, who have escaped or hereafter may escape from the place of their confine ment," passed the seventh day of June, in the year of our Lord, one thousand seven hundred and eighty two, and the act, entitled, "An Act for the promotion and encouragement of literature," passed the twenty seventh day of May, in th year of our Lord, one thousand, seven hundred and eighty three, and the act entitled, "An Act to revive and continue an act, entitled, "An Act more effectually to punish the counterfeiters of foreign gold or silver coin, current within the colony of New-Jersey, and the utterers thereof, knowing the same to be counterfeit," also an act, entitled, "An Act to prevent the exportation of unmerchantable flour to foreign markets," and also an act entitled, "An Act to regulate the packing of beef and pork, and to ascertain the size of casks," passed the nineteenth day of June, in the year of our Lord, one thousand, seven hundred and eighty three, and the act, entitled, "An Act to prevent the circulation of bad and light coppers in this State," passed the fourth day of June, in the year of our Lord, one thousand, seven hundred and eighty seven, and the act, entitled, "An Act for laying an excise on sundry articles re tailed or consumed in this State," passed the fourth day of June, in the year o our Lord, one thousand, seven hundred and eighty seven, and the act, entitled "An Act more effectually to prevent the taking and detaining unjustifiable pos session of lands, &c." passed the tenth day of June, in the year of our Lord one thousand, seven hundred and ninety, and the act, entitled, "An Act to re vive and continue an act, entitled, "An Act more effectually to punish the coun terfeiters of foreign gold or silver coin, current within the colony of New-Jersey and the utterers thereof, knowing the same to be counterfeit," passed the nine teenth day of March, in the year of our Lord, one thousand, seven hundred and ninety five, be, and the same are hereby repealed.

An ACT

An ACT *relative to the supreme and circuit courts.*

A. D. 1799.

Passed the 6th of June, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the supreme court of this State shall consist of a chief justice and three associate justices, and shall hold, annually, at Trenton, four terms, commencing the last Tuesday of February, the second Tuesday of May, the first Tuesday of September, and the second Tuesday of November.

Supreme court to consist of four judges, and to hold, annually, four terms, at Trenton.

II. AND BE IT ENACTED, That the said supreme court may be held by the chief justice, or any one of the said justices; and that every day of the said term, except Sunday, shall be a return day.

One judge to be a quorum, and every day of term to be a return day.

III. AND BE IT ENACTED, That every issue, which hath been or shall be joined in the supreme court, or any other court, and brought into the supreme court to be tried, and which is or may be triable by the country, shall be tried in the county, where the lands, tenements or hereditaments in question are situate, or the cause of action or offence hath arisen or been committed, or shall arise or be committed; unless the supreme court, upon motion in behalf of this State, if the State be interested, or upon motion of either party in the action, shall think proper to order the trial to be at the bar of the said supreme court, which shall only be done, where the matter or property in dispute shall be of the value of three thousand dollars; and if the party, who shall obtain a rule for a trial at bar, shall not recover to the amount of the said sum, he shall be entitled to no more costs, than if the cause had been tried at the circuit court of the proper county.

Issues in the supreme court to be tried in the proper counties; unless a trial at bar be ordered.

IV. AND BE IT ENACTED, That an action merely transitory shall, at the discretion of the court, be tried in the county, in which the cause of action arose, or the plaintiff or defendant reside at the time of instituting such action, or, if the defendant be not an inhabitant of this State, in the county, in which process shall have been served upon him.

Transitory actions, where to be tried.

V. AND BE IT ENACTED, That the supreme court may order trials by foreign juries in all cases, where it shall be proper or necessary.

Supreme court may order trials by foreign juries.

VI. AND BE IT ENACTED, That the chief justice, or one of the justices of the supreme court shall, twice a year, hold a court, to be called the circuit court, in every county of this State, except the county of Cape May, for the trial of issues which have been or shall be joined in the supreme court or in any other court, and brought into the supreme court to be tried, and which are or may be triable in the said county.

Circuit courts to be held twice a year in each county, except Cape May.

VII. AND BE IT ENACTED, That the circuit court in and for each county of this State shall be held at the place of holding the court of common pleas in the same, and at the following times:

Times and places of holding the circuit courts.

In the county of Bergen, on the fourth Tuesdays of March and October.

In Bergen.

In the county of Essex, on the second Tuesday of April, and the third Tuesday of September.

In Essex.

In the county of Middlesex, on the second Tuesday of June, and the third Tuesday of December.

In Middlesex.

In the county of Monmouth, on the fourth Tuesday of April, and the third Tuesday of October.

In Monmouth.

In the county of Somerset, on the third Tuesday of April, and the first Tuesday of October.

In Somerset.

A. D. 1709.

In Burlington. In the county of Burlington, on the third Tuesday of May, and the firs Tuesday of November.

In Gloucester. In the county of Gloucester, on the third Tuesday of March, and the firs Tuesday of October.

In Salem. In the county of Salem, on the second Tuesday of June, and the first Tuesday of December.

In Hunterdon. In the county of Hunterdon, on the first Tuesday of May, and the fourth Tuesday of October.

In Morris. In the county of Morris, on the third Tuesday of March, and the fourth Tuesday of September.

In Cumberland. In the county of Cumberland, on the first Tuesday of June, and the las Tuesday of November.

In Sussex. In the county of Sussex, on the fourth Tuesday of May, and the fourth Tuesday of November.

In Cape May. And in the county of Cape May, annually, on the last Tuesday of May.

Transcript of the declaration and pleadings to be sent to the circuit court.

VIII. And be it enacted, That when an issue is to be tried at a circuit court, a transcript of the declaration and pleadings in the cause, with a proper placita, and nothing more, shall be made and sent, under the seal of the supreme court, to the said circuit court, which shall be a sufficient warrant or authority for the latter to proceed upon, hear, and determine the said cause; and the plaintiff or defendant, or both, may have such transcript of the said proceedings, if required.

The jury process, what, and how to be issued.

IX. And be it enacted, That the process, for convening a jury to try an issue in the circuit court, shall be a venire facias, which shall be sued out of the supreme court, directed to the sheriff of the county, in which the said circuit court is to be held, and shall be returnable to the same, and there filed.

Judges of the supreme court to try issues, and take assizes at circuit court.

X. And be it enacted, That the chief justice and every justice of the supreme court shall be, and hereby is authorised and required, at the said circuit court, to try such issues and take such inquests by default, or otherwise, as are or ought to be tried or taken in the said court, to record nonsuits and defaults, to take assizes, and to do and execute all other matters and things, which, by law may or ought to be done respecting the premises.

Sheriff to make return of writs and juries to the circuit court.

XI. And be it enacted, That the sheriff or other officer of the county, in which the said circuit court is to be held, shall make return to the said court of all writs and juries with the panels and other matters relative to the same, legally arrayed and executed.

Issues on legality of marriage, and pleas of bastardy to be tried by the country only.

XII. And be it enacted, That all issues upon legality of marriage, and upon pleas or allegations of general or special bastardy, shall be tried by the country and not otherwise.

Circuit court to make return of proceedings to the supreme court.

XIII. And be it enacted, That the justice, before whom such circuit court shall be held, shall return the said transcript, with the verdict and other proceedings before him had upon it, to the supreme court, at the next term, and the said supreme court shall receive and file the same, and give judgment thereon according to law.

Circuit court may award a tales de circumstantibus.

XIV. And be it enacted, That if by reason of challenges, or the default of jurors or otherwise, a sufficient number cannot be had of the jurors on the original panel to try the issue or cause, then the circuit court is hereby authorised and required to award a tales de circumstantibus, of persons present at the said court, and qualified according to law, to be joined to the other jurors, till the number of twelve jurors be sworn; which talesmen shall be liable to the same challenges as the principle jurors; and thereupon the said court is hereby authorised to proceed

proceed to the trial of the said issue or cause, with such jury, which shall be as valid and effectual, as if the said issue or cause had been tried by twelve of the jurors returned on the original panel. And if any talesman, when present, be called, and shall not appear, or, if he appear, shall willfully withdraw from the court, then it shall be lawful for the said court to set a reasonable fine upon him, to be levied and made by distress and sale, in the manner prescribed by the act, entitled, "An Act for the recovery of fines imposed upon defaulting jurors." A. D. 1799.

Talesmen may be fined for default of attendance.

XV. And be it enacted, That the supreme court of this State, and the courts of oyer and terminer, of general gaol delivery, and of general quarter sessions, shall be, and they are hereby respectively authorised and required to order a tales de circumstantibus, when necessary for the trial of issues and causes in the said courts, in the same manner as the circuit court is empowered and directed by the preceding section of this act; and also to impose fines on talesmen for non appearance, withdrawing or making default, to be recovered in the manner herein before directed.

Supreme court, and courts of oyer and terminer, and of general gaol delivery, and quarter sessions, may order a tales de circumstantibus.

XVI. And be it enacted, That the clerk of the court of common pleas of every county shall be the clerk of the circuit court, and of the courts of oyer and terminer and general gaol delivery in and for such county.

Clerk of the pleas to be clerk of the circuit courts.

XVII. And be it enacted, That the courts of oyer and terminer and general gaol delivery shall be held in the respective counties of this State, at the times of holding the circuit courts in the same, and at any other time, that the chief justice or one of the justices of the supreme court shall think it necessary to appoint, on application to him made, in writing, by the board of chosen freeholders of the county.

The courts of oyer and terminer, and gaol delivery, to be held at the same times as the circuit courts.

XVIII. And be it enacted, That the chief justice or justice of the supreme court, who shall hold any circuit court, or court of oyer and terminer or general gaol delivery, shall receive, by way of compensation, thirty dollars, to be paid by the treasurer of this State, on a warrant signed by the governor, or vice president in council, any three whereof to be a quorum. Provided always, That the said chief justice or justice shall not be allowed any compensation for holding the courts of oyer and terminer and general gaol delivery, or either of them, unless the same shall be held at a different time from holding the circuit court.

Compensation for holding circuit courts, what, and how to be paid.

XIX. And be it enacted, That the act, entitled, "An Act for holding of courts of oyer and terminer, and general gaol delivery, and nisi prius, in the several counties of this State, and for other purposes therein mentioned," passed the twenty third day of November, in the year of our Lord, one thousand, seven hundred and ninety one; and the act, entitled, "An Act concerning the supreme and circuit courts," passed the ninth day of March, in the year of our Lord, one thousand, seven hundred and ninety eight; and the act, entitled, "An Act supplementary to the act concerning the supreme and circuit courts," passed the sixteenth day of February, in the year of our Lord, one thousand, seven hundred and ninety nine, be, and the same are hereby repealed. Former acts repealed.

An ACT *for the recovery of fines imposed upon defaulting jurors.*

Passed the 6th of June, 1799.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any persons, who have been or shall be summoned as jurors, have been or shall be fined for non attendance, by the supreme court, or courts of oyer and terminer and general gaol delivery, or either of them, or by any court of common pleas, or of general quarter sessions of the peace, it shall be the duty of the clerk of the court to deliver a certified list of the names of such defaulting jurors, specifying the fine awarded against each of them, to the sheriff of the county, who shall, by himself, or his lawful deputy, either personally, or in writing, give notice to each defaulting juror of the fine so awarded

Defaulting jurors, to have notice of their fines; which, if not remitted, shall be levied by distress and sale of their goods.

A. D. 1799.

awarded against him, at least six days before the next term or session of the said court, which notice, if in writing, shall be signed by the said sheriff or his deputy, and left at the dwelling house of the said juror; and if such fine shall not be paid to the said sheriff by the second day of the next term or session as aforesaid, or be then remitted by the court, it shall be the duty of the said court to issue process, directed to the sheriff, commanding him to levy and make the said fine, with costs, by distress and sale of so much of the goods and chattels of such defaulting juror, as shall be sufficient to satisfy the same. And the sheriff for every such notice, shall be allowed one dollar, to be paid by the juror so making default, provided he shall have been summoned as such agreeably to law.

An ACT *for the confinement of prisoners, under the authority of the United States, in the gaols of this State.*

Passed the 6th of June, 1799.

Preamble.

WHEREAS it hath been recommended by congress to the legislatures of the several States to pass laws, making it expressly the duty of the keepers of their gaols, to receive and safe keep therein all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof, under the like penalties as in the case of prisoners committed under the authority of such States respectively; the United States to pay for the use and keeping of such gaols, at the rate of fifty cents per month for each prisoner, that shall, under their authority, be committed thereto, during the time such prisoner shall be therein confined; and also to support such of said prisoners as shall be committed for offences; therefore,

Sheriffs and gaol keepers to receive prisoners, to them committed by the authority of the United States.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the sheriff and keeper of every gaol, in any county of this State, shall be, and he is hereby authorised and commanded to receive all prisoners committed to his custody, by the authority of the United States, and to keep them safely, until discharged by the due course of the laws of the same. And if any sheriff or gaol keeper shall neglect or refuse to perform the services and duties required of him by this act, or shall offend in the premises, he shall be liable to the like penalties, forfeitures, and actions, as if such prisoners had been committed under the authority of this State. PROVIDED ALWAYS, That every prisoner, who shall be committed for any offence, by the authority of the United States, shall be supported by the same during his confinement in the said gaol.

List of names of prisoners to be made out, annually, with an account of expenses, &c. and transmitted to the treasurer, to be exhibited against the United States.

II. AND BE IT ENACTED, That the sheriff or keeper of every gaol, shall, on the first day of October, annually, make out, under oath, the names of all prisoners, who, within the year then last past, shall have been committed to his custody, under the authority of the United States, and the time that they shall have been respectively confined, with an account of the amount thereof, at fifty cents per month, for the use and keeping of such gaol, for every person so committed, together with an account of their subsistence, at the rate established by law for State prisoners, unless provided for by the United States, and transmit the same to the treasurer of this State, who is hereby authorised and required to pay the said account out of any public money in his hands; and the said treasurer is hereby required to exhibit the several accounts, by him received and paid as aforesaid, against the United States, on or before the fifteenth day of November, annually, for allowance.

III. AND BE IT ENACTED, That every act, within the purview of this act, be, and the same is hereby repealed.

An ACT

An ACT *concerning surrogates, and declaring what exemplifications of wills and testaments shall be holden and received as good evidence.* A. D. 1799.

Passed the 7th of June, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no surrogate shall be allowed to appear or act as attorney or counsel in the orphan's court of the county of which he is surrogate. When surrogate is not to act as attorney or counsel.

II. AND BE IT ENACTED, That no surrogate of any county, being a judge of the court of common pleas of such county, shall sit as a judge of the orphan's court, on the hearing of any cause pending before the said court. When surrogate is not to sit as a judge.

III. AND BE IT ENACTED, That it shall be the duty of every surrogate to make, quarterly, to the register of the prerogative office, a report, in writing, of his official business and acts, in relation to bonds of administration, and guardianship, and the receiving and proving of last wills and testaments. In what cases surrogates are to make quarterly reports to the register of the prerogative office.

IV. AND BE IT ENACTED, That it shall be the duty of every surrogate to make out, in writing, a fair copy of all the fees, which, by law, he is entitled to receive, and to set up and continue the same in open view in his office. Surrogate to set up in his office a table of his fees.

V. AND BE IT ENACTED, That the surrogates of the respective counties of this State shall, within six months after the passing of this act, and every person, who shall hereafter be appointed surrogate in any of the counties of this State, shall, before he enters upon the duties of his office, give bond to this State, with two sufficient sureties, being freeholders in the county, to be approved of by one of the judges of the inferior court of common pleas of the said county, in the sum of one thousand dollars, conditioned, for the faithful performance of his office; for the delivery of all wills, bonds of administration, of guardianship, and inventories, which may be deposited in his hands, into the prerogative office of the State; and for the delivery of all books, records, and other writings and documents, to his successor in office; which bond the said judge shall deliver to the secretary of this State, to be by him filed in his office: and if any surrogate shall neglect or refuse to give bond as aforesaid, for the said space of six months, he shall be removed from office; and if any person, who shall hereafter be appointed surrogate, shall neglect or refuse to give bond as aforesaid, for the space of thirty days after having received notice of his appointment, he shall likewise be removed from office. Surrogates to enter into bond, with sureties, &c.

VI. AND BE IT ENACTED, That upon the death, removal or expiration of the office of any surrogate, the minutes, papers, writings, documents and books of and belonging to such office, shall be delivered to his successor in office, on oath or affirmation of the preceding surrogate, or, in case of his death, on the oath or affirmation of his executors or administrators; and if such surrogate, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being demanded by his successor in office, then every such person shall forfeit and pay five hundred dollars, to be recovered, with costs, by action of debt, in the name of the county collector, for the use of the State. On the death, removal, &c. of a surrogate, his official papers and books to be delivered to his successor.

VII. AND BE IT ENACTED, That the books, in which any will or testament is registered or recorded, and the transcript of such record, certified to be a true transcript by the register of the prerogative office, shall be received in evidence in any court of this State, and shall be as good, effectual and available in law, as if the original will or testament, or the books, in which they are registered or recorded, were then and there produced and proved, any law, usage or custom to the contrary notwithstanding. Registry of wills, and other transcripts thereof to be received in evidence.

VIII. AND BE IT ENACTED, That the act, entitled, "An Act concerning the surrogates in the several counties of this State," passed the eighteenth day of March, in the year of our Lord, one thousand, seven hundred and ninety six, and the Former acts repealed.

A. D. 1799.

supplement thereto, passed the sixth day of March, in the year following, be and they are hereby repealed.

An ACT *respecting conveyances.*

Passed the 7th of June, 1799.

Conveyances of lands, how to be acknowledged or proved, before they can be received in evidence.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That if any deed or conveyance of lands, tenements or hereditaments, lying and being in this State, heretofore made and executed, and not already acknowledged or proved according to law, or hereafter to be made and executed, shall be acknowledged by the party or parties, who shall have executed it, or be proved by one or more of the subscribing witnesses to it, that such party or parties signed, sealed and delivered the same as his, her or their voluntary act and deed, before the chancellor of this State, or one of the justices of the supreme court of this State, or one of the masters in chancery, or one of the judges of any of the courts of common pleas of this State, and if a certificate of such acknowledgment or proof shall be written upon or under the said deed or conveyance, and be signed by the person, before whom it was made, then every such deed or conveyance, so acknowledged or proved, and certified, shall be received in evidence in any court of this State, as if the same were then and there produced and proved.

Judge of the pleas of one county may take the acknowledgment or proof of a deed of lands in another county.

II. AND BE IT ENACTED, That such acknowledgment or proof of any such deed or conveyance made or to be made before a judge of any court of common pleas, in any county of this State, whether the lands, tenements or hereditaments therein expressed, be situate in the said county or elsewhere in this State, shall have the same construction and effect, and be as good and available in law, as if such acknowledgment or proof had been made before one of the justices of the supreme court of this State, or one of the judges of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate.

No conveyance of lands to be recorded, unless acknowledged or proved.

III. AND BE IT ENACTED, That no deed or conveyance of lands, tenements or hereditaments, lying and being in this State, which has been made and executed, and not already acknowledged or proved according to law, or which shall be made and executed, shall be recorded in the office of the secretary of this State, or in the office of the clerk of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate, unless the execution of the same shall have been first acknowledged or proved, and certified, in the manner herein directed.

In what manner a conveyance of a feme covert is to be acknowledged, before her estate can pass.

IV. AND BE IT ENACTED, That no estate of a feme covert, in any lands, tenements or hereditaments, lying and being in this State, shall hereafter pass by her deed or conveyance, without a previous acknowledgment made by her, on a private examination, apart from her husband, before one of the officers aforesaid, that she signed, sealed, and delivered the same as her voluntary act and deed, freely, without any fear, threats or compulsion of her husband, and a certificate thereof written on or under the said deed or conveyance, and signed by the officer, before whom it was made: AND FURTHER, That every deed or conveyance so executed and acknowledged by a feme covert, and certified as aforesaid, shall release and bar her right of dower, and be good and effectual to convey the lands tenements or hereditaments, thereby intended to be conveyed; PROVIDED, That this clause shall not be construed to enable any feme covert, under the age of twenty one years, to convey lands, tenements or hereditaments, or any right of dower, interest or estate therein.

How conveyances may be acknowledged or proved, if the grantors or witnesses reside in some other State in the Union.

V. AND BE IT ENACTED, That if the party who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this State, or the witnesses thereto, reside not in this State, but in some other State in the Union, then the said acknowledgment or proof, made before and certified by the chief justice of the United States, or an associate justice of the supreme court of the United States, or a district judge of the same, or any judge or justice of the supreme

preme or superior court of any State in the Union, shall be as good and effectual, as if it had been made before, and certified by one of the justices of the supreme court of this State. A. D. 1799.

How conveyances may be acknowledged or proved, if the grantors or witnesses reside in a foreign kingdom or state.

VI. And be it enacted, That if the party, who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this State, or the witnesses thereto, reside in a foreign kingdom, state, nation or colony, then the said acknowledgment or proof, made before any court of law, or mayor or other chief magistrate of any city, borough or corporation of the said foreign kingdom, state, nation or colony, in which the said party or witnesses reside, certified by the said court, mayor, or chief magistrate, in the manner such acts are usually authenticated by them or him, shall be as good and effectual, as if it had been made before, and certified by one of the justices of the supreme court of this State.

The two preceding sections to extend to femes covert.

VII. And be it enacted, That the two preceding sections of this act shall be construed to extend to and comprehend acknowledgments of deeds or conveyances, which shall be made by femes covert, who reside out of this State, and in any other State in the Union, or in any foreign kingdom, state, nation or colony.

Conveyances made on or after the first January, eighteen hundred, to be void against purchasers and mortgagees, unless lodged, in six months after their execution, in the proper office to be recorded.

VIII. And be it enacted, That every deed or conveyance of lands, tenements or hereditaments, lying and being in this State, which shall be made and executed on or after the first day of January, in the year of our Lord, one thousand, eight hundred, shall be void and of no effect against a subsequent bona fide purchaser or mortgagee, for a valuable consideration, not having notice thereof, unless such deed or conveyance shall be acknowledged or proved, and certified, as by this act is directed, and be lodged, within six calendar months after the time of signing, sealing and delivering the same, with the clerk of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate, to be recorded by the said clerk: Provided nevertheless, That such deed or conveyance shall, as between the parties and their heirs, be valid, and operative.

Grantors and witnesses of deeds being dead, proof may be made of their hand writing.

IX. And whereas it is necessary that provision should be made for proving deeds or conveyances of lands, tenements or hereditaments, where the grantors and witnesses are dead; Therefore, *Be it enacted*, That if the grantor or witnesses of any such deed or conveyance be dead or cannot be obtained, it shall be lawful for any of the officers herein before mentioned, as the case may require, to take, under oath or affirmation, the examination of any person or persons, to prove the hand writing of such deceased witness or witnesses, or where such proof cannot be had, then to prove the hand writing of the said grantor or grantors, which shall be certified on or under such deed or conveyance, and signed by the officer, before whom such proof shall have been made; and such deed or conveyance, so proved and certified, shall be received in evidence, and recorded by the secretary of this State, or clerk of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate, in the same manner as other deeds or conveyances are directed by this act.

Deeds to be recorded in the office of the secretary, or of the clerk of the common pleas.

X. And be it enacted, That the secretary of this State shall record, in large well bound books of good paper, to be provided for that purpose, and carefully preserved, all deeds and conveyances of lands, tenements and hereditaments, lying and being in this State, acknowledged or proved, and certified to have been acknowledged or proved in manner before mentioned, which shall be delivered to him to be recorded; and the clerk of the court of common pleas of the county shall record, in large well bound books of good paper, to be provided for that purpose, and carefully preserved, all deeds and conveyances of lands, tenements and hereditaments, lying and being in the said county, acknowledged or proved, and certified to have been acknowledged or proved in manner aforesaid, which shall be delivered to him to be recorded. To which books, every person shall have access at proper seasons, and be entitled to transcripts from the same, on paying the fees allowed by law.

XI. And be it enacted, That it shall be the duty of the said secretary or clerk

A. D. 1799.

Manner in which conveyances are to be recorded by the secretary and clerk.

clerk to record in the said book, without delay, every such deed or conveyance, with the acknowledgments, proofs and certificates, written on or under the same, and the plats, surveys, schedules and other papers therein referred to and thereto annexed, by entering them word for word, in a fair hand, noting at the foot of each record, all the interlineations and words visibly written on erasures, omitting however, to enter in the record, the erasures and obliterations, and mentioning in the margin, or at the foot of such record, the day of the month and the year, when the said deed or conveyance was delivered to him or brought to his office to be recorded.

Further duties of the secretary and clerk.

XII. And be it enacted, That the said secretary or clerk shall give a receipt to the person, who shall bring any such deed or conveyance, mentioning therein the time when it was delivered to him or brought to his office to be recorded, its date, the names of the parties to it, and the place where the lands, tenements or hereditaments, therein specified, are situate; that the said secretary or clerk shall certify on or under such deed or conveyance the day of the month and the year, when he received it, and the name or number of the book, and page or pages, in which it is recorded, and shall, when recorded, deliver it to the party entitled to it, or his order.

Penalty on secretary or clerk for neglect of any duty required by this act.

XIII. And be it enacted, That if any secretary or clerk shall neglect or refuse to perform any service or duty, required of him by this act, he shall for every neglect or refusal, forfeit and pay two hundred dollars, to be recovered, with costs, by action of debt, by the county collector, and paid to the treasurer of this State, for the use of the State; and shall also be liable for all damages, which the party aggrieved may have sustained, by reason of the non performance of such service or duty.

Record of deeds, and certified copies thereof, to be received in evidence.

XIV. And be it enacted, That the record aforesaid of such deed or conveyance, and the transcript of such record, certified to be a true transcript by the said secretary or clerk, in whose office the record is kept, shall be received in evidence in any court of this State, and be as good, effectual and available in law, as if the original deed or conveyance were then and there produced and proved.

Clerk of common pleas to give bond for the performance of the duties required of him by this act.

XV. And be it enacted, That every person, who shall be appointed clerk of any court of common pleas of this State, shall, before he enters upon the duties of his office, give bond to this State, with two sufficient freeholders in the county, to be approved of by one of the judges of the said court, in the sum of two thousand dollars, with condition, for the delivery of the said records, books, and other writings, entire and undefaced, to his successor in office, and for the faithful performance of the duties required by this act; which bond the said judge shall deliver to the secretary of this State, to be by him filed in his office. And if such clerk shall neglect or refuse to give bond as aforesaid for the space of thirty days, after having received notice of his appointment, he shall be removed from office.

Clerks to give receipts for books, in which deeds are recorded.

XVI. And be it enacted, That every person who shall be appointed to the clerkship of any court of common pleas, shall, on receiving the book or books, in which such deeds and conveyances are recorded, sign and acknowledge a receipt for the same, before one of the judges of the said court, whose duty it shall be to deliver the said receipt to the secretary of this State, to be by him filed in his office.

On the death, removal, &c. of the clerk, the official seal, papers, records and books to be delivered to his successor.

XVII. And be it enacted, That upon the death, removal or expiration of the office of clerk of any court of common pleas, the seal, minutes, papers, deeds, writings, documents, records and books of or belonging to such office, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or in case of his death, on the oath or affirmation of his executors or administrators; and if such clerk, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being demanded by the successor in office, then every such person shall forfeit and pay five hundred dollars, to be recovered, with costs, by action of debt, in the name of the county collector, for the use of the State.

XVIII. And

A. D. 1799.

XVIII. And be it enacted, That no record shall be removed by writ of subpœna or otherwise before any court out of the county, in which such record is kept, where a transcript thereof may be given in evidence.

When records shall not be removed out of the county.

XIX. And be it enacted, That every grant or conveyance of messuages, lands, tenements and hereditaments, or of rent, or of the reversion or remainder of messuages, lands, tenements and hereditaments, shall be good and effectual, without attornment of the tenant; but no tenant, who, before notice of such grant or conveyance, shall have paid the rent to the grantor, shall be prejudiced or suffer any damage by such payment.

Grants and conveyances good without attornment.

XX. And be it enacted, That a warranty, made by tenant for life, of lands, tenements or hereditaments, which shall descend or come to any person in reversion or remainder, shall be inoperative and void.

Warranty by tenant for life, void against the reversion or remainder man.

XXI. And be it enacted, That a collateral warranty, which shall be made of lands, tenements or hereditaments, by an ancestor, who, at the time of making it, hath no estate of inheritance in possession therein, shall be inoperative and void against his heirs.

When collateral warranties of lands shall be void against heirs.

XXII. And be it enacted, That the act, entitled, "An Act to prevent the public records being removed by writs of subpœna," passed the twenty third day of November, in the year of our Lord, one thousand, seven hundred and ninety one, be, and the same is hereby repealed.

Repeal of a certain act.

An ACT *concerning witnesses.*

Passed the 7th of June, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That no person, who shall be convicted of blasphemy, treason, murder, piracy, arson, rape, sodomy, or the infamous crime against nature, committed with mankind or with beast, polygamy, robbery, conspiracy, forgery, or larceny of above the value of six dollars, shall in any case, be admitted as a witness, unless he or she be first pardoned; and no person, who shall be convicted of perjury, or of subornation of perjury, although pardoned for the same, shall be admitted as a witness, in any case.

What crimes exclude from testimony.

II. And be it enacted, That every witness shall be protected and privileged from arrests in all civil actions, and no other, during his necessary attendance at any court, or other place, where his attendance shall have been required by subpœna previously and duly executed, and in going to and returning from the same, allowing one day for every thirty miles from his place of residence.

Witnesses to be protected from arrests in civil cases, and no other.

III. And be it enacted, That if any person, on whom lawful process shall have been duly served to testify, depose, or give evidence concerning any cause or matter, which is or shall be depending in any court of this State, and to whom shall have been paid or tendered, at the time of such service, fifty cents, if he is to attend in the county, and one dollar if he is to attend out of the county, shall not appear according to the tenor of the said process, having no lawful or reasonable let or impediment to the contrary, he shall, for every offence forfeit to the party aggrieved any sum not exceeding fifty dollars, to be ascertained and adjudged by the court, in which he or she may be subpœnaed to attend; and shall also pay to the said party damages, equivalent to the loss sustained by want of his evidence, to be recovered by action of trespass on the case, with costs.

Remedy against witnesses for not attending when duly summoned.

IV. And be it enacted, That every court of common pleas and of general quarter sessions of the peace of this State is hereby authorised and directed to issue process of subpœna, requiring the attendance of a witness, who resides in any part of this State, out of the jurisdiction of the said court, to testify, depose, or give evidence in any cause or matter, which is or shall be depending in the said court, and every person who shall be duly served with

The courts of common pleas and quarter sessions may issue subpœnas for witnesses who reside out of their jurisdiction.

A. D. 1799.

such subpœna, shall be, and hereby is required to attend at the time and place therein mentioned, under the same penalties, and shall be liable to the same action, which he would have incurred or have been liable to in case of non attendance, if he had been within the jurisdiction of the said court at the time of the service of the said subpœna.

Inhabitants of counties and townships may be witnesses in actions against county and township officers, and other persons for public monies.

V. And be it enacted, That in every action, which hath been or shall be instituted in any court of this State, against the county collector, the township collector, the sheriff, constable, or other officer or person of or in the said county or township, for taxes, impositions, fines, or other public monies, by him received and not accounted for and paid according to law, the inhabitants of such county or township shall be admitted as competent witnesses, notwithstanding their liability to taxation, or being interested.

Certain acts repealed.

VI. And be it enacted, That the act, entitled, "An Act for the better securing the attendance of witnesses in the several county courts and before justices of the peace," passed the twelfth day of August, in the year of our Lord one thousand, seven hundred and eighty four, and the act, entitled, "An Act in relation to testimony in prosecutions for public monies," passed the eighteenth day of March, in the year of our Lord, one thousand, seven hundred and ninety six, be, and the same are hereby repealed.

An ACT *to register mortgages.*

Passed the 7th of June, 1799.

Clerks of common pleas to register mortgages.

Mode of registering.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the clerk of the court of common pleas of every county of this State shall, from time to time, provide fit books well bound and lettered, for registering all mortgages and defeasible deeds in the nature of mortgages, of lands, tenements and hereditaments, lying and being within his county; in which shall be entered the names of the mortgagor and mortgagee the date of the mortgage, the mortgage money and when payable, and the description and boundaries of the lands, tenements and hereditaments mortgaged; that the said clerk shall, immediately on receiving the said mortgage, make the said entry or abstract in the register, and shall note in the margin, or at the foot of such abstract, the day of the month and the year, when the said mortgage was delivered to him or brought to his office to be recorded. To which books every person shall have access at proper seasons, and may search the same, paying the fees allowed by law.

The time, when mortgage was brought to be registered, and when registered, to be endorsed thereon.

II. And be it enacted, That the said clerk shall certify on or under the said mortgage the time when such mortgage was delivered to him or brought to his office to be registered, and the name or number of the book, and page or pages in which it is registered, and shall, if required by the party, give a receipt for the said mortgage, stating therein the time when he received it, and shall when registered, deliver it to the party entitled to it, or his order.

No mortgage to be registered unless acknowledged or proved.

III. And be it enacted, That no mortgage, defeasible deed, or other conveyance, in nature of a mortgage, which has been made and not already acknowledged or proved, according to law, or which shall be made, shall be entered in such register, unless the execution thereof shall be first acknowledged or proved and certified in the manner prescribed by the act, entitled, "An Act respecting conveyances."

If a deed be absolute on its face, but by another writing intended to be conditional, it shall be considered as a mortgage, and an abstract of both be registered.

IV. And be it enacted, That if any deed or conveyance, which shall be made of lands, tenements and hereditaments, lying and being in this State, be expressed in absolute and unconditional terms, and it shall appear, by any other writing, to have been intended by way or in nature of a mortgage, then such deed or conveyance shall be considered as a mortgage, and be liable to be registered by virtue of this act; and that the grantee in the said deed or conveyance shall not be entitled to or enjoy the benefits and advantages hereby given to

mortgag

mortgagee, unless an abstract of the writing, operating as a defeasance of it, or explanatory of the intention of the parties, that it should have the effect of a mortgage or conditional deed, be also therewith registered, as in case of a mortgage.

If there be two or more mortgages on the same lands, the one first registered shall have the preference.

V. And be it enacted, That if a person shall mortgage lands, tenements or hereditaments, to two or more persons at different times, and any doubt or dispute shall arise about the priority of the said mortgages, then the mortgage first registered, in the manner herein before directed, shall be the prior mortgage and be first paid: Provided, That it be made bona fide, and upon good and valuable consideration.

Mortgages to be recorded in the order received, and to have priority according to the time of their being registered.

VI. And be it enacted, That it shall be the duty of the clerk to register mortgages in the order he shall receive them; and all mortgages, whether executed by the same or different persons, shall have priority, and the benefits resulting from such priority, according to the time of their being registered. But if two or more mortgages of the same lands, tenements or hereditaments, shall be offered to or come to the hands of the clerk at one and the same time, then it shall be his duty to register first that mortgage, whose date and execution shall appear to be antecedent to the rest.

How the registry of a mortgage, when redeemed, shall be barred.

VII. And be it enacted, That when any mortgage, registered as aforesaid, shall be redeemed, paid and discharged, it shall be the duty of the said clerk, on application to him made by the mortgagor or person redeeming, paying and discharging the said mortgage, and producing to him the said mortgage cancelled, or a receipt thereon, signed by the mortgagee or his executors, administrators or assigns, to enter in a margin, to be left for that purpose, opposite to the said abstract, a minute of the said redemption, payment and discharge; which minute shall be a full and absolute bar to and discharge of the said entry, registry and mortgage.

Clerk's fees.

VIII. And be it enacted, That the said clerk shall be allowed, for services done by virtue of this act, the following and no other fees.

For registering abstract of a mortgage, -	forty cents.
For every receipt for a mortgage, - -	ten cents.
For every search, - - -	seven cents.
For entering the minute of a discharge, -	thirteen cents.

Penalty for the clerk for misconduct.

IX. And be it enacted, That if any clerk shall give an undue preference to a mortgage, or shall register a mortgage last when it ought to be registered first, or shall neglect or refuse to perform any service or duty, required of him by this act, he shall, for every such offence, forfeit and pay two hundred dollars, to be recovered, with costs, by action of debt, by the county collector, and paid to the treasurer of this State, for the use of the State; and shall also be liable for all damages, which the party aggrieved may have sustained by reason thereof.

Mortgages to be void against subsequent purchasers not having notice, unless registered within thirty days after their execution.

X. And be it enacted, That every mortgage or conveyance, in the nature of a mortgage, which shall be made of any lands, tenements or hereditaments, lying and being in this State, shall be void and of no effect against a subsequent bona fide mortgagee or purchaser of the same, for a valuable consideration, not having notice thereof, unless such mortgage or conveyance shall be acknowledged or proved, and certified as aforesaid, and registered in the proper office, within thirty days after signing, sealing and delivering the same.

Former acts repealed.

XI. And be it enacted, That the act, entitled, "An Act for preventing frauds by mortgages, which shall be made and executed after the first day of January, one thousand, seven hundred and sixty six," passed the twentieth day of June, in the year of our Lord, one thousand, seven hundred and sixty five, and the act, entitled, "An Act further to prevent frauds by mortgages," passed the fourteenth day of November, one thousand, seven hundred and eighty six, shall be, and the same are hereby repealed.

An ACT

A. D. 1799.

An ACT *concerning taxes*

Passed the 10th of June, 1799.

Assessors when to make out a list of taxable persons and property.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the assessor of every township, shall between the twentieth day of June and the twentieth day of August, annually take a true account, and make out an exact list of the persons, lands, chattels effects and estates, including certainties, made ratable by law in that year, by which all assessments during the said year shall be regulated and made; and every inhabitant of the township shall, on application of the assessor, forthwith render a full and true account of his name and his ratable lands, chattels, effects and estates as aforesaid, which the assessor shall set down in writing, in order that the legislature may ascertain the proportion or quota of each county, and that every individual may be duly and justly assessed.

Persons, who shall render no account, or a false one, to be taxed doubly.

II. AND BE IT ENACTED, That if any inhabitant shall neglect or refuse to render such account, or shall render a false or fraudulent account, he shall be taxed in a sum double to what the said assessor may suppose his ratable estate would be taxed; which shall not be reduced or altered by the commissioners of appeal, unless the offender can make it appear, by the testimony of credible witnesses, that he was not guilty of such neglect or refusal, or did not render a false or fraudulent account as aforesaid.

Assessors, when and where to meet, to adjust the quotas of the several townships.

III. AND BE IT ENACTED, That when any money shall be directed to be assessed, collected and paid into the treasury of this State, agreeably to this act, it shall be the duty of the assessors of the several townships, in every county, to meet at the hour of ten in the forenoon of the first Monday of September, in every year, at the place of holding the court of common pleas in such county, and then and there to ascertain the amount of the certainties, required by law to be rated in the assessment to be made, and to estimate the estate, real and personal, taken by the assessor of each township, at such valuation as they or a majority of them then present shall think reasonable and just, according to the law for the time being for that purpose, and thereby to adjust and fix the proportion or quota of the tax to be levied and collected in each township.

Two abstracts of ratables to be made; one for the county collector, and the other for the legislature.

IV. AND BE IT ENACTED, That it shall be the duty of the said assessors at such meeting to make out two abstracts of the amount of all the ratables in each township, in the manner heretofore practised, which shall be signed by every assessor present, and on the same day delivered to the county collector, who shall lay one of the said abstracts before the legislature, during the course of the first week of their stated annual session.

Duplicate of assessment, when and to whom to be delivered.

V. AND BE IT ENACTED, That the said assessors shall, within fifteen days after such meeting, deliver to the township collector, a true transcript or duplicate of the said assessment, in which they shall add together the sums contained in each column, and place such aggregate sum at the foot of each column, through every page, and shall also, within the said time, deliver another such transcript or duplicate to the county collector, who is hereby required to lay the same before the legislature, in the course of the first week of their stated annual session.

Amount of certainties to be deducted, and the remainder to be assessed on the other taxable property in the township.

VI. AND BE IT ENACTED, That the amount of the certainties shall be deducted by the said assessors from the quota or sum apportioned to every township and the remainder of the said quota or sum, with the fees of assessment, collection, and paying over to the treasurer, shall be assessed on the other taxable property within such township, according to the valuations aforesaid, at such rate per dollar, as will be sufficient to produce the sum required.

Penalty on assessors for neglect of duty.

VII. AND BE IT ENACTED, That if any assessor shall neglect or refuse to perform any service or duty as required by law, he shall, for every such neglect or refusal, forfeit and pay the sum of thirty two dollars to be recovered, with costs, by action of debt, in the name of the clerk of the township, for which such assessor was elected or appointed, and for the use of the said township.

VIII. AN

VIII. And be it enacted, That if any person shall think himself aggrieved by such assessment, he may appeal to the commissioners of appeal, in cases of taxation, in and for the proper township, who are hereby required to convene on the second Tuesday of November, annually, for the purpose of discharging the duties of their office, in all matters arising under this act.

Party aggrieved by assessment may appeal to the commissioners of appeal.

IX. And be it enacted, That if any assessor shall not attend at the time and place before directed for the meeting of the assessors of the county, it shall and may be lawful for a majority of the said assessors, convened as aforesaid, to proceed to business, and to ascertain the proportion of the tax to be assessed and levied on the township of the non attending assessor, according to the best of their knowledge and information, which proportion shall be assessed and collected by the assessor and collector of the said township.

A majority of attending assessors competent to fix the quotas.

X. And be it enacted, That the collector of every township shall, annually, on the first day of October, give notice, by advertisements set up in at least four of the most public places of the township, of the said tax, and that, if it be not paid by a certain day therein mentioned, the name of the defaulter, with the tax, will be returned to a justice of the peace for prosecution, in which advertisements, notice shall also be given of the time and place of the meeting of the commissioners of appeal, in cases of taxation.

Township collector to advertise the day of paying the tax, and the meeting of the commissioners of appeal.

XI. And be it enacted, That the township collector, within thirty days after receipt of the transcript or duplicate of the said assessment, shall demand payment of the tax, or sum assessed on each individual in his township, in person, or by notice left at his or her place of residence, and also give notice of the time and place of the meeting of the said commissioners of appeal; and the said collector shall pay the taxes by him collected, and the fines and forfeitures by him received, by virtue of any law of this State, to the collector of the county, by the twenty second day of December in every year.

Township collector to make demand of the tax, and give notice of the meeting of the commissioners of appeal.

XII. And be it enacted, That in case of the non payment of taxes at the time appointed, the township collector shall make out a list of the names of the delinquents, with the sums due from them respectively thereto annexed, and deliver the same to some justice of the peace of the county, on the twentieth day of December, in every year, except when the said day shall happen on a Sunday, and then on the next day following.

When return of delinquents shall be made to a justice.

XIII. And be it enacted, That it shall be the duty of the said justice of the peace, on receiving a list of the names of such delinquents, to administer an oath to the said collector, that the monies in the said list mentioned had been duly demanded, or due notice thereof given or left at the usual place of residence of each delinquent, who can be found, or who may then reside in the said township, and thereupon to give to the said collector a receipt for such list, certifying therein the names of the delinquents, and the sums at which they were respectively assessed: And further, That the said township collector shall not be charged by the county collector with the sums in such list contained, until he shall have received the same from the constable.

Township collector to make oath of the truth of his return.

XIV. And be it enacted, That if any township collector shall neglect or refuse to perform any service or duty as required by law, he shall, for every such neglect or refusal, forfeit and pay thirty two dollars, to be recovered, with costs, by action of debt, by the county collector, and applied to the use of the county.

Penalty on collector for neglect of duty.

XV. And be it enacted, That the assessors shall, for assessing and making out the duplicates, be allowed four cents for every name contained in any of the said duplicates: and the township collectors shall be allowed four cents for collecting the tax from every person mentioned in the said duplicates, and paying the same to the county collector.

Allowance to assessors and township collectors.

XVI. And be it enacted, That the time, by this act appointed, for the meeting of the assessors to ascertain and apportion the quota of the townships, for making and delivering the assessments to the township collectors, for delivering a list of the names of the delinquents to a justice of the peace, and for the payment

Times appointed by this act for the performance of certain duties to govern future assessments.

A. D. 1799.

of tax monies by the township collectors to the county collectors, shall extend t and govern all future assessments for the use of the State.

Justice to issue a warrant for taxes unpaid.

XVII. And be it enacted, That it shall be the duty of the justice of th peace, within five days after the receipt of the list of the names of the delinquent to make out and deliver to the constable or constables a warrant or warrants, re quiring him or them to levy the tax so in arrear, with costs, by distress and sal of the goods and chattels of the delinquent, giving at least four days notice of th time and place of such sale, by advertisements set up in three of the most publi places in the township; and it shall be the duty of the said constable or consta bles to pay the tax, for which such warrant is issued, to the township collector within forty five days after the date thereof; and the said warrant shall furthe direct, that if goods and chattels of the delinquent cannot be found, or not suffi cient to make the money required, the constable shall take his or her body, if t be found in the county, and deliver the same to the sheriff of such county, o his gaoler, to be kept in close and safe custody, until payment be made of the sai tax, with costs.

When constable is to sell the goods and pay the money.

If no goods, the delinquent to be imprisoned.

Fees of justice and constable.

XVIII. And be it enacted, That the justice, who shall issue the said war rant, shall be allowed two cents for every delinquent's name therein contained and the constable shall be allowed thirty four cents for each distress, and no more, although two or more taxes shall have been specified in the said warrant and after deducting the tax and costs, the constable shall pay the surplus money to the delinquent.

Penalty on justice for neglect of duty.

XIX. And be it enacted, That if any justice of the peace shall neglect or refuse to perform any service or duty required of him by this act, he shall for every neglect or refusal, forfeit and pay thirty two dollars, to be recovered, with costs, by action of debt, by the county collector, and be applied to the use of the county.

Constable to return the warrant to the justice who issued it.

XX. And be it enacted, That it shall be the duty of the constable to return the said warrant to the justice, who issued the same, with a schedule thereunto annexed, containing a particular account of the money by him levied of the goods and chattels of or received from each delinquent, and in what manner, in other respects, he had executed the said warrant; and the said justice shall, upon receipt of such return, deliver a copy of the said warrant and return to the township collector, upon his application for it, and shall return the original warrant, if not fully executed, to the constable, who is hereby commanded to proceed on and execute the same.

Penalty on constable for neglect of duty.

XXI. And be it enacted, That if any constable, to whom such warran shall be delivered, shall neglect or refuse to execute the same as therein directed or shall neglect or refuse to pay the tax money, which he shall have levied and made by distress and sale as aforesaid, to the township collector, or shall neglect or refuse to perform any other service or duty required of him by this act, he shall forfeit and pay for every such neglect or refusal, thirty two dollars, to be recovered, with costs, by action of debt, by the township collector, for the use of the township.

Constable liable for the amount of taxes not paid over to the township collector. How, by whom, and before whom the same is to be recovered.

XXII. And be it enacted, That every such constable, besides the penalt prescribed by the preceding section, shall be liable for the amount of the taxes which, by the said warrant, he was required to make by distress and sale as afore said, or for such part thereof, as he shall not have paid to the township collecto except the deficiencies happen without any neglect, fraud, or default on his part, t be recovered, with interest and costs, by action of trespass on the case, at the su of the township collector, for the use of the township, before any judge of th court of common pleas of the county, who is hereby authorised and required t hear and determine the same, and immediately on entry of judgment to issue h warrant, directed to the sheriff of the county, and commanding him to levy an make the sum, so adjudged, by distress and sale of the goods and chattels of th said constable; and the said sheriff shall return the said warrant, with his pr ceedings thereon, to the said judge, at the time therein specified.

XXIII. An

XXIII. And be it enacted, That it shall be the duty of the township collector to pay the monies, which he shall have received by virtue of any such assessment, to the county collector, by the twenty second day of December, in every year, and, upon receipt of any tax money from a constable, to make immediate payment thereof to the said county collector.

Township collectors when to pay the money to the county collectors.

XXIV. And be it enacted, That if any township collector shall not pay the tax money by him collected, or by him received from the constable, or shall pay only part thereof at the time appointed by law, he shall be liable for the same, to be recovered, with interest and costs, by action of trespass on the case, at the suit of the county collector, for the use of the State, before any judge of the court of common pleas of the said county, who is hereby authorised and required to hear and determine the said action, and, immediately on entry of judgment, to issue a warrant, directed to the sheriff of the county, and commanding him to levy and make the sum, so adjudged, by distress and sale of the goods and chattels of the said township collector; and the said sheriff shall return the said warrant, with his proceedings thereon, to the said judge, at the time therein specified.

Township collector liable for the amount of the taxes not paid over to the county collector. How, by whom, and before whom the same is to be recovered.

XXV. And be it enacted, That it shall be the duty of every county collector to pay the tax money, which he shall have received of the township collectors, to the treasurer of this State, by the thirtieth day of December, in every year; and also to pay any tax money, which he shall have received of the sheriff, to the said treasurer, within ten days after receiving the same; and for the monies so paid, the treasurer shall give receipts which shall be sufficient vouchers to exonerate and discharge the said county collector to the amount therein contained.

County collectors when to pay the money to the treasurer of the State.

XXVI. And be it enacted, That every county collector shall be allowed one cent per dollar for all taxes, which he shall receive and pay to the treasurer of this State, and also, for the payment of each general assessment, seven cents for every mile, that his place of residence may be distant from the office of the said treasurer.

Fees of the county collector.

XXVII. And be it enacted, That if any county collector shall not pay to the treasurer of this State the tax money by him received from the township collector or sheriff, or shall pay only part thereof, at the time appointed by law, or shall neglect or refuse to perform any other service or duty required of him by this act, he shall, for every offence, forfeit and pay fifty dollars, to be recovered, with costs, by action of debt, by the treasurer of this State for the time being, for the use of the State, before any justice of the supreme court, who shall have exclusive cognizance of the same, and who is hereby authorised and required to direct the proper process in such action to the sheriff of the county, in which such collector resides, whose duty it shall be to execute the same; and on entry of judgment in the said action against the county collector, the said justice shall issue his warrant thereon, directed to the sheriff of the county, commanding him to levy and make the sum, so adjudged, by distress and sale of the goods and chattels of the said county collector; and such sheriff shall return the said warrant, with his proceedings thereon, to the said justice, at the time therein specified.

Penalty on the county collector for neglect of duty.

XXVIII. And be it enacted, That if any county collector shall not pay the tax monies by him received, or shall only pay a part thereof, at the time appointed by law, he shall be liable for the same, to be recovered with interest and costs, by action of trespass on the case, by the treasurer of this State, for the use of the State; in which the other proceedings shall be the same as are designated in the section next preceding.

County collector, when liable for taxes, and how to be recovered.

XXIX. And be it enacted, That if any township collector or constable shall squander, waste, embezzle, or become insolvent and unable to pay any tax monies, or other monies, or property belonging to this State, and by him received in virtue of his office, then the said township, for which such collector was chosen or appointed, shall be liable for and make good such deficiency or loss, by adding the same to the quota of such township, in the next assessment to be made therein by the authority of this State; and the assessor of the said township is hereby required to assess the same, under the like penalties as are herein before referred to for neglect of duty.

Townships to be liable for any deficiency or loss occasioned by the mal practice or insolvency of their collectors or constables.

XXX. And

A. D. 1799.

Counties to be liable for any deficiency or loss occasioned by the mal practice or insolvency of their collectors.

XXX. And be it enacted, That if any county collector shall squander waste, embezzle or become insolvent and unable to pay, any tax monies, or other monies, or property belonging to this State, and by him received in virtue of his office, then the said county, for which he was appointed, shall be liable for and make good such deficiency or loss, by adding the same to the quota of such county, in the next tax to be levied therein by the authority of this State; and the assessors are hereby required to apportion the same among the several townships, under the like penalties as are herein before referred to for neglect of duty.

Treasurer to add the annual deficiency of the county to the next quota of such county's tax; and the county collector to charge such deficiency to the next quota of every defaulting township's tax.

XXXI. And be it enacted, That it shall be the duty of the treasurer of this State, to add the annual deficiency of every county to the quota of such county, in the next tax to be raised therein by the authority of this State; and it shall be the duty of the county collector to charge such deficiency to the deficient township or townships, which shall be assessed on and collected from the same, over and above the quota of such township or townships, in the next tax as aforesaid; and to prevent all delay or neglect in this particular, it is hereby made the further duty of every county collector to attend and deliver to the assessors, when they meet to adjust and apportion the county's quota of the said tax among the several townships, an accurate account of the whole deficiency of each township, which said deficiency shall be assessed on such township, in the same manner and proportion as the tax then to be raised is required to be assessed.

Tenants to pay taxes and deduct the same from the rent.

XXXII. And be it enacted, That the tenants or other persons in possession or having the care of any lands or tenements, and their goods and chattels, shall be, and they hereby are made liable for the payment of taxes, which are or shall be imposed on the said lands; and if any such tenant or other person shall pay, or his or her goods and chattels shall be levied on and sold to pay any such tax, it shall be lawful for him to deduct the sum, so paid, out of the rent, or to recover the same from the landlord or owner by action of debt, with costs: Provided always, That nothing in this act shall affect or extend to any contract made or to be made between landlord and tenant.

But this act not to affect any contract between landlord and tenant.

Taxes on unimproved or untenanted lands, how to be recovered.

XXXIII. And be it enacted, That if the tax, which shall be laid on any unimproved or untenanted land, be not paid agreeably to law, or if tenanted by any person or persons, (not the lawful proprietor) who are unable to pay his or her tax as aforesaid, it shall be the duty of the township collector to make return thereof to a justice of the peace of the county, who is hereby authorised and required to issue a warrant to any constable of the said county, commanding him to levy such tax by distress and sale of so much of the timber, wood, herbage, or other vendible property of the owner, and on the premises, as will be sufficient to pay the same, with costs, in the manner prescribed by the seventeenth section of this act.

Justices of the peace, constables, and township collectors to account for tax money to the township committee.

XXXIV. And be it enacted, That all justices of the peace, constables and township collectors, shall render to the township committee of their respective townships, when by them required, a true account of all the monies, which they or any of them shall have received, on any assessment made or to be made, and not paid over to the county collector agreeably to law; which monies the said justices of the peace, constables and township collectors, are hereby directed to pay, on demand, to the said township committee; and if any justice of the peace, constable, or township collector, shall not account and pay as aforesaid then the clerk of the township is hereby authorised and required to prosecute him for the same, in the name of the inhabitants of the said township, in the manner prescribed in and by the twenty fourth section of this act; and the monies, so recovered, shall be disposed of for the use of the township.

When the judge or justice may take warrant from one constable and direct it to another, or issue a new warrant.

XXXV. And be it enacted, That when any constable shall be prosecuted for not collecting or paying any tax money agreeably to law, and complaint shall be made by the prosecutor, that he is in fear that the said constable will make use of or not pay forward any such money to be collected, then it shall be the duty of the judge or justice, before whom such prosecution shall be had, to demand and take the warrant of distress from the said constable, giving him cred

credit for the taxes not collected, and to direct the same, or to issue another warrant to any other constable, who is hereby commanded to execute such warrant; and if the said constable shall neglect or refuse to give up the said warrant, or to render a true account of the taxes not received thereon, then it shall be the duty of the said judge or justice to commit such constable to the common gaol of the said county, there to remain, without bail or mainprize, until he give up such warrant, or render such account.

When and how execution shall be issued against the real estate of a county collector, township collector, or constable.

XXXVI. And be it enacted, That where the sheriff, to whom any warrant shall be directed by virtue of this act, cannot find goods or chattels to distrain, or cannot find sufficient to make the full sum, then the said sheriff, after making sale of such goods and chattels as he may have found, shall return the said warrant, endorsing thereon how far he has executed it, to the judge who issued the same; and it shall be the duty of the said judge to transmit, under his hand and seal, a true copy of the entry of the judgment, and awarding of the warrant, and the sheriff's return, to the clerk of the supreme court, if such prosecution be at the suit of the treasurer of this State, or to the clerk of the court of common pleas of the county, if it be at the suit of the county or township collector, who is hereby authorised and directed to file the same, and thereupon to enter, in the minutes of the said court, judgment against such defaulting county collector, township collector, or constable, for the amount of the debt or tax money, with interest and costs, as endorsed on the said warrant, or the residue thereof, as the case may require, and on such judgment to issue, record, direct and deliver to the sheriff of the proper county, a writ of execution against the lands, tenements, hereditaments and real estate of the said county collector, township collector, or constable; which lands, tenements, hereditaments and real estate, shall be levied on, seized, advertised, sold and conveyed by the said sheriff, in the manner directed by the act, entitled, "An Act making lands liable to be sold for the payment of debts;" for all which services, the said judge, sheriff, and clerk, shall be allowed the same fees as are by law allowed for the like services in other cases.

When execution shall be issued against the body of such collector, or constable.

XXXVII. And be it enacted, That if the money arising from the sale of the lands, tenements, hereditaments and real estate, so levied upon and seized, be not sufficient to satisfy the sum mentioned in the said execution, with the costs, then it shall be the duty of the said clerk, to issue a capias ad satisfaciendum against such county collector, township collector, or constable.

Sheriff, how to be proceeded against, if he shall not execute the warrant agreeably to law.

XXXVIII. And be it enacted, That if the sheriff shall not execute the said warrant of distress agreeably to this act, or shall not pay the money therein directed to be made, within ninety days after receiving such warrant, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered with costs, by action of debt, by the treasurer, or the county or township collector, as the case may require, for the use of the State, and shall also be amerced by the court of common pleas of the county, to the amount of the sum in the said warrant mentioned with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

Sheriff, how to be proceeded against, if he shall not execute the writ of execution agreeably to law.

XXXIX. And be it enacted, That if the sheriff shall not execute the writ of execution agreeably to this act, or shall not pay the money therein directed to be made within ninety days after receiving such execution, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer, or the county or township collector, as the case may require, for the use of the State; and shall also be amerced by the court, out of which such execution issued, to the amount of the sum in the said execution mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

Former acts repealed, but such repeal not to affect assessments, taxes, judgments.

XL. And be it enacted, That every act and every clause of any act, within the purview of this act, be, and they are hereby repealed; but such repeal shall not extend to or affect any assessment, tax, penalty, suit, judgment, warrant of distress,

A. D. 1799.

Warrants and processes.

tress, or writ of execution, made, arising, commenced, entered, or issued under any act or clause hereby repealed; but that the same shall be collected, prosecuted enforced and proceeded upon, in the like manner as if this act had not been made.

An ACT *to describe, apprehend and punish disorderly persons.*

Passed the 10th of June, 1799.

Who shall be adjudged to be disorderly persons.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all paupers, who shall unlawfully return to the city or township, from which they were legally removed, without a certificate from the city or township, to which they belong, or who shall leave their places of legal settlement; and all persons, who shall go about from door to door, or place themselves in streets, highways or passages, to beg, crave charity, or collect alms, or who shall wander abroad and lodge in taverns, inns, beer houses, out houses, houses of entertainment, market houses, barns or other places, or in the open air, and not give a good account of themselves, or who shall wander abroad, and beg or solicit charity, under pretence of being or having been soldiers, mariners, or seafaring men, or of loss by fire, or other casualty, or of loss by the Indians, or by war, or other pretence or thing; and all persons, who shall leave, or threaten to leave their families to be maintained by the city, township or county, or to become chargeable thereto, or who, not having sufficient property or means for their subsistence or support, shall live idle, or not engage in some honest employment, or not provide for themselves or families; and all persons, who shall use, or pretend to use, or have any skill in physiognomy, palmistry, or like crafty science, or who shall pretend to tell destinies or fortunes; and all runaway servants or slaves, and all vagrants or vagabonds, common drunkards, common night walkers, and common prostitutes, shall be deemed and adjudged to be disorderly persons.

Further description of disorderly persons.

II. AND WHEREAS divers ill disposed persons are frequently apprehended having upon them implements for house breaking, or offensive weapons, or are found in or upon houses, ware houses, stables, barns or out houses, areas of houses, coach houses, smoke houses, inclosed yards, or gardens belonging to houses, with intent to commit theft, misdemeanors or other offences; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them sureties for their good behavior hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; *Be it further enacted,* That if any person shall be apprehended, having upon him or her any picklock key, crow, jack, bit, or other implement, with an intent to break and enter into any dwelling house, ware house, stable, barn, coach house, smoke house or out house; or shall have upon him or her any pistol, hanger, cutlass bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or upon any dwelling house, ware house, stable, barn, coach house smoke house or out house, or in any inclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, then he or she shall be deemed and adjudged to be a disorderly person.

Disorderly persons may be apprehended without a warrant, and, on conviction, committed to the work house.

III. AND BE IT ENACTED, That it shall be the duty of every constable, and lawful for any other person, to apprehend, without warrant or process, any disorderly person of the description aforesaid, and to take him or her before an justice of the peace of the county, where apprehended; and it shall be the duty of the said justice to commit such disorderly person, when convicted before him by the confession of the offender, or by the oath or affirmation of one or more witness or witnesses, to the work house of the city, town or county, there to be kept at hard labor for any time not exceeding three calendar months.

Justices to issue process against disorderly persons.

IV. AND BE IT ENACTED, That it shall be the duty of every justice of the peace of the proper county to issue, on information, or his own view, his warrant or process to apprehend any disorderly person, within the intent and meaning of this act.

V. And

V. And be it enacted, That it shall be lawful for any two justices of the peace, at their discretion, to bind out the child of any beggar, vagrant, vagabond, common drunkard, or common prostitute, or of any person, who shall not provide for such child, as a servant or apprentice to any person, who may be willing to take such child, till the age of twenty one years, if a male, or eighteen years, if a female, or for a less time.

A. D. 1799.

Children of beggars, vagrants, &c. may be bound apprentices or servants.

An ACT *concerning the boards of chosen freeholders.*

Passed the 10th of June, 1799.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That so much of every statute of this State as directs, that fines, penalties, forfeitures, or other monies, shall be paid to, or that any officer or other person shall account with, the board of justices and chosen freeholders of the county, shall be, and hereby is repealed; and that the said fines, penalties, forfeitures, and other monies shall be paid to, and the said officer or other person shall account with and be amenable to the board of chosen freeholders of such county.

Fines and monies directed to be paid to the justices and freeholders to the board of chosen freeholders.

II. And be it enacted, That the goods, chattels, lands, tenements and hereditaments, which have been given, granted, conveyed, or vested to and in the board of justices and chosen freeholders of any county, or any person for the use of such county, shall be, and hereby are transferred to and vested in the board of chosen freeholders of the said county, and their successors, and shall be, remain, and enure to and for the use and benefit of such county, in the same manner and according to such estate, title and interest, as the said board of justices and chosen freeholders had therein.

The property of the former corporations vested in the present.

III. And be it enacted, That if a sufficient number of the chosen freeholders of a county to constitute a board shall not attend at the time and place of their annual or other legal meeting, it shall be lawful for the attending members to adjourn the board to such time as they shall think proper.

Attending members may adjourn when there is not a sufficient number.

An ACT *to abolish fines and common recoveries.*

Passed the 12th of June, 1799.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That no fine or common recovery, to be entered, made, had or suffered in any court of record of this State, shall operate or be construed to be a conveyance or assurance of lands, tenements or hereditaments, or in any way to bar the issue in tail, or the reversioner or remainderman of their lawful claims and entries, any usage or custom to the contrary in any wise notwithstanding.

An ACT *respecting libels.*

Passed the 12th of June, 1799.

Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That in any prosecution, hereafter to be commenced in any of the courts of this State, for a libel, either against the government of this State, or any of the officers thereof, or against any other person, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence, in his defence, the truth of the matter charged in the indictment, any law, usage or custom to the contrary notwithstanding.

Truth of the libel may be given in evidence.

An ACT

A. D. 1799.

An ACT *to incorporate trustees of religious societies.*

Passed the 13th of June, 1799.

Religious societies may elect trustees, who shall be a body politic and corporate.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every religious society or congregation of Christians, entitled to protection in the free exercise of their religion, by the constitution and laws of this State, are hereby authorised to assemble at their usual place of meeting for public worship, at any time by them to be agreed upon, giving at least ten days notice of the time and purpose of assembling, by an advertisement set up in open view at or near such place of meeting, and, when so assembled, may, by plurality of voices of such of the said society or congregation as are present, elect any number not exceeding seven, of the said society or congregation, to be trustees of the same; which said trustees and their successors in office are hereby constituted a body politic and corporate in law, by whatever name they shall assume, agreeably to the directions of this act.

Name of corporation to be certified and recorded.

II. AND BE IT ENACTED, That the said trustees, when they take upon themselves a name, shall certify such name under their hands and seals, and transmit such certificate to the clerk of the court of common pleas of the county, whose duty it shall be instantly to record the same, for which he shall be entitled to receive one dollar; and thereupon the said trustees shall be known and distinguished in law by the name of incorporation so taken, certified and recorded.

Powers and privileges granted to the trustees.

III. AND BE IT ENACTED, That the said trustees and their successors shall, by such name of incorporation, be able and capable to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, legacies, donations, monies, goods and chattels, in trust for the use of the said society or congregation, to an amount in value not exceeding two thousand dollars a year, and the same or any part thereof to sell, grant, assign, demise, alien and dispose of; to sue or be sued, implead or be impleaded, in any court of law or equity; to make and use a common seal, and the same to alter and renew at their pleasure.

Line of succession how to be perpetuated.

IV. AND BE IT ENACTED, That for perpetuating a line of succession in the trustees of every religious society or congregation, it shall and may be lawful for the members of the said society or congregation to assemble at any time they may think proper, giving notice thereof as herein before is directed, for the election of the first trustees, or for the election of any other trustee or trustees, in the stead of those or any of those before elected, in case they see cause for the removal of any of the said trustees, provided such removal shall not be in less than one year after his or their election into office; and also to fill up the vacancy, which may be occasioned by the death or resignation of any trustee, or his moving out of the limits of the said society or congregation.

Trustees to take certain oaths.

V. AND BE IT ENACTED, That every such trustee shall, before he enters upon the duties of his office, take and subscribe, before a justice of the peace of the county, in which he resides, the oath to support the constitution of the United States, the oath of allegiance prescribed by law, and an oath for the faithful execution of the trust reposed in him, according to the best of his abilities and understanding.

The corporation may elect a president; his powers, and duties.

VI. AND BE IT ENACTED, That such corporation may elect, annually, or oftener, if necessary or expedient, one of their own members to be their president, who shall keep the minutes, and enter the orders, acts and proceedings of the corporation, in a book to be kept for that purpose; who shall have the custody of the common seal, and the papers, deeds, writings, documents and books of or relating to the said corporation; and who is hereby empowered to convene the said corporation, as occasion may require; and in case of his absence, sickness, death, resignation, refusal to act, or moving out of the limits of the said religious society or congregation, then the said office of president shall devolve on the senior trustee, for the time being, who shall occupy the same until the return or recovery of the president, or the election of another.

VII. AN

A. D. 1799.

VII. AND BE IT ENACTED, That upon application to the president, any member of the said religious society or congregation shall have free access to all the papers, deeds, writings, minutes, documents and books of or belonging to the said corporation.

Members of the society, to have access to the papers and books of the corporation.

VIII. AND BE IT ENACTED, That upon the death, resignation, removal, or expiration of the office of president, or election of a new one, the common seal, and all the minutes, papers, deeds, writings, documents and books of or belonging to such corporation, shall be delivered to the successor in office, on the oath of the preceding president, or in case of his death, on the oath of his executors or administrators, under such pecuniary penalty, as the said corporation shall have previously fixed and ordained, to be recovered, with costs, by action of debt, in the name and for the use of the said corporation.

On the death or removal of the president, papers and books to be delivered to his successor.

IX. AND BE IT ENACTED, That the proceedings, orders and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law.

Acts of a majority of all the trustees to be valid.

X. PROVIDED ALWAYS, *And be it enacted*, That the preceding sections of this act shall comprehend or extend to no religious society or congregation, but such as do or shall consist of at least thirty families, who support the gospel, and statedly assemble at one place of public worship: PROVIDED ALSO, That nothing herein before contained shall be construed to extend to or affect the reformed Dutch churches in this State.

The preceding sections of this act not to extend to societies of less than thirty families.

XI. WHEREAS some religious societies have held property under charters of incorporation, granted by the government of Great Britain, previous to the revolution, and doubts may arise whether such estate, so held, will descend and vest in the corporation created under the laws of this State; THEREFORE, *Be it enacted*, That all the estate, real and personal, held in fee or otherwise, in consequence of any charter granted as aforesaid, shall be vested in and held by the corporation, that may have been created in the place thereof, in consequence of the act passed the sixth day of March, in the year of our Lord, seventeen hundred and eighty six, or the supplement thereto, passed the twenty fifth day of November, in the year, seventeen hundred and eighty nine, although no transfer of such property shall have been made, by the trustees incorporated by such charter, to the trustees of the corporation created under the said laws, any thing in such charter or in any law to the contrary notwithstanding.

Property under charter granted by the British government confirmed.

XII. WHEREAS it is represented, that according to the constitution, usages and customs of the reformed Dutch churches, the ministers, elders and deacons thereof, for the time being, have the management of the temporalities of the said churches; that several charters have been heretofore granted to incorporate such ministers, elders and deacons for the purposes aforesaid; that some of the said churches have been incorporated together by charter, holding lands and tenements in common, which have since separated and divided by common consent and now desire to hold each its share or part in severalty; and that the said churches cannot avail themselves of the preceding sections of this act, because, they prescribe a mode of electing trustees, repugnant to the constitution, usages and customs of the said churches; and whereas the legislature is willing to grant relief in the premises, and to communicate equal privileges to every denomination of Christians; *Be it therefore enacted*, That the minister or ministers, elders and deacons, for the time being, or if there be no minister or ministers, the elders and deacons, for the time being, of every reformed Dutch congregation, shall be trustees of the same, and a body politic and corporate in law, by such name as the said trustees shall assume, in manner herein after directed.

Ministers, elders and deacons of the reformed Dutch congregations to be trustees and a body politic.

XIII. AND BE IT ENACTED, That the said trustees, when they take upon themselves a name, shall certify such name under their hands and seals, and transmit such certificate to the clerk of the court of common pleas of the county, whose duty it shall be instantly to record the same, for which he shall be entitled

Name of such corporation to be certified and recorded.

A. D. 1799.

to receive one dollar; and thereupon the said trustees shall be known and distinguished in law by the name of incorporation so taken, certified and recorded.

Powers and privileges granted to the said trustees.

XIV. AND BE IT ENACTED, That the said trustees of such reformed Dutch congregation shall, by such name, be able and capable to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, legacies, donations, monies, goods and chattels, in trust for the use of the said congregation, to an amount in value not exceeding two thousand dollars a year, and the same or any part thereof to sell, grant, assign, demise, alien or dispose of; to sue or be sued, implead or be impleaded, in any court of law or equity; to make and use a common seal, and the same to alter and renew at their pleasure. But no deed or instrument of conveyance for any lands, tenements, hereditaments or real estate shall be good and effectual in law, unless it be sealed with the common seal, and signed by a majority of the members of the said corporation.

The reformed Dutch churches may renounce or forego their former charters, and avail themselves of this act.

XV. AND WHEREAS some of the said reformed Dutch congregations which have heretofore been incorporated by charter or otherwise, may see cause to renounce or forego such instrument or act of incorporation, and avail themselves of this law; *Be it therefore enacted*, That it shall be lawful for the trustees of any reformed Dutch congregation, by whatever name incorporated, to renounce or forego such charter or act of incorporation and name, by writing under their hands and seals, and recorded as aforesaid; upon condition, that the minister, elders and deacons, or elders and deacons, as the case may require, of such congregation, shall incorporate themselves pursuant to the directions of this act; and that upon such incorporation and recording of the said writing, their former incorporation and body politic shall cease and be dissolved, and all the estate, real and personal, held by virtue of the same, shall pass to and be vested in the body politic and corporate formed agreeably to this act, who shall be deemed to be the legal successors in office to the former body politic and corporate, and liable to their debts.

When and how the property of two or more of the said congregations, united in one corporation, shall be divided when such corporation is dissolved.

XVI. AND BE IT ENACTED, That where two or more of the said reformed Dutch congregations, which have been united in one body politic, shall be disunited by renouncing or foregoing their former incorporation, and shall, each or any of them, become incorporated under this act, then such lands, tenements, hereditaments, monies, goods and chattels, as of right belong to each of the said congregations, separately considered, shall be and remain in the peaceable and quiet possession of the body politic and corporate of that particular church, to which such real and personal estate doth of right belong; and all real and personal property acquired by such congregations, during their union as a body politic, shall be divided between such congregations, in such manner as shall be agreed upon by the trustees of the said corporation.

Two or more of the said reformed Dutch congregations may renounce their former charters, and be constituted into one body politic.

XVII. AND BE IT ENACTED, That if the trustees of any two or more of the said reformed Dutch congregations, by whatever name known and distinguished in their respective charters or acts of incorporation, shall see cause to renounce or forego their separate corporations, and be formed into one joint corporation and body politic, it shall and may be lawful for such trustees, by mutual consent, to renounce or forego their separate charters or acts of incorporation, by writing under their hands and seals, which shall signify also their intention to become one joint corporation and body politic, and shall be recorded as aforesaid; upon condition, that the said trustees shall form themselves into one corporation agreeably to the directions of this act; and that upon recording the said writing, and after such joint incorporation under this act, their former separate corporations and bodies politic shall cease and be dissolved, and all the estate, real and personal, held by them separately, shall pass to and be vested in the trustees of such joint corporation and body politic, who shall be deemed to be the legal successors in office of the former separate bodies politic, and liable to their debts.

Line of succession how to be perpetuated.

XVIII. AND BE IT ENACTED, That, for perpetuating a line of succession the trustees of every reformed Dutch congregation, the minister or ministers, elders and deacons of such congregation, as shall take and record a name as aforesaid, shall be the first trustees of the same, and shall continue in office until others shall be duly elected, appointed or called, according to the manner, usages and customs of the reformed Dutch church; and every minister, elder or deacon so constituted a trustee, shall continue in office until another person shall, in the manner

manner, be elected, appointed or called in his stead, and so on as often as occasion may require; and if any dispute shall arise respecting the validity of the election, appointment, or call of the said trustees, the same shall be referred, for final decision, to the superior church judicature, to which such congregation is subordinate, according to the customs and constitution of the said reformed Dutch church.

Oaths to be taken by the said trustees.

XIX. And be it enacted, That every such trustee shall, before he enters upon the duties of his office, take and subscribe before a justice of the peace of the county in which he resides, the oath to support the constitution of the United States, the oath of allegiance prescribed by law, and an oath for the faithful execution of the trust reposed in him, according to the best of his abilities and understanding.

What person shall be president of the corporation; his powers and duties.

XX. And be it enacted, That the person, who is, according to the usage and custom of the reformed Dutch church, ordinarily to preside at the meeting of the minister, elders and deacons of the said congregation, shall be president of the said corporation; who is hereby empowered to convene the said corporation as occasion may require, and, at the request of any two or more of the members, it is hereby made his duty to convene the same, in such manner, and under such regulations, as the said corporation shall from time to time direct.

What person shall keep the books and papers of the corporation.

XXI. And be it enacted, That the said corporation may, from time to time, appoint some fit person belonging to the said congregation, who shall have the custody of the common seal, and the papers, deeds, writings, documents and books of or relating to the said corporation, who shall keep the minutes, and enter the orders, acts and proceedings of the corporation, in a book to be kept for the purpose, and who shall deliver the said seal, minutes, papers, deeds, writings, documents and books, when demanded, to the said corporation, under such pecuniary penalty as they shall have previously fixed and ordained.

What persons shall have free access to the said books and papers.

XXII. And be it enacted, That every person of the said congregation, who regularly contributes to the support of the gospel in the said congregation, shall have free access to all the papers, deeds, writings, minutes, documents and books of or belong to the said corporation.

Acts of a majority of all the trustees to be valid.

XXIII. And be it enacted, That the proceedings, orders and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law.

When a member shall not be allowed to vote.

XXIV. And be it enacted, That no member of the said corporation shall be allowed to vote in any matter or thing, which immediately affects himself, his private interest or emolument.

To what amount antecedent religious corporations may hold property.

XXV. And be it enacted, That it shall be lawful for every religious corporation, which has been created by act of the legislature, or by letters patent, to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, legacies, donations, monies, goods and chattels, of the yearly value of two thousand dollars, although such act or letters patent contain a restrictive clause, limiting the annual revenue and income of the said corporation to a less sum.

Former acts repealed.

XXVI. And be it enacted, That the act, entitled, "An Act to incorporate certain persons as trustees in every religious society or congregation in this State for transacting the temporal concerns thereof," passed the sixth day of March, in the year of our Lord, one thousand, seven hundred and eighty six, and the supplement thereto, passed the twenty fifth day of November, in the year of our Lord, one thousand, seven hundred and eighty nine, be, and they are hereby repealed. Provided, That such repeal shall not annul, revoke or affect any incorporation formed by virtue of the said statutes or either of them, or any order, act, proceeding, matter or thing done or to be done by such body politic; but that the said body politic shall have the same powers, be in the same state, and continue to act and exercise their corporate functions in the same manner, as if this act had not been made.

An ACT

A. D. 1799.

An ACT *to regulate certain fisheries in the river Delaware.*

Passed the 13th of June, 1799.

Commissioners appointed to grant licenses to erect wears, fishing dams, pounds and baskets in the Delaware.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That Thomas Lowrey, George Bidleman, John Prall, junior, Peter Ent, Jonathan Pidcock, Abraham Schimer, George Holcomb, John Smith, Thomas Horn, Thomas Paul, Christopher Melich, Roger Clark, Guysbert Sutfin, and Samuel Kuykendall, or any three of them, are hereby appointed commissioners, to view any part of the river Delaware, between the falls thereof at Trenton, and the mouth of Machacomack river, on application made to them by any person, who may be desirous of erecting a wear, rack, fishing dam, pound, or basket, in the said river; and if the said commissioners, or any three of them, shall be of opinion, that such wear, rack, fishing dam, pound, or basket may be erected, without obstructing or incommoding the navigation of the said river, between the points aforesaid, that then the said commissioners, or any three of them, shall mark out the place, where such wear, rack, fishing dam, pound, or basket may be erected, and shall, by a license under their hands and seals, permit the applicant to erect such wear, rack, fishing dam, pound, or basket, and to keep the same in repair, for any term not exceeding five years. But no license shall be granted to erect any wear, rack, fishing dam, pound, or basket, opposite or adjoining to the land of any person, without his or her consent in writing previously obtained.

Channel of 200 feet to be left for navigation.

II. AND BE IT ENACTED, That the said commissioners, in marking out the place for erecting any such wear, rack, fishing dam, pound, or basket, shall leave, in the deepest and most navigable part of the said river, a channel at least two hundred feet in breadth, free for the passage of boats and rafts of timber.

Allowance to the commissioners.

III. AND BE IT ENACTED, That it shall be lawful for the said commissioners to demand and receive from the applicant for such license, after the rate of one dollar and thirty three cents a day each, during the time they shall be respectively employed in viewing the place where the said wear, rack, fishing dam, pound, or basket is proposed to be erected, inclusive of going to and returning from the same.

Penalty for erecting wears, &c. without license, or at unlicensed places.

IV. AND BE IT ENACTED, That if any person, not having a license as aforesaid, shall erect, build, set up, repair or maintain, or shall aid or assist to erect, build, set up, repair or maintain any wear, rack, basket, fishing dam, or pound, for the taking of fish in the river Delaware, between the falls thereof at Trenton, and the mouth of Machacomack river; or if any person, having a license as aforesaid, shall erect, build, set up, repair or maintain, or shall aid or assist to erect, build, set up, repair or maintain any wear, rack, basket, fishing dam, or pound, at any place other than that designated in such license; then every person, so offending, shall for every such offence, forfeit and pay forty dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same.

How illegal wears, baskets, fishing dams, &c. may be removed.

V. AND for the more speedy and effectual removal of such illegal wears, racks, baskets, fishing dams, or pounds, as are or shall be erected in the river Delaware, between the places aforesaid; *Be it enacted*, That it shall be the duty of the court of general quarter sessions of the peace, in and for the county adjoining to such parts of the river Delaware, as now or hereafter may have any illegal wear, rack, basket, fishing dam, or pound erected therein, and of every justice of the peace, in and for the said county, in vacation, to issue his or their warrant, directed to the overseers of the highways of the township next adjacent to such illegal device, commanding the said overseers respectively forthwith to remove, or cause to be removed, every such illegal wear, rack, basket, fishing dam, or pound; and the said overseer or overseers shall be authorised to hire as many persons as may be necessary to throw down, remove and destroy the said illegal wear, rack, basket, fishing dam, or pound, and to make return of their proceedings to the said court or justice, and also to lay an account of the expense thereof

thereof, before the committee of his township, for allowance, who are hereby required to give him an order on the town collector for the payment of the same. A. D. 1799.

Penalty on overseer of the highways for neglect of duty.

VI. And be it enacted, That if any overseer of the highways, to whom the said warrant shall be directed, shall refuse or neglect to perform the duty required of him, he shall, for every offence, forfeit and pay forty dollars, to be recovered by action of debt, with costs, by any person, who will sue for the same.

Unlawful wears may be destroyed by any person.

VII. And be it enacted, That it shall be lawful for any person to break, throw down, remove and destroy any illegal wear, rack, basket, fishing dam, or pound as aforesaid, which is or shall be erected or made between the said points in the river Delaware.

Penalty on resisting the destruction of unlawful wears and fish dams.

VIII. And be it enacted, That whoever shall assault, resist, oppose, hinder or obstruct any person in throwing down, breaking, removing or destroying any illegal wear, rack, basket, fishing dam, or pound as aforesaid, he shall, for every such offence, forfeit and pay sixteen dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same.

IX. AND WHEREAS, it is provided by the agreement of the commissioners, appointed, by the legislature of this State, and of the State of Pennsylvania, to divide the islands and settle the line of jurisdiction in the river Delaware, that the legislature of each of the said States should have and exercise the right of regulating and guarding the fisheries on the said river, annexed to their respective shores, in such manner, that the said fisheries may not be unnecessarily interrupted, during the season of catching shad, by vessels riding at anchor on the fishing ground, or by persons fishing under claim of a common right on the said river; *Be it therefore enacted*, That if any ship, vessel or raft, shall, during the season of catching shad in the Delaware, come to anchor in the same on any fishing ground, where shad are usually taken, and shall not immediately be removed from the said fishing ground, if such removal can be done with safety, on application for that purpose, by the owner or occupier of such fishery, to the captain, pilot or person having the command of the said ship, vessel or raft, or if any such ship, vessel or raft, be wilfully run on shore on any such fishing ground, then such captain, pilot or person having the command as aforesaid, shall forfeit and pay sixty dollars, to be recovered by action of debt, with costs, by the said owner or occupier.

Penalty for anchoring vessels or rafts, during the season of catching shad, on such fishing ground in the Delaware, and not removing from the same, when required.

This act not to affect the agreement with Pennsylvania, respecting the jurisdiction of the Delaware.

X. And be it enacted, That nothing in this act shall be construed to alter or affect the said agreement entered into by the commissioners aforesaid, and which was ratified and confirmed on the part of this State, by an act, entitled, "An Act to ratify and confirm an agreement made between commissioners appointed by the legislature of the State of Pennsylvania, and commissioners appointed by the legislature of the State of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same," passed the twenty seventh day of May, in the year of our Lord, one thousand, seven hundred and eighty three.

Duty of the commissioners to have all illegal fishing dams removed.

XI. And be it enacted, That it shall be the duty of the said commissioners to enforce this act, and have it carried into full effect; so that all illegal wears, racks, baskets, fishing dams, or pounds, which have been or may be erected, shall be pulled down, removed and destroyed.

Court of common pleas of the proper county to fill vacancies, in case of the death, &c. of commissioners.

XII. And be it enacted, That if any commissioner shall die, resign, or refuse to act, it shall be the duty of the court of common pleas of the county, in which a vacancy may happen, to appoint another in his stead.

Commissioners to take an oath of office.

XIII. And be it enacted, That every commissioner, before he enters upon the execution of his office, shall take and subscribe an oath or affirmation, before some judge or justice of the peace, who is hereby empowered to administer the same, that he will faithfully and impartially perform all the duties appertaining to the said office.

XIV. And

A. D. 1799.

Former acts repealed.

XIV. And be it enacted, That the act, entitled, "An Act to regulate the fisheries, and to prevent the obstruction of the navigation in the river Delaware," passed the twenty fourth day of December, in the year of our Lord, one thousand, seven hundred and eighty four, and the acts to amend the same, passed the twenty third day of November, in the year of our Lord, one thousand, seven hundred and eighty five, and the twenty fifth day of November, in the year of our Lord, one thousand, seven hundred and ninety, and the act to revive and continue the last mentioned act, passed the eleventh day of March, in the year of our Lord, one thousand, seven hundred and ninety six, and every act, and part or parts of any act, within the purview of this act, be, and they are hereby repealed; Provided always, That such repeal shall not vacate, revoke, or affect any license heretofore granted to any person or persons by virtue of the said acts, or any of them; but the same shall continue and be of the like efficacy, force and duration, as if this act had not been made.

An ACT *to regulate fees.*

Passed the 13th of June, 1799.

Legal sheet to contain 100 words.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That a sheet or folio shall contain one hundred words, and in all cases, where an entry of any writing or copy is to be paid for, the said sheet shall consist of one hundred words.

Fees allowed to be taken by this act.

II. And be it enacted, That the officers and persons, in this act named, shall be entitled to demand and receive, for the services herein after mentioned, the fees thereto respectively annexed, and no more.

THE GOVERNOR.

Fees of the governor.

For		*Dol.*	*Cts.*
	A license of marriage, hand and seal,	1	34
	The seal to every probate of a will or letter of administration,	1	20
	Every writ of error, or other original writ,	0	40
	The first rule in every cause in error,	1	0
	Every judgment in a cause in error,	1	0
	A license to an attorney and solicitor,	3	0
	A license to a counsellor at law,	3	0
	The seal to a sheriff's commission,	1	0
	The seal to a commission for a clerk of any court,	1	0
	The seal to every certificate, exemplification or other paper,	1	20

THE COURT OF ERRORS.

The Clerk's Fees.

Fees in the court of errors.

For		*Dol.*	*Cts.*
	Reading and filing the writ, return and record,	0	34
	Filing every affidavit or other proceeding,	0	12
	Entering every rule,	0	20
	Every certified copy of a rule,	0	20
	Entering every appearance,	0	12
	Entering every judgment,	0	25
	Entering every judgment and remittitur on the roll for each sheet,	0	12
	The seal to any record or process,	0	50
	Copies of records, pleadings and other proceedings, for each sheet,	0	9
	Taxing a bill of costs,	0	50

THE

THE FEES OF THE SECRETARY OF THIS STATE.

	Dols.	Cts.
For Every order, warrant, or certificate under the governor's hand and seal, countersigned by the secretary,	0	40
Entering deeds and other writings on the record, for each sheet,	0	5
Every copy of the same, and other papers in his office, for every sheet,	0	5
A commission for a sheriff,	1	34
A commission for a clerk of any court,	1	34
Searching the records for every book,	0	7
A license to an attorney and solicitor,	3	0
A license to a counsellor at law,	3	0
And for every other commission to be paid by the treasurer of this State,	0	25
Drawing a certificate to pass under the great seal, or any other seal, and engrossing the same, for each sheet,	0	12

Fees of the secretary of State.

FEES OF THE PREROGATIVE OFFICE.

For Engrossing a last testament and will and probate, for each sheet,	0	12
Engrossing letters of administration, for each sheet,	0	12
Recording last testaments and wills, and letters of administration, for each sheet,	0	8
Filing every last testament and will,	0	10
Recording inventory for each sheet,	0	8
Filing inventory,	0	8
Every bond taken in the office,	0	34
Every marriage license,	1	20
Entering and filing caveat,	0	20
Searching the records for any one year,	0	12

Fees of the prerogative office.

FEES OF THE PREROGATIVE COURT.

The Ordinary.

For Making every order or rule,	1	0
The seal to citation, monition or process,	0	50
Hearing and determining every appeal,	4	0

Fees in the prerogative court.

Of ordinary.

The Register.

For Drawing citation, monition or process,	1	0
Entering every order or rule of court,	0	20
Copy thereof,	0	14
Entering and filing appeal,	0	20
Filing every petition, pleading or other paper,	0	14
Reading the same,	0	14

Fees of register.

IN THE COURT OF CHANCERY.

The Chancellor's Fees.

For The seal to every common writ,	0	40
Every opinion or order on a petition or motion controverted and argued in court,	1	34
Every order on petition out of court,	0	66
Every common motion,	0	75
Every dismission of a bill for want of prosecution,	1	34
Every decree,	2	50

Fees in the court of chancery.

Chancellor's fees.

THE

A. D. 1799.

The Fees of Masters.

Masters' fees.

		Dols.	Cts.
For	Every summons,	0	40
	Copy of all charges and discharges brought before the master, and scheduling writings, for each sheet,	0	10
	Every report in pursuance of an order made upon hearing a cause,	1	34
	Every other report made upon petition or motion only,	0	67
	Drawing every report, for each sheet,	0	14
	Swearing a defendant to an answer or plea, or taking an affidavit,	0	20

Clerk's Fees.

Clerks' fees.

		Dols.	Cts.
For	Entering action,	0	20
	Entering appearance of the defendant,	0	20
	Filing every bill, answer, plea, replication and other pleading, and every affidavit, petition, report, examination, deposition or other paper,	0	12
	Copy of the same, for each sheet,	0	8
	Entering rule to answer, reply, or other rule in a cause,	0	20
	Copy thereof,	0	12
	Searching for any bill, answer, pleading or other paper, for every year, in which such search is made,	0	8
	Entry of every dismission,	0	50
	Every commission to examine witnesses,	1	34
	Entering a cause for argument or hearing,	0	50
	Swearing every witness,	0	8
	Attending court on argument or hearing with the bill, answer, pleadings and other documents and papers filed in the cause,	0	50
	Reading every bill, answer or other pleading, document or paper on argument or hearing,	0	20
	Money brought into court, by order, and lodged with him, after the rate of one cent, a dollar.		

Examiner's Fees.

Examiner's fees.

		Dols.	Cts.
For	Taking the examination of every witness, for each sheet,	0	20
	Certifying every exhibit shewn to a witness,	0	30

Fees of Solicitor and Counsel.

Fees of solicitor and counsel.

		Dols.	Cts.
For	A retaining fee,	2	0
	Drawing every bill, answer, plea, demurrer, replication and other pleading, and drawing exceptions and other proceedings, for each sheet,	0	20
	Engrossing the same for each sheet,	0	10
	Drawing and engrossing every subpœna or attachment,	0	70
	Drawing other process and writs, for each sheet,	0	20
	Drawing notice of every motion, copy and service,	0	40
	Every motion of course,	0	80
	But no motion to be allowed for common process, nor for rules to answer, reply or the like, which are to be entered of course by the clerk.		
	Every special motion,	1	50
	Counsel arguing every plea or demurrer, or upon petition, or exceptions, or other special matter,	3	0
	Counsel arguing upon the final hearing,	4	0
	But no costs to be taxed for more than one counsel in a cause.		
	Drawing every decree, for each sheet,	0	20
	Engrossing the same, for each sheet,	0	12
	Copy of every bill of costs to be taxed before a decree,	0	20
	Copy of every bill of costs to be taxed after a decree,	0	30
	Every term fee,	0	80
	But no more than three term fees to be allowed in any cause.		

SHERIFF'S FEES.

A. D. 1799.

To be the same as for the like services in the supreme court.

Sheriff's fees.

FEES *of the* SERJEANT *at* ARMS *in the* COURT *of* CHANCERY.

		Dols.	Cents.	
For	Attending the court at each of its stated terms, for every day, to be paid by the treasurer,	1	0	Fees of serjeant at arms.
	Attending every special session for the argument of any plea or demurrer in any cause or causes, to be paid by the party or parties applying for such special session, and to be taxed to him or them in his or their bill of costs, if costs shall be adjudged.	1	0	

IN THE SUPREME COURT.

For	Fees to be divided among the judges, who are attending court, when the service is performed.			Fees in the supreme court.
	A license to an attorney and solicitor,	3	0	
	A license to a counsel,	3	0	Judges' fees in court.
	The first motion in every cause,	0	80	
	The trial or argument of every cause,	1	0	
	Assessment of damages,	1	0	
	Every recognizance,	0	40	
	Every rule in a cause,	0	34	

FEES *to be* PAID *to the* JUDGE, *who shall* PERFORM *the* SERVICE.

For	Drawing order for bail,	0	40	
	Taking bail,	0	40	Judges' fees out of court.
	Every justification or disallowance of bail,	0	40	
	Taking every affidavit,	0	14	
	Allowing every writ of error, habeas corpus, certiorari, prohibition, procedendo, supersedeas or other writ, where an allowance is necessary,	0	50	
	Making a return of a writ of error, examining and annexing a transcript of the record thereto, and delivering the same to the court of appeals,	3	0	
	Signing and returning postea,	1	0	
	Order of commitment of every person surrendered by or in discharge of his bail,	0	40	

COUNSEL'S FEES IN THE COURT OF APPEALS AND SUPREME COURT.

For	Trial of a cause, or arguing a demurrer or special verdict,	3	0	
	But no costs to be taxed for more than one counsel on each side.			Counsel's fees.
	Attending the court of appeals to make or oppose a motion,	1	50	

FEES *of* ATTORNIES AT LAW.

For	A retaining fee in each cause, except in ejectment,	1	0	
	Drawing every summons, capias or other mesne process,	0	34	Attornies fees.
	Drawing a warrant of attorney,	0	10	
	Copy thereof,	0	7	
	Drawing every affidavit,	0	14	
	Copy of the same, when necessary,	0	7	
	Drawing special bail-piece and attending the judges,	0	40	
	Drawing notice of justification of bail,	0	30	
	Copy and service thereof,	0	20	
	Every declaration, plea or other pleading, not exceeding three sheets,	0	70	

A. D. 1799.

		Dols.	Cts.
For	Copy thereof, when necessary,	0	30
	Every writ of error, dower, replevin, habeas corpus, certiorari, prohibition, procedendo, scire facias, venire, or distringas,	0	60
	Every declaration, plea, replication, or other pleading, exceeding three sheets, for every sheet,	0	20
	Copy thereof,	0	12
	Copy of bond, note of hand, account or other deed or writing, for every sheet,	0	9
	Every special motion, not exceeding two in any cause,	0	80
	Every subpœna,	0	34
	Every ticket for the same,	0	10
	Drawing notice of every motion, where notice of the same is necessary,	0	25
	Copy and service thereof,	0	20
	Attendance on striking a jury,	1	0
	Drawing notice of trial,	0	25
	Copy and service thereof,	0	20
	Drawing every breviat,	0	40
	Copy thereof,	0	14
	Arguing every special motion,	1	25
	Arguing demurrer or special verdict, or trying every cause, except a cause in ejectment,	2	0
	Drawing notice of taxing costs, where necessary,	0	25
	Copy and service thereof,	0	20
	Drawing capias ad satisfaciendum,	0	50
	Drawing execution against goods and chattels,	0	50
	Drawing execution against goods and lands,	0	70
	Term fee,	0	80
	But no more than two term fees to be allowed, where judgment is entered by default, nor more than three in any case,		
	Drawing declaration in ejectment,	1	50
	Retaining fee in ejectment,	1	50
	Every attendance before the court of errors, in order to make or oppose a motion,	1	0

Fees of the Attorney General.

Fees of attorney-general.

For	Every indictment to which the defendant or prisoner pleads guilty,	10	0
	Every indictment to which the defendant or prisoner pleads not guilty, and afterwards retracts his plea, and pleads guilty,	12	0
	Every indictment to which the defendant or prisoner pleads not guilty, is tried and found guilty,	15	0
	The above sums to be in full of the taxable costs and charges of the attorney general. But no costs shall be allowed, where the indictment is quashed, the defendant is acquitted, or the judgment is arrested.		

Fees of the Clerk of the Supreme Court in Civil Cases.

Fees of clerk of supreme court in civil cases.

For	Drawing every summons, capias, subpœna, or other process, if he shall do it,	0	34
	Sealing every writ,	0	14
	Entering every action,	0	10
	Entering an appearance or default,	0	14
	Entering the return of a writ,	0	14
	Entering every rule of court,	0	16
	A certified copy thereof, when required,	0	12
	Filing every writ, declaration, pleading, roll or other paper,	0	8
	Entering every retraxit, discontinuance or nonsuit,	0	15
	Reading every petition and entering order thereon,	0	20
	Every copy of such order,	0	12
	Searching the records,	0	20
	Calling and swearing every jury,	0	40

Swearing

A. D. 1799.

		Dols.	*Cts.*
For	Swearing each witness,	0	8
	Reading every record, deed or writing given in evidence,	0	14
	Swearing a constable to attend a jury,	0	8
	Taking a general verdict, and entering the same,	0	20
	Entering judgment,	0	12
	Entering every special verdict or demurrer to evidence, for each sheet,	0	12
	Copies of writs, declarations, pleadings, special verdicts, demurrers to evidence, records and other papers, for each sheet,	0	8
	Reading and entering a postea,	0	20
	Entering satisfaction on record,	0	20
	Entering confession of lease, entry and ouster,	0	20

Fees *of the* Clerk *of the* Supreme Court, *and of the* Courts *of* Oyer *and* Terminer *and* General Gaol Delivery, *in* Criminal Cases.

Fees of clerk of supreme court and of the courts of oyer and terminer, &c. in criminal cases.

For	Entering every indictment and filing the same,	0	20
	Every process, subpœna or other writ,	0	34
	Sealing the same,	0	14
	Every ticket for a subpoena,	0	10
	Entering an appearance or default,	0	14
	Entering a recognizance taken in court,	0	20
	Discharging by proclamation, and entering the same,	0	20
	Entering and filing a plea,	0	14
	Entering a relinquishment of a plea,	0	8
	Entering an order or rule of court,	0	16
	A certified copy thereof, when required,	0	12
For	Calling and swearing every jury,	0	40
	Swearing each witness,	0	8
	Reading every record, deed or writing given in evidence,	0	14
	Swearing constable to attend jury,	0	8
	Taking and entering a general verdict,	0	20
	Entering every special verdict, for each sheet,	0	12
	Entering judgment,	0	12
	Copies of writs, indictments, pleadings, special verdicts and other papers, for each sheet,	0	8
	But no costs to be allowed, where the indictment is quashed, judgment arrested, or the defendant acquitted, or discharged for want of prosecution.		

Fees *of the* Clerks *of the* Circuit Courts.

Clerk of circuits' fees.

For	Entering every action,	0	10
	Filing every nisi prius record,	0	10
	Entering every nonsuit and rule,	0	10
	A copy of a rule,	0	8
	Filing every venire, or distringas, and return,	0	10
	Entering every appearance or default,	0	10
	Entering confession of lease, entry and ouster,	0	16
	Calling and swearing a jury,	0	30
	Swearing each witness,	0	8
	Reading every record, deed or writing given in evidence,	0	12
	Filing every bill of exceptions,	0	10
	A copy thereof, for each sheet,	0	8
	Swearing a constable to attend a jury,	0	8
	Taking and entering a general verdict,	0	20
	Entering in the minutes every special verdict or demurrer to evidence, for each sheet,	0	12
	Copy thereof, for each sheet,	0	8
	Drawing postea, when a general verdict is found,	0	70
	Drawing postea in case of a special verdict or demurrer to evidence, for each sheet,	0	8

FEES

A. D. 1799.

Fees *of* Sheriffs.

Sheriff's fees.

For

	Dols.	*Cts.*
Serving an attachment against the estate of an absconding or absent debtor,	2	50
Serving a capias ad respondendum or other mesne process,	1	50
Serving a capias ad satisfaciendum,	1	50
Returning every writ,	0	12
Mileage on serving every writ, two cents, out and in, for every mile, to be computed from the court house; but the whole mileage shall in no case exceed two dollars. PROVIDED, That no mileage shall be allowed on a writ of fieri facias, partition, possession, restitution, seisin, venire facias, distringas, or inquiry.		
Serving every declaration in trespass and ejectment, and mileage as aforesaid,	2	0
Taking every bail-bond in the supreme court,	0	70
Taking every bail-bond in the court of common pleas,	0	35
Serving every venire facias or distringas and return,	1	0
Producing the list of freeholders and attending the judge within the county, two dollars and seventy cents; and, if out of the county, twenty cents for every mile, from the court-house of his county, to the place where he shall attend the judge, in addition to the said fee of two dollars and seventy cents.		
Summoning a special jury,	2	70
Attending a jury of view, each day,	1	50
Executing every writ of partition, swearing the jury, and making return of the writ, three dollars; and if the execution of the said writ shall occupy more time than one day, then, in addition to the above sum, he shall be allowed after the rate of one dollar and fifty cents a day, for every day more that he shall attend the said jury.		
Executing every writ of possession and return,	2	0
Executing every writ of enquiry, summoning the jury, and returning the inquisition,	2	0
Serving every execution, if it be of or under one hundred dollars, one dollar; and if it be above that sum, two cents on every dollar, to be computed on the amount of the debt or damages paid or secured to the plaintiff, by sale or otherwise.		
Advertising the property for sale, provided the sheriff or deputy sheriff attend in pursuance of the advertisement,	3	50
The cryer of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale,	1	0
Every adjournment of a sale,	1	0
But no more than one adjournment shall be allowed; and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending, and adjourning, as if he had but one execution.		
A deed to a purchaser of real property,	2	50
Every person committed to prison,	0	25
Discharging every person from prison,	0	12
Victualling a prisoner, for every day,	0	10
Attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving him into custody,	1	50
That the sheriff shall file his taxed bill of costs with the clerk of the court, out of which execution issued, at the term next after the sale of the property, or, in default thereof, he shall not be entitled to any costs; and if any sheriff shall charge in such bill of costs, for services not done, or not allowed by law, or shall take any greater fee or reward for any service by him done, than is or shall be allowed by law, he shall pay to the party aggrieved, thirty dollars, to be recovered by action of debt, with costs.		

IN

IN THE COURTS OF COMMON PLEAS.

A. D. 1799.

Fees in the common pleas.

FEES to be divided among the JUDGES, who are attending court, when the service is performed.

		Dols.	*Cts.*	
For	The first motion in every cause,	0	50	Judges' fees in court.
	Every rule in a cause,	0	20	
	The trial or argument of every cause,	0	50	
	Assessment of damages,	0	75	
	Every writ of error or habeas corpus allowed and entered,	0	20	

FEES to be paid to the JUDGE who performs the service.

For	Drawing order for bail,	0	25	Judges' fees out of court.
	Taking bail,	0	25	
	Every justification or disallowance of bail,	0	25	
	Taking every affidavit,	0	10	
	Order of commitment of every person surrendered by or in discharge of his bail,	0	20	

IN THE COURTS OF GENERAL QUARTER SESSIONS.

FEES to be divided among the JUSTICES, who are attending court, when the service is performed.

Fees in the quarter sessions.

For	The first motion in a cause,	0	50	Justices' fees in court.
	Every rule in a cause	0	20	
	The trial or argument of every cause,	0	50	
	Every recognizance,	0	25	

FEES to be paid to the JUSTICE of the peace, who performs the service, where he is entitled to fees, and they are not otherwise ascertained by law.

For	Every recognizance,	0	25	Justices' fees out of court.
	A pass,	0	20	
	A mittimus,	0	25	
	Taking examinations, for each sheet,	0	14	
	Every oath or attestation,	0	5	
	A warrant against a person for a breach of the peace, or a misdemeanor,	0	25	
	A summons on a penal law,	0	13	
	Drawing a conviction,	0	25	
	A warrant to levy a penalty,	0	25	

FEES *of the* CLERKS *of the* COURTS *of* COMMON PLEAS.

For	Drawing every summons, capias or other process, if he shall do it,	0	30	Fees of the clerks of the pleas.
	Sealing every writ,	0	14	
	Entering every action,	0	8	
	Entering an appearance or default,	0	10	
	Entering the return of a writ,	0	10	
	Entering every rule of court,	0	10	
	A certified copy thereof, when required,	0	8	
	Filing every writ, declaration, pleading, roll or other paper,	0	8	
	Entering every retraxit, discontinuance or nonsuit,	0	8	
	Reading every petition and entering order thereon,	0	15	
	Every copy of such order,	0	10	
	Searching the records,	0	12	
	Calling and swearing the jury,	0	20	
	Swearing each witness,	0	6	
	Reading every record, deed or writing given in evidence,	0	10	

A. D. 1799.

		Dols.	Cts.
For	Swearing constable to attend a jury,	0	6
	Taking and entering a general verdict,	0	8
	Entering judgment,	0	8
	Entering every special verdict or demurrer to evidence, for each sheet,	0	10
	Copies of writs, declarations, pleadings, special verdicts, records and other papers, for each sheet,	0	8
	Entering satisfaction on record,	0	14
	Reading and entering every allowance of a writ of error, habeas corpus or other writ, requiring an allowance and returning the same,	0	50
	Entering deeds and conveyances on the record, for each sheet,	0	5
	Searching the records of such deeds,	0	7

FEES *of the* CLERKS *of the* COURTS *of* GENERAL QUARTER SESSIONS.

Fees of the clerk of the sessions.

For	Entering and filing an indictment,	0	16
	Every process, subpœna or other writ,	0	25
	Sealing the same,	0	14
	Every ticket for a subpœna,	0	9
	Entering an appearance or default,	0	10
	Entering a recognizance taken in court,	0	15
	Entering and filing a plea,	0	8
	Discharging by proclamation and entering the same,	0	15
	Entering the relinquishment of a plea,	0	8
	Reading every petition and entering order thereon,	0	15
	Copy of such order,	0	10
	Every rule or order of court,	0	10
	Copy of such rule or order,	0	8
	Searching the records,	0	12
	Calling and swearing the jury,	0	20
	Swearing each witness,	0	6
	Reading every record or other writing given in evidence,	0	10
	Swearing constable to attend a jury,	0	6
	Taking and entering a general verdict,	0	8
	Entering judgment,	0	8
	Entering every special verdict, for each sheet,	0	10
	Copies of writs, indictments, pleadings, special verdicts and other papers, for each sheet,	0	8
	Entering the allowance of every habeas corpus, writ of error or certiorari, and returning the same,	0	50
	But no costs to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted, or discharged for want of prosecution.		

FEES OF CORONERS.

Coroner's fees.

For	The view of a dead body,	2	0
	A precept to summon a jury,	0	50
	Swearing the jury,	0	25
	Swearing every witness,	0	6
	Drawing and returning the inquisition,	1	0
	Taking examinations in writing, for each sheet,	0	14
	Burying a dead body,	4	0
	Which fees the collector of the county is hereby authorised and required to pay, on being taxed by the clerk of the court of common pleas of the county; and the said county collector shall be allowed the same, in the settlement of his accounts with the treasurer of the State.		
	Serving writs, advertising property, and making deeds, the same fees as are by law allowed to sheriffs for the same services, and under the like restrictions and regulations.		

CRYER'S FEES.

Cryer's fees.

For

	Dols.	Cts.
Calling every action,	0	9
Calling a jury,	0	12
Swearing a witness,	0	6
Calling the plaintiff on a nonsuit,	0	8
Calling the defendant on a default,	0	8
Calling the defendant on a recognizance,	0	8
Calling the bail on a recognizance,	0	8
Making proclamation to discharge a person,	0	8

FEES OF JURORS.

Juror's fees.

For

Every juror for each action, on which he is sworn or affirmed, including a writ of enquiry, coroners inquest, and indictment,	0	25
Every juror, who appears in a cause, but is not sworn or affirmed,	0	12
Every juror going to, attending, and returning from a view, for each day,	1	0
Every juror from a foreign county, going to, attending at, and returning from court, being sworn or affirmed in a cause, for each day,	1	0
Every such juror, who attends, and is not sworn or affirmed, to be allowed for going to, attending at, and returning from court, after the rate of fifty cents for each day.		

FEES OF WITNESSES, &c.

Witness's fees.

For

Every witness attending a court, or commissioners, or referees, or arbitrators, in his own county, for each day,	0	50
Every witness from a foreign county, attending a court, or commissioners, or referees, or arbitrators after the rate of one dollar a day, in which shall be included, his or her going to and returning from the same, allowing one day for every thirty miles from and to his or her place of residence.		
The secretary of this State, or any clerk attending on subpœna, with wills, records, or other written evidence, after the rate of one dollar a day, and mileage as aforesaid.		
Fees of Surveyors, &c. on a view. Every surveyor, for his actual service on a view, for each day,	2	0
Every surveyor, for his going to and returning from a view, for each day,	1	0
Every chain bearer, on a view for each day,	0	75
Serving a subpœna on each witness,	0	13
Constable's fees. Fees of the Constable, where he is entitled to fees, and they are not otherwise ascertained by law.		
The constable shall, for the same services, be allowed the same fees, as are established by the act constituting courts for the trial of small causes; And also, seventy five cents per day for every day he shall attend at the supreme court, circuit court, courts of oyer and terminer and general gaol delivery, courts of common pleas, and general quarter sessions of the peace, in his county, to be paid by the county collector of the same, on his producing a certificate from the presiding judge or justice of such court, setting forth the number of days he may have so attended. PROVIDED, That when two or more courts are held at the same time, the constable shall receive no more than seventy five cents per day, for his attendance on all the said courts.		

Clerks of the respective courts to tax bills of costs.

III. AND BE IT ENACTED, That the clerk of every court in this State shall be, and he hereby is authorised and directed to tax and subscribe his name to all bills of costs, presented to him for that purpose, issuing in any cause instituted and determined in the court whereof he is clerk, agreeably to the fees in this act allowed and specified; and shall in no case allow any item or charge, unless the service

A. D. 1799.

service in his opinion, shall have been necessary in regularly conducting the cause, and shall have actually been performed, and shall so appear on the minutes of the court.

Fee for taxation.

IV. And be it enacted, That the said clerk shall be entitled to charge, for every bill of costs so by him taxed, twenty five cents; and if he shall allow any item or charge in any bill of costs, which shall not appear of record in the minutes of the court, or shall allow more for any service done than is allowed by law, he shall, for every offence, forfeit and pay to the party aggrieved the sum of thirty dollars, to be recovered with costs by action of debt, in any court having cognizance of that sum.

Penalty for allowing unlawful charges.

Courts on application, to retax bills of costs.

V. And be it enacted, That if any person shall think himself or herself aggrieved, by any bill of costs being taxed at a greater sum than is by law allowed, such person may apply to the court, in which the action depended, at the next term after such bill of costs is so taxed, and payment thereon demanded; and the said court is hereby required to examine and retax the same according to law; and if the said court shall find any charge allowed, for services not actually done, or any item charged higher than is by law allowed, then the said clerk shall, over and above the fine herein before imposed on him, pay back the fee received for taxing the said bill, and pay the court, for their trouble in retaxing the same, double the sum allowed him by law; but if the said court shall find the said bill to be taxed agreeably to the directions of this act, then the applicant shall pay the court for retaxing such bill, whose decision shall be final.

Former acts repealed.

VI. And be it enacted, That the act, entitled, "An Act for the better enabling the judges and justices of this colony to ascertain and tax bills of costs, and for making provision by law for the payment of the services of the several officers of the colony, and for preventing the said officers from taking exorbitant fees," passed the eighteenth day of February, in the year of our Lord, one thousand, seven hundred and forty seven--eight, and the act, entitled, "An Act making provision for the wages of witnesses attending the supreme court and circuit courts in this State," passed the eleventh day of November, in the year of our Lord, one thousand, seven hundred and ninety, and the act, entitled, "An Act for ascertaining the fees of sheriffs and coroners," passed the seventh day of February, in the year of our Lord, one thousand, seven hundred and ninety four, and the act, entitled, "An Act to ascertain, in certain cases, the fees of the secretary of the State," passed the twenty first day of February, in the year of our Lord, one thousand, seven hundred and ninety four, and the fifteenth and sixteenth sections of the act, entitled, "An Act respecting coroners," passed the eighth day of March, in the year of our Lord, one thousand, seven hundred and ninety six, and the act, entitled, "An Act relative to proceedings in the courts of law," passed the ninth day of March, in the year of our Lord, one thousand, seven hundred and ninety seven, and the act, entitled, "An Act ascertaining costs in certain cases," passed the sixteenth day of March, in the year of our Lord, one thousand, seven hundred and ninety eight, and the ordinance, entitled, "An Ordinance for regulating and establishing the fees hereafter to be taken by the officers of the court of chancery of the province of New-Jersey," made by his Excellency Jonathan Belcher, in council, the twenty third day of November, in the year of our Lord, one thousand, seven hundred and fifty three, and all and every act and acts, and part and parts of any act or acts, coming within the purview of this act, be, and they hereby are repealed: Provided always, That for services rendered, antecedent to the passing of this act, the same fees shall be allowed, as if this act had not been made: And provided also, That this act shall not take effect until the first day of September next.

But not to affect antecedent services.

An ACT *respecting the court of chancery.*

Passed the 13th of June, 1799.

Chancery to hold four stated terms, annually, at Trenton, besides special ones.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the court of chancery of this State shall hold, annually, at Trenton, four stated terms, commencing the first Tuesday

day of March, the third Tuesday of May, the second Tuesday of September, and the third Tuesday of November, and such special terms at the same or any other place, as the said court shall, from time to time appoint. A. D. 1799.

II. And be it enacted, That if the said court shall not sit or be opened at any of the said terms, whether stated or special, the writs and process then returnable, and the bills, suits, pleadings and proceedings depending before the said court, shall be continued of course till the next term, and so from term to term, until the court shall sit. Process and suits to be continued, if the court shall not sit.

III. And be it enacted, That the said court of chancery shall be considered as always open for the granting of injunctions, writs of ne exeat to prevent the departure of defendants from the State, and other writs, and process heretofore usually granted in vacation. For what purposes the court shall be considered as always open.

IV. And be it enacted, That every subpœna, process of sequestration, writ of execution, or other writ or process shall be issued by a solicitor, or by the clerk, at the instance of the party, and before the service or execution thereof, shall be subscribed or endorsed with the name of the said solicitor, or party, and also signed and sealed by the said clerk. Name of solicitor or party, and clerk, to be subscribed to process.

V. And be it enacted, That no subpœna or other process for appearance shall issue out of the court of chancery, except in cases to stay waste, until after the bill shall have been filed with the clerk of the court. No process to issue until bill be filed, except in waste.

VI. And be it enacted, That if the complainant reside out of this State, he shall, before the issuing of process to appear, cause a bond to be executed by at least one sufficient person, being a freeholder and resident within this State, to the defendant, in the penal sum of one hundred and fifty dollars, conditioned to prosecute the suit with effect, and to pay costs to the defendant, if he shall be entitled thereto, and to have the same filed with the clerk, or in default thereof, that the complainant's solicitor, who shall file the said bill and issue process thereon, shall be responsible to pay the defendant such costs, as he may be entitled to by the order of the court; and if the said bill and process be signed by the complainant, and not by any solicitor, then the said suit shall be stayed till such bond be filed, and if it be not filed by the time appointed by the court, the bill shall be dismissed, with costs. Bond to be given for payment of costs, if the complainant reside out of this State.

VII. And be it enacted, That it shall be the duty of the sheriff or coroner, as the case may require, of any county in this State, to whom any subpœna, order, attachment, process of sequestration, writ of execution, or other process, issuing out of the court of chancery, shall be directed, or delivered, to serve or execute the same, and to make return thereof at the time and place therein mentioned, which shall be filed by the clerk. Sheriff or coroner to serve process issuing out of chancery.

VIII. And be it enacted, That every subpœna or process for appearance shall be served on the person to whom it is directed, or a copy thereof left at his dwelling house, or usual place of abode, at least ten entire days prior to its return. How subpœnas are to be served.

IX. And be it enacted, That an injunction shall not issue to stay proceedings at law in any personal action after a verdict, or a judgment, unless a sum of money, equal to the amount for which the verdict or judgment is given, with costs of suit, shall be first deposited with the clerk of the court, by the applicant for such injunction; and that no injunction shall issue to stay proceedings at law in any mixed action, after a verdict or judgment, unless the applicant shall first deposit with the said clerk, such a sum of money as the chancellor shall direct. On what terms injunctions may be issued after verdicts or judgments.

X. And be it enacted, That no injunction shall be granted to stay proceedings in any suit at law, before a verdict or judgment, unless the chancellor be satisfied of the complainant's equity, either by affidavit, certified at the foot or on the back of the bill, that the allegations thereof are true, or by other means. Injunctions before verdict or judgment, on what to be grounded.

A. D. 1799.

When answer shall be filed ten days before motion be made to dissolve injunction.

XI. And be it enacted, That no motion to dissolve an injunction, which has been regularly obtained, shall be heard, until ten days after the answer is filed, if the party rely in any measure on his answer for the dissolution.

Eight days notice to be given of special motions.

XII. And be it enacted, That neither a motion to dissolve an injunction, nor any other special motion, shall be heard, unless eight days notice, exclusive of Sunday and the day of service, shall have been given thereof to the opposite solicitor.

If, after injunction, waste be committed, an attachment of contempt may be issued against the offender.

XIII. And be it enacted, That if the person, against whom an injunction shall be issued to stay waste, shall, after the service thereof, do or commit, or consent, direct, or suffer to be done or committed, any waste or destruction of or upon the premises, contrary to the said injunction, and the chancellor, on affidavit, or other proof, shall be of opinion, that such waste or destruction hath been done or committed; then the said chancellor may, on motion, order an attachment of contempt to be issued against the person so charged with disobedience to and a breach of the said injunction; and if the person, so offending, shall be brought before the chancellor, by virtue of the said attachment, and shall not make it appear to his satisfaction, that no waste or destruction hath been done or committed as aforesaid, then the said chancellor may, in his discretion, and on motion, order such offender to be committed, and kept in close custody, until he shall give further order therein.

When and on what terms writs of ne exeat shall be granted.

XIV. And be it enacted, That no writ of ne exeat shall be granted, unless satisfactory proof be made to the chancellor, that the defendant designs quickly to depart from this State; and if granted, the chancellor shall direct to be endorsed thereon the sum, in which the party shall give bond, with surety or sureties, being freeholders in this State.

Within what time the defendant is to plead, demur, and answer, or the bill be taken as confessed.

XV. And be it enacted, That on a subpœna being returned, served, by the sheriff, the defendant shall file his plea, demurrer, or answer to the complainant's bill, in the clerk's office, at or before the stated term next after the day of appearance specified in such subpœna, unless the court shall grant the defendant further time; and if the defendant shall not file his plea, demurrer, or answer, within the time limited by this act, or granted by the court, the said bill shall be taken as confessed, and such decree made thereon, as by the court shall be deemed equitable and just; or the chancellor may, at his discretion, order the said complainant to produce documents and witnesses to substantiate and prove the allegations in his bill, or the chancellor may examine the complainant, on oath or affirmation, to ascertain the allegations in his bill; and such decree shall be made, in either case, as the chancellor shall think equitable and just.

In what manner the complainant may proceed, if some of the defendants live in, and some out of this State.

XVI. And be it enacted, That if any person shall file a bill against a defendant or defendants residing within this State, in which it shall be proper or necessary to join other defendant or defendants residing out of this State, whether in the United States or any other country, the complainant, on service of notice on such other defendant or defendants, or inserting such notice in one of the newspapers of the state or country, where he or they reside, nearest to such place of residence, for nine weeks successively, after such bill is filed, and making proof before a judge or justice of the supreme or superior court of the said State or country, that such notice has been given personally or by advertisement as aforesaid, and the same proof being properly certified, and the said other defendant or defendants shall fail to file a plea, demurrer or answer to the said bill, within three calendar months after such notice proved and certified as aforesaid, or such longer time as the chancellor shall grant, then the said bill shall be taken as confessed against the defendant or defendants so having notice, and failing to plead, demur or answer; and thereupon such decree shall be made, as the chancellor shall think equitable and just.

When plea or demurrer shall be set down for argument.

XVII. And be it enacted, That when a plea or demurrer shall be filed, it shall be the duty of the party pleading or demurring, within three weeks after filing the same, to set it down for argument at the next term, or in default thereof, the said plea or demurrer shall be over ruled of course.

XVIII. And

XVIII. And be it enacted, That when the complainant conceives the plea to be good, though not true, he may reply to and take issue upon it, and proceed as in case of an answer.

When complainant may reply to a plea.

XIX. And be it enacted, That if the defendant file a demurrer and answer, the complainant shall not proceed on the answer, till the demurrer has been argued or disposed of.

In case of demurrer and answer, demurrer to be first disposed of.

XX. And be it enacted, That if the plea or demurrer be over ruled, no other plea or demurrer shall be thereafter received; but, in such case, the defendant shall file his answer to the complainant's bill in forty days after such over ruling; and if he fail to do so, the said bill shall be taken as confessed, and the said court shall thereupon proceed as directed in the fifteenth section of this act.

If plea or demurrer be over ruled, no other to be received; and defendant to file his answer in forty days.

XXI. And be it enacted, That if the plea or demurrer be allowed, the complainant shall pay costs, and if over ruled, the defendant shall pay them.

Costs on plea or demurrers allowed or over ruled.

XXII. And be it enacted, That the complainant shall file exceptions, or a replication, or set down a cause for hearing upon bill and answer, within thirty days after the expiration of the time limited or granted for filing the answer, or on failure thereof, his bill shall be dismissed, with costs, unless good cause be shewn to the contrary.

When exceptions or replication to be filed, or the cause be set down for hearing on bill and answer.

XXIII. And be it enacted, That when exceptions shall be filed to an answer, a rule may be entered of course, with the clerk, either in term time or in vacation, to refer the same to a master of the court, who shall decide and report upon them within thirty days after they are filed; but an appeal from such report shall be allowed to the chancellor, who shall hear and determine the same at the next term.

Exceptions to answer to be referred to a master.

XXIV. And be it enacted, That the complainant, if his exceptions be over ruled, shall pay costs to the defendant; and the defendant, if his answer be adjudged insufficient, shall pay costs to the complainant.

Costs on exceptions, by whom to be paid.

XXV. And be it enacted, That when an answer shall be adjudged to be insufficient, the defendant shall file a second or further answer, within thirty days after such adjudication, or on failure thereof, the said bill shall be taken as confessed, and such proceedings had thereon as if the first or original answer had not been filed within the limited or granted time.

Within what time a second answer shall be filed.

XXVI. And be it enacted, That if such second or further answer shall be adjudged to be insufficient, the defendant shall pay double costs, and shall file a third or further answer, within twenty days after such adjudication, or on failure thereof, the said bill shall be taken as confessed, and such proceedings be had thereon, as if the first or original answer had not been filed within the limited or granted time as aforesaid.

If second answer be insufficient, the defendant to pay double costs, and to file further answer within twenty days.

XXVII. And be it enacted, That if such third or further answer shall be adjudged to be insufficient, the defendant shall pay treble costs; and in such case, further time to answer shall not be allowed; but the said bill shall be taken as confessed, and such proceedings be had thereon, as if the first or original answer had not been filed in due time.

If third answer be insufficient, the defendant to pay treble costs, and bill be taken as confessed.

XXVIII. And be it enacted, That if a cross bill be exhibited, the defendant to the first bill shall answer thereto, before the defendant to the cross bill shall be compelled to answer such cross bill.

A cross bill, when to be answered.

XXIX. And be it enacted, That all rules, common or special, by consent of the parties or their solicitors, shall be entered of course with the clerk, whether in term time or in vacation.

Rules by consent to be entered of course.

XXX. And be it enacted, That all amendments shall be made with or without costs, and on such equitable terms, as the said court shall direct.

Amendments, how to be made.

XXXI. And

A. D. 1799.

Parties to take notice of pleadings and decrees, at their peril.

XXXI. And be it enacted, That parties to suits in chancery shall take notice, at their peril, of the filing of answers, demurrers, pleas, replications and other pleadings, and of the pronouncing and signing of decrees.

If hearing be on bill and answer, the answer to be taken as true.

XXXII. And be it enacted, That if the complainant proceed to a hearing on bill and answer only, the answer shall be taken to be true in all points; and no evidence shall be received, unless it be matter of record, to which the answer refers, and is proveable by the said record.

Cause at issue on filing replication.

XXXIII. And be it enacted, That every cause in the court of chancery shall be deemed to be at issue on filing a replication; and it shall not be necessary to issue a subpœna, or enter a rule, to rejoin in any case.

Defendant, after answer, may exhibit interrogatories to complainant.

XXXIV. And be it enacted, That the defendant in chancery, after he shall have filed his answer, may exhibit interrogatories to the complainant, which shall be answered by him on oath or affirmation, and such answer shall be evidence in the cause, in the same manner and to the same effect, as the defendant's answer to the complainant's bill is evidence; and if the complainant shall not answer such interrogatories by the time appointed by the court, he shall be in contempt, and his bill dismissed, with costs.

Mode of proof to be the same in chancery as at law.

XXXV. And be it enacted, That the mode of proof by oral testimony and examination of witnesses in open court shall be the same in the court of chancery, as in the supreme court of this State at common law; and that such examination shall be reduced to writing, by some person appointed by the court, signed by the examinant, filed with the clerk, and made use of in the cause.

Fees of witnesses.

XXXVI. And be it enacted, That witnesses in the court of chancery shall be allowed the same fees, as by law are allowed to witnesses in the supreme court of this State.

Chancellor may take the opinion of supreme court on matter of law.

XXXVII. And be it enacted, That the court of chancery may send any matter of law to the supreme court of this State, for their opinion to be certified thereon.

And may direct an issue on matter of fact.

XXXVIII. And be it enacted, That if any matter of fact shall render the intervention of a jury necessary, then the court of chancery is hereby authorised to direct an issue for the trial of the same in the supreme court of this State.

Cause to be heard at the next term after issue joined.

XXXIX. And be it enacted, That every cause shall be set down for hearing at the next stated term after the filing of the replication, or on failure thereof, the complainant's bill shall be dismissed, with costs; unless the court, on just cause and reasonable terms, allow further time for the said hearing; and if the said hearing be not had within the time so limited or allowed, then the court shall dismiss the said bill, with costs. Provided always, That there be fifteen days between the filing of the replication and the next stated term; and if there be not, then the hearing shall be had at the subsequent stated term, or at a special term.

Provided, fifteen days intervene between filing the replication and such term.

Complainant making default at hearing, his bill to be dismissed.

XL. And be it enacted, That if the complainant shall not attend at the time appointed for the hearing of the cause, his bill shall be dismissed, with costs.

Hearing to proceed, though the defendant shall not attend.

XLI. And be it enacted, That if the defendant shall not attend at the time appointed for the hearing of the cause, the bill, answer, replication, documents, and proofs shall be read, and the witnesses examined on the part of the complainant, and the court thereupon shall decree in favor of the complainant or dismiss his bill, as the case may require.

Pleadings and proofs to be used at the argument or hearing.

XLII. And be it enacted, That the bill, answer, pleadings, papers, documents, and proofs, filed in the cause, shall be used at the argument or hearing, for which no charge shall be made by the clerk, except that for reading.

Compensation of judges and masters, when called by the chancellor to his assistance.

XLIII. And be it enacted, That whenever the chancellor shall deem it necessary to call to his assistance, the chief justice of this State, or any justice or justices of the supreme court, or one or more of the masters in chancery, to advise

vise with upon the hearing of a cause, or an argument, or upon motions of importance, each justice and master shall be allowed after the rate of two dollars a day, by way of compensation for attending the said court, to be paid by the treasurer of the State, on a certificate, signed by the chancellor, of the time of such attendance, allowing one day for every twenty miles from his place of residence. A. D. 1709.

In what time a petition for a rehearing shall be preferred

XLIV. AND BE IT ENACTED, That a petition for a rehearing shall be signed by counsel, and preferred within ten days after making the order on the hearing; and the prayer of such petition shall be allowed or disallowed, at the discretion of the chancellor, on the whole state of the case.

Pleadings and decrees to be recorded by the clerk, and signed by the chancellor.

XLV. AND BE IT ENACTED, That when any cause shall be finally determined in the court of chancery, the clerk of the court shall enter together, in order, the bill, answer, pleadings, reports, decretal orders, and decree in such cause, in a book to be kept for that purpose, which shall be signed by the chancellor, as of the day on which such decree was pronounced; but such decree shall not contain any recital of the said bill, answer, or other pleadings.

Decrees to have the operation and effect of judgments at law.

XLVI. AND BE IT ENACTED, That the decree of the court of chancery, shall, from the time of its being signed, have the force, operation, and effect of a judgment at law, in the supreme court of this State, from the time of the actual entry of such judgment.

A decree, directing a conveyance or release, shall, if not complied with, have the operation and effect of a conveyance or release.

XLVII. AND BE IT ENACTED, That where a decree of the court of chancery shall be made for a conveyance, release, or acquittance, and the party, against whom the said decree shall pass, shall not comply therewith by the time appointed, then such decree shall be considered and taken, in all courts of law and equity, to have the same operation and effect, and be as available, as if the conveyance, release or acquittance, had been executed conformably to such decree.

For the performance of a decree, process of sequestration, or execution against the goods and lands, or body of the defendant, may be issued.

XLVIII. AND to the end, that all decrees of the court of chancery may be speedily and effectually executed and fulfilled; *Be it further enacted*, That the complainant having obtained a decree, and the defendant not having complied therewith by the time appointed, it shall be lawful for the said court to issue process for the immediate sequestration of the real and personal estate of the defendant, or so much thereof as may be sufficient to satisfy the demand of the complainant in the decree specified, with costs, or to issue a writ of fieri facias against the goods and chattels, lands, tenements, hereditaments, and real estate of the defendant, upon which sufficient property shall be taken and sold, to satisfy the said demand, with costs, or to issue a capias ad satisfaciendum against the defendant; upon which writs of fieri facias and capias ad satisfaciendum, there shall be the same proceedings as at law; or to cause, by injunction, the possession of the effects and estate demanded by the bill, and whereof the possession or a sale is decreed, to be delivered to the complainant or otherwise, according to such decree, and as the nature of the case may require; and in case of sequestration, the court shall order payment and satisfaction to be made, out of the estate so sequestered, according to the true intent and meaning of the decree.

Property of goods bound from delivery of execution.

XLIX. AND BE IT ENACTED, That a writ of fieri facias shall bind the property of the goods of the person, against whom it is issued, from the time that it was delivered to the sheriff or officer to be executed, as at law.

Sheriff not executing process of sequestration, or fieri facias, or not rendering money when levied, to be amerced to the amount of the demand, with costs.

L. AND BE IT ENACTED, That if the sheriff or other officer shall neglect or refuse to execute any process of sequestration, to him directed and delivered, or to make payment of the rents, issues and profits of the estate so sequestered, according to the order of the said court, or, where the execution shall be by fieri facias, shall neglect to file a just and true inventory of the goods and chattels, lands, tenements, hereditaments, and real estate, so levied on and seized, unless he return, that he hath levied to the amount of the demand or sum therein specified, with costs, or shall voluntarily or negligently omit, for the space of two months, to render to the complainant, or his representative or solicitor, the money, which he shall have received from the sale of the estate, real and personal, of the defendant, or otherwise; then such sheriff or officer shall be amerced by the said court to the amount of the demand of the complainant, with costs, for the use of

A. D. 1799.

Such amercement to have the effect of a decree, whereon execution may be issued.

the said complainant. PROVIDED, That ten days notice, in writing, shall be given to such sheriff or officer, by the complainant, his representative, or solicitor, of the intended application for such amercement; which amercement, so ordered by the court, shall have the force, operation, and effect of a decree, whereon execution, in the name and for the use of the said complainant, or his representative, may instantly, on motion in term time, and without further proceedings, be awarded and issued against the goods and chattels, lands, tenements, hereditaments and real estate of the said sheriff or officer.

Party aggrieved by the default of the sheriff, how to be redressed.

LI. AND BE IT ENACTED, That if any party to a suit in chancery shall be aggrieved by the neglect, default, male practice or misconduct of the sheriff, then such party, his representative, or attorney, may apply and be redressed, to the amount of the sum specified in the order or decree, in the manner prescribed by the ninth and tenth sections of the act, entitled, "An Act concerning sheriffs," passed the eighteenth day of March, in the year of our Lord, one thousand, seven hundred and ninety six.

Sheriffs, who shall not make due return of process, to be in contempt, and fined.

LII. AND BE IT ENACTED, That if any sheriff or other officer, to whom any writ, process, or order of the court of chancery shall be directed, or delivered, shall not make return thereof, at the day of return, and according to the tenor of such writ, process, or order, the same not being countermanded, he shall be in contempt, and process of contempt shall, on motion in term time, be issued against him, and before he shall be discharged from such contempt, he shall pay to the clerk, for the use of the State, as a fine for the said contempt, a sum not exceeding fifty dollars, to be imposed by the court, and the costs incurred by means thereof.

Persons in contempt may be fined and committed.

LIII. AND BE IT ENACTED, That to enforce obedience to the process, rules, and orders of the court of chancery, where any person shall be in contempt, according to the law, practice, or course of the said court, he shall, for every such contempt, and before he be released or discharged from the same, pay to the clerk in chancery, for the use of this State, a sum not exceeding fifty dollars, as a fine for the said contempt; and that the said person, being in court, upon process of contempt, or otherwise, shall stand committed and remain in close custody, until the said process, rule, or order shall be obeyed and performed, and until the fine, so imposed for such contempt, with the costs, be fully paid.

Clerk to pay fines annually, to the treasurer.

LIV. AND BE IT ENACTED, That the said clerk in chancery shall account for, on oath, and pay, annually, to the treasurer of this State, the fines, which he shall have received by virtue of this act.

Costs in the discretion of the court where not otherwise directed by law; and how to be recovered.

LV. AND BE IT ENACTED, That, except where it is otherwise directed by this or some other act of the legislature, it shall be in the discretion of the court of chancery to award costs or not; and the payment of costs, when awarded, may be compelled by writ of fieri facias, or capias ad satisfaciendum, issuing out of the said court, or by subpœna and attachment.

Certain process to be omitted.

LVI. AND BE IT ENACTED, That subpœna to hear judgment, attachment with proclamations, and commission of rebellion, shall, in all cases in chancery, be deemed unnecessary, and omitted accordingly.

Register's office abolished.

LVII. AND BE IT ENACTED, That the office of register, in the court of chancery, be, and it is hereby abolished.

Chancery may make rules of practice, not contrary to this act.

LVIII. AND BE IT ENACTED, That it shall be lawful for the court of chancery, from time to time, to make, alter, amend, or revoke any rule of practice, so as to obviate doubts, advance justice, and expedite suits in the said court, so that the same be not contrary to the provisions of this act.

Appeal given from the court of Chancery to the court of appeals and errors.

LIX. AND BE IT ENACTED, That after final sentence or decree hath been pronounced, in any cause or suit in the court of chancery, any person, who may think himself aggrieved by any interlocutory order, or by any final decree in any cause or suit in chancery, may appeal from the court of chancery, against such order

rder or decree, to the court of appeals and of errors, before the governor and legislative council of this State. A. D. 1799.

A certain act repealed.

LX. And be it enacted, That the act, entitled, "An Act to direct the mode of examination of witnesses in the court of chancery, and for other purposes therein mentioned," passed the twenty second day of November, in the year of our Lord, one thousand, seven hundred and ninety, be, and the same is hereby repealed.

An ACT *for the distribution of the estates of persons, who die, not leaving sufficient property to pay all their just debts.*

Passed the 13th of June, 1799.

The estates of persons dying insolvent to be distributed among their creditors.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the estate, real and personal, of a testator or intestate, who shall die after the passing of this act, when insufficient to pay all his or her just debts, shall be distributed among his or her creditors, in proportion to the sums that shall be due to them respectively; but the physician's bill, during the last sickness, and the funeral charges and expenses of such testator or intestate, and judgments that have been obtained and entered of record, during the life of the said decedent, shall have a preference and be first paid.

Six months allowed to executors and administrators to ascertain the situation of the decedent's estate, and amount of his debts.

II. And be it enacted, That in order to enable the executor or executors, administrator or administrators, to examine into the condition of the estate of the testator or intestate, and ascertain the amount and value thereof, and the debts to be paid out of the same, no action, either at law or in equity, shall be brought against such executor or executors, administrator or administrators, within six months after the decease of such testator or intestate, unless it be on a suggestion of fraud in the said executor or executors, administrator or administrators, or for the discovery of assets, or for the physician's bill, funeral charges and expenses, and judgments of record, whereof mention is above made.

Creditors, whose debts are not due, entitled to a dividend.

III. And be it enacted, That any creditor whose debt is not due, may exhibit it to the executor or executors, administrator or administrators, as if it were due, and thereupon shall be considered as a creditor under this act, and shall receive a dividend of the said testator or intestate's estate, deducting a rebate of legal interest, for what he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

An ACT *relative to statutes.*

Passed the 13th of June, 1799.

Statutes to be in force from their passing, unless another time be mentioned.

I. Be it enacted *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every statute or act of the legislature of this State, which hath been or shall be made, shall commence and be in force and operation from the day of passing thereof, unless another day for its commencement and operation hath been or shall be mentioned.

II. And be it enacted, That the fees to be paid on private bills and transactions shall be as follow;

Reading

A. D. 1799.

Fees allowed on private bills.

		Dols.	Cts.
For	Reading and entering a petition or other writing,	0	25
	Reading a private bill, each time,	0	30
	The perusal of a bill or each day's minutes,	0	25
	Entering every order,	0	25
	A copy thereof,	0	25
	Entering a report on the minutes,	0	30
	Every hearing, each party to pay	2	0
	Engrossing every private bill, for each sheet containing ninety words,	0	1[illegible]
	Recording the same, for each sheet as aforesaid,	0	[illegible]

Fees to be drawn up by the clerk, taxed by the speaker, and received by the treasurer.

III. AND BE IT ENACTED, That it shall be the duty of the clerk of the general assembly to draw up the fees on private bills and transactions, which shall be taxed by the speaker, and delivered to the treasurer of this State, who is hereby authorised and required to demand and receive them from the applicant, for the use of the State. But no bill, that relates to or affects a county or township, shall be considered as a private bill within the meaning of this act.

Statutes of England not to be in force in this State.

IV. AND BE IT ENACTED, That from and after the passing of this act, no statute or act of the parliament of England or of Great Britain shall have force or authority within this State, or be considered as a law thereof.

No decision, &c. of any court in Great Britain since the 4th of July, 1776, to be read, or of any avail, in any court of this State.

V. AND BE IT ENACTED, That no adjudication, decision or opinion, made, had or given, in any court of law or equity in Great Britain, or any cause therein depending, nor any printed or written report or statement thereof, nor any compilation, commentary, digest, lecture, treatise, or other explanation or exposition of the common law, made, had, given, written or composed, since the fourth day of July, in the year of our Lord, one thousand, seven hundred and seventy six, in Great Britain, shall be received or read in any court of law or equity in this State, as law, or evidence of the law, or elucidation or explanation thereof, any practice, opinion or sentiment of the said courts of justice, used, entertained, or expressed to the contrary hereof notwithstanding.

A certain act repealed.

VI. AND BE IT ENACTED, That the act, entitled, "An Act to alter the appropriation of fees, on passing of private laws," passed the twentieth day of February, in the year of our Lord, one thousand, seven hundred and ninety four, be, and the same is hereby repealed.

An ACT *for the regulation of the militia of New-Jersey.*

Passed the 13th of June, 1799.

WHEREAS the several laws heretofore enacted for the regulation of the militia have been found to require material alterations, in order to which, it is deemed adviseable to revise the whole system: THEREFORE,

Who shall be enrolled in the militia.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That every free able bodied white male inhabitant of this State, who is or shall be of the age of eighteen years, and under the age of forty five years, (except ministers of the gospel, 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 ferrymen usually 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) 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. PROVIDED ALWAYS, That in all cases of doubt respecting the age of any person enrolled, or intended

to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company, within whose bounds he may reside, or a majority of them. A. D. 1799.

II. And be it enacted, That the militia shall continue their present arrangements in brigades and divisions, as follows; the militia in the counties of Gloucester and Burlington shall form one brigade, and the militia in the counties of Cumberland, Salem and Cape May, shall form one brigade; which brigades shall form the first division: the militia in the counties of Bergen, Essex and Morris, shall each form a brigade; which brigades shall form the second division: the militia in the counties of Somerset, Middlesex and Monmouth, shall each form a brigade; which brigades shall form the third division: the militia in the counties of Hunterdon and Sussex, shall each form a brigade; which brigade shall form the fourth division. And the several regiments, independent battalions, battalions and companies of infantry, light infantry and grenadiers, shall also continue as at present arranged. The cavalry of this State shall be formed into one brigade, and squadrons, and regiments, as follows: the troops of horse in the county of Bergen shall form one squadron, and the troops of horse in the county of Essex shall form one squadron; which two squadrons shall form one regiment: the troops of horse in the county of Morris shall form one squadron, and the troops of horse in the county of Sussex shall form one squadron; which two squadrons shall form one regiment: the troops of horse in the county of Middlesex shall form one squadron, and the troops of horse in the county of Monmouth shall form one squadron; which two squadrons shall form one regiment: the troops of horse in the county of Hunterdon shall form one squadron, and the troops of horse in the county of Somerset shall form one squadron; which two squadrons shall form one regiment: the troops of horse in the counties of Burlington and Gloucester shall form one squadron, and the troops of horse in the counties of Salem, Cumberland and Cape May, shall form one squadron; which two squadrons shall form one regiment. The artillery of this State shall be formed into one regiment, as follows; the companies now formed, and that may hereafter be formed, in the counties of Bergen, Essex, Middlesex, Monmouth, Somerset and Morris, of the second and third division, shall form one battalion: and the companies of artillery now formed, or which hereafter may be formed, in the counties of Hunterdon, Sussex, Burlington, Gloucester, Cape May, Salem and Cumberland, of the first and fourth division, shall form one other battalion.

Militia divided into brigades and divisions.

The cavalry formed into squadrons and regiments, and shall compose one brigade.

The artillery formed into battalions, which shall compose one regiment.

III. And be it enacted, That the present officers of the militia of this State shall continue and exercise the several ranks and commissions which they now respectively hold. Vacancies by death, removal, resignation or otherwise, shall be filled up, so that the militia shall be officered, as follows: to each division there shall be 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 brigade major, with the rank of major, one brigade or senior surgeon, and one brigade quartermaster; one adjutant general, with the rank of brigadier general; to each regiment one lieutenant colonel commandant; and to each battalion and squadron, one major; to each company of infantry, light infantry and grenadiers, one captain, one lieutenant and one ensign, four serjeants, four corporals, one drummer, one fifer, and not more than sixty four, nor less than forty private individuals, or as near as may be, having regard to their local situation; to each troop of horse, there shall be one captain, two lieutenants and one cornet, four serjants, four corporals, one saddler, one farrier and one trumpeter, and not more than forty eight, nor less than thirty two troopers; to each company of artillery, there shall be one captain and two lieutenants, four serjeants, four corporals, six gunners, six bombadiers, one drummer, one fifer, and not more than thirty two, nor less than twenty matrosses. There shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenants, one paymaster, one surgeon and one surgeon's mate, one serjeant major, one drum major, and one fife major. All 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 shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regiment, battalion, company or detachment. The regimental staff shall be appointed by the field officers. The brigade and regimental staff

Militia officers to hold their present rank.

Militia, how to be officered.

Officers, how to take rank.

A. D. 1799.

staff shall be commissioned by the commander in chief, on certificates of their appointment, under the hands and seals of the officers making the same: AND FURTHER, That there shall be one adjutant to each squadron of cavalry.

Time of company trainings.

IV. AND BE IT ENACTED, That the whole of the militia of this State shall be subject to be mustered and exercised in companies, battalions and regiments, by their respective officers, to wit: in companies, on the first Monday in October of every year, at such place within the bounds of the companies, as the respective captains or commanding officers of companies shall order: in battalions as follows: the first battalion of the first regiment on the third Monday in May; the second battalion of the first regiment on the Tuesday following; the first battalion of the second regiment on the Wednesday following; the second battalion of the second regiment on the Thursday following; the first battalion of the third regiment on the fourth Monday in May; the second battalion of the third regiment on the Tuesday following; the first battalion of the fourth regiment on the Wednesday following; and the second battalion of the fourth regiment on the Thursday following: and in regiments as follows; the first regiment in each and every brigade shall be exercised on the first Tuesday in June; the second regiment on the Wednesday following; the third regiment on the Thursday following, and so on, according to the numerical rank, on every day thereafter, (Saturday and Sunday excepted) until the whole number of regiments, in every brigade, shall have mustered in the order aforesaid: PROVIDED, That the regimental training in the county of Cumberland shall begin on the second Tuesday in June, and continue on in the above order; and where there shall be any battalions not annexed to any regiment, the said battalions shall exercise on the third and fourth Mondays of May, yearly, except the battalion in the county of Cape May, which shall exercise on the second Tuesday in April: PROVIDED ALWAYS, That the militia of the townships of Little Egg Harbour, in the county of Burlington, and of Great Egg Harbour, and Galloway, in the county of Gloucester, and of Stafford and Dover, in the county of Monmouth, and the Over-mountain battalion in the county of Sussex, and all such companies as may be formed at any manufactory or iron works, not within twenty miles of the places of their battalion or regimental trainings, may meet and exercise at the usual place or places of parade in the said townships or districts, or at the said manufactories or iron-works, on the days appointed for regimental and battalion trainings, which shall be considered instead of meeting in regiments and battalions: AND FURTHER, That if the order aforesaid, in which the regiments and battalions are directed to exercise, shall be found inconvenient, it shall be lawful for the brigadier general and field officers of each brigade, or a majority of them, to change the order, in which the regiments and battalions aforesaid shall be exercised, at their discretion, not altering the days of training and exercise, but confining such discretion to naming the particular regiment or battalion, that shall train or exercise on a particular day, so that the inspection thereof may be rendered more convenient to the brigade inspector, who is hereby directed to give notice, by advertisements in three of the most public places within the limits of the brigade, at least thirty days previous to the day of meeting.

Of battalion trainings.

Of regimental trainings.

Battalions not annexed to any regiments, when to train.

How far and by whom the order of regimental and battalion training may be changed.

Brigade inspector, when to advertise the day of meeting.

Of artillery and cavalry trainings.

V. AND BE IT ENACTED, That every troop of horse and company of artillery, attached to any of the brigades of infantry of this State, shall be considered as being attached to the regiment or independent battalion, within the bounds of which the major part of the company was raised, and shall assemble for exercise and inspection with such regiment or independent battalion; and it shall be the duty of the captain or commanding officer to make a return of all delinquents in their respective companies, in the same manner as the captains or commanding officers of the infantry are by law directed to make returns. And the cavalry shall assemble in squadron or troop, at such place as the commanding officer thereof may direct, on the same days as are directed by law for the infantry in the several counties of this State, and shall in all things be subject to the rules, regulations, and penalties, prescribed and imposed by this act on the militia of this State.

Fines for non attendance on days of exercise.

VI. AND BE IT ENACTED, That the fines for non attendance on days of exercise shall be as follows: on a field officer, the sum of six dollars per day; on every other commissioned officer, three dollars per day, and on every non commissioned

sioned officer and private, one dollar per day; and the same fines shall be respectively paid by every officer, non commissioned officer and private, who shall leave the parade or absent himself from his regiment, battalion, squadron, troop or company, without leave of the commanding officer, before the said regiment, battalion, squadron, troop or company shall be discharged; and if any militia-man shall appear on parade without a musket or firelock, or if any trooper shall appear without his sword or pistols, he shall forfeit and pay fifty cents, and for want of other accoutrements, excepting knapsacks and ammunition, shall forfeit and pay six cents for each and every article so deficient. PROVIDED, That no militia man shall be liable to such fines, who, in the opinion of a majority of the commissioned officers of the company, may be deemed unable to procure arms or accoutrements, or either of them.

Roll when to be called.

VII. AND BE IT ENACTED, That in order to ascertain those persons, who, by their absence on days of exercise, shall be liable to the fines and forfeitures of this act, a sergeant of the troop or company shall, on every such day, in the presence of the captain or commanding officer of the troop or company, one hour after the time appointed for the meeting of the troop, company, battalion, squadron or regiment, and also after the exercise is over, and before the men are discharged, call over the roll of the troop or company, noting those who are absent.

Excuses for non performance of duties, which are punishable by fines, when and by whom to be heard and decided.

VIII. AND BE IT ENACTED, That the commanding officer of each regiment shall hear and decide upon the reasons assigned by the other field officers thereof for the non performance of duties, for which they are punishable by fine, provided such reasons be offered within ten days, and the field officers of each regiment, or commandants of independent battalions, shall meet at some convenient time and place, not exceeding twelve days after any regimental or battalion training, or after the call of the whole or a part thereof into actual service, if it may be necessary, of the time and place of which meeting, at least eight days notice shall be given by the commandants of regiments or independent battalions; and the said officers, when so met shall hear and decide upon the reasons assigned by the captains, subalterns and staff officers, for the non performance of duties, for which they are punishable by fine; and the commissioned officers of each troop or company, or a majority of them shall meet at some convenient time and place, not exceeding fifteen days after any regimental, battalion, or troop or company training, or the call of a part or the whole into actual service, of which time and place, due notice shall be given, by advertisements set up in at least three of the most public places in the bounds of the troop or company, at least eight days previous thereto, and shall then hear and decide upon the reasons assigned by the non commissioned officers and privates, for the non performance of duties, for which they are punishable by fine; and the said officers, respectively so appointed to hear and decide upon the reasons offered by the commissioned officers, non commissioned officers and privates for non performance of duties and deficiency of equipments, for which they are punishable by fine, shall, at the expiration of twenty days, make out duplicate lists of such assessment, noting the names of such delinquents as have paid, one whereof he or they shall, without delay, deliver to the paymaster of the regiment who shall, deliver the same to a justice of the peace, within the bounds of the regiment or independent battalion, who is hereby required, forthwith to issue execution against the persons named in the said list, for the sums annexed to their respective names, with the same costs as are allowed them on the return of the State taxes, directed to one of the constables of the county, who is hereby required to levy the same of the goods and chattels of the respective delinquents, and to pay the several sums contained in the said execution, within thirty days, to the paymaster of the regiment or independent battalion, to whom the said delinquents belong; and the other of the said lists, he or they shall deliver or safely transmit to the commanding officer of the regiment or independent battalion, to serve as a check on the said paymasters, in the settlement of their accounts.

Duplicate lists of delinquents to be made out, and how to be disposed of.

Constables to levy fines, how to be executed.

Constables to pay fines to whom to be paid.

IX. AND BE IT ENACTED, That if any money shall remain in the hands of any constable, after making sale of the property of a delinquent, and paying the fines of such delinquent, such money shall be paid by the said constable to the said delinquent; but if he shall refuse to receive the same, then the constable shall pay the said money to the paymaster of the regiment or independent battalion, to which such delinquent belongs, to and for the use of such delinquent.

X. AND

A. D. 1799.

Fines on minors, and apprentices, by whom to be paid.

X. And be it enacted, That the fines and forfeitures imposed by this act on minors, living with their parents, and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

Who shall compose the court of appeals, in cases of fines for non performance of military duty.

XI. And be it enacted, That the commanding officer of each battalion or squadron shall call to his assistance the surgeon or surgeon's mate of the same, and a justice of the peace, or one of the chosen freeholders, residing within the limits thereof, who shall constitute a court for hearing and deciding on appeals, and shall meet for that purpose on the first Monday in November, yearly, at some convenient place, to be appointed by the said commanding officer, public notice whereof shall be given by advertisements, fixed up in at least three of the most public places within the limits of the said battalion or squadron, at least ten days previous to the day of meeting; and all persons, supposing themselves aggrieved by any fines or forfeitures imposed on them for the non performance of military duty, may apply to the said court, who are hereby vested with full power and authority to hear and decide upon the excuses offered, and to remit any fines or forfeitures for just and equitable reasons, and a certificate from the said court, or any two of the members thereof, shall entitle the appellant to receive from the paymaster of the regiment or independent battalion any sum so remitted. Provided always, That no appeal shall be allowed, unless the fines and forfeitures be first paid.

What fees shall be paid to particular officers for certain specified services.

XII. And be it enacted, That the following fees shall be paid to the officers hereafter named, to wit: To the major, for advertising and attending every election of company officers, two dollars; to the members composing the board of officers for settling the accounts of the paymasters, one dollar each, for every day they may be engaged in the settlement of the said accounts; to the members of the court of appeals, one dollar each, for every day they may be engaged therein; and to the adjutant, one dollar, for every day necessarily employed in summoning courts martial, or other extra service in the execution or his office: all which sums shall be paid by the respective paymasters, on a certificate under the hand of the commanding officer of the regiment or independent battalion, to which they respectively belong, and shall be allowed in the settlement of their accounts.

Fines to be paid to the paymaster, and their appropriation.

XIII. And be it enacted, That all fines and forfeitures, that shall be incurred as well for non attendance on days of exercise, and deficiency of equipments, as for neglect of performing tours of duty, and also all such fines as shall be imposed by courts martial, or otherwise, on persons made liable by this act, shall be returned and paid into the hands of the paymaster of the regiment or independent battalion, from which such fines and forfeitures may be due, and shall be applied to the use of such regiment or independent battalion, in the manner by this act directed. And it shall be the duty of the said paymasters, respectively, to pay all such draughts as shall from time to time be made on him, agreeably to this act, by the commanding officer of the regiment or independent battalion, to which they respectively belong.

Accounts of paymasters, how to be kept, and by whom to be settled.

Their allowance.

Penalty on paymasters for male practice.

XIV. And be it enacted, That the paymasters of the different regiments or independent battalions, for the time being, shall keep proper and distinct accounts of all monies received for fines and forfeitures, and enter the same separately in a book to be kept for that purpose; and all draughts of the commanding officer of the regiment or independent battalion, for which proper vouchers shall be produced, shall be allowed to the said paymasters, respectively, in the settlement of their accounts; and the field officers of each regiment, and commandants, and two senior captains of independent battalions, are hereby constituted a board for that purpose, and are authorised and empowered, every twelve months, to inspect, and if approved by them, finally to allow the same; and the said paymasters are hereby allowed and authorised to retain in their hands five per cent. on all monies by them received and paid, which shall be allowed them in the settlement of their accounts; and if it shall appear that any of the said paymasters have been guilty of male practice or embezzlement, the said board of officers of each regiment or independent battalion shall put such delinquent paymaster under arrest, and if upon trial by a court martial, he shall be found guilty, he shall be cashiered

cashiered and fined by the said court, in any sum not exceeding sixty dollars; and the succeeding paymaster shall prosecute said delinquent, for any sum or sums of money remaining in his hands belonging to the regiment or independent battalion, to which such delinquent did belong, in any court, where the same may be cognizable, and recover the same, with costs.

Persons may be employed to instruct drummers, &c. in military music.

XV. And be it enacted, That one drum and one fife major, and one trumpeter may be employed by the commanding officer of each regiment or independent battalion, whose duty it shall be to instruct and exercise the drummers, fifers and trumpeters of each company or troop in the necessary military music, at such times and under such regulations, as the commanding officer of the regiment or independent battalion may direct, not exceeding twelve days in the year, and shall for such services be paid the sum of two dollars, per day each, by the county collector of each county, out of the exempt monies, on the certificate of the commanding officer of the regiment or independent battalion, where he may so practise or be employed; and the said drummers, fifers and trumpeters, shall each be paid as aforesaid, fifty cents per day, for the time they shall attend to such instruction.

How monies may be procured for the purchase or repair of drums, fifes, trumpets, and colours.

XVI. And be it enacted, That it shall be lawful for the commanding officers of the respective regiments, independent battalions and squadrons, from time to time, to draw from the collectors of the respective counties, such sums as may be necessary for the purchase or repair of drums, fifes, trumpets, or colours for their respective regiments, battalions and squadrons; and the said draughts shall be allowed the said county collectors, in the settlement of their accounts with the treasurer, as so much of the exempt fines hereby directed to be raised in the said county; but if a sufficiency for that purpose should not be in the treasury from said county, the treasurer is hereby directed to pay the said deficiency unto the said county collector, out of the exempt money in the treasury.

Governor may order out militia, in case of invasion, or other emergency.

XVII. And be it enacted, That the commander in chief of this State, for the time being, may, in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this State, to march to any part thereof, and continue as long as he may think it necessary, not exceeding two months.

Exempts from military duty liable to be draughted for actual service.

XVIII. And be it enacted, That all able bodied white male inhabitants between the ages of eighteen and forty five years, who have been or may be exempted from military duty, on paying annually the sum of three dollars for such exemption, shall, notwithstanding, be liable to be draughted in the same manner as the enrolled militia, when called into actual service; for which purpose the several captains of militia within this State shall enter upon their lists the names of all such exempts as may reside within the bounds of their respective companies; and the exempts, when so draughted, shall be under the same regulations, and liable to the same fines and penalties with the enrolled militia of this State.

Draughts for actual service, how to be made.

Roasters to be kept, and persons to take their tour agreeably thereto.

Detachments not to be in service more than two months at a time.

XIX. And be it enacted, That when a part of the militia shall be called into actual service, it shall be the duty of the captain or commanding officer to divide his troop or company (including the exempts referred to in the preceding section) into as many classes as there shall be men required of him, and by lot, enlistment, or draught, to detach one man from each class; and such draught or detachment shall be officered with such officer or officers, and of such grades as shall be proper, agreeably to military discipline; the tour of duty of which commissioned officers shall be determined by a roaster to be kept by the adjutant for that purpose: And further, That no non commissioned officer or private shall (after the making of the first draught) be liable to perform actual service, until it shall become his proper tour agreeably to a roaster of the company, to be kept by the commanding officer of the same; and that no draught or detachment shall be continued in service more than two months at any one time, and if necessary, they shall be relieved by a detachment to be made in the manner aforesaid; which relief shall arrive at least two days before the expiration of the term of the detachment to be relieved; but nothing herein contained shall prevent the commander in

A. D. 1799.

in chief from calling into service the whole or any part of the militia, when the exigencies of the State shall, in his opinion, require it: AND FURTHER, That the pay of the militia in actual service shall commence two days before marching, and that they shall receive pay and rations at the rate of fifteen miles per day, on their return home; and in requisitions by the president or congress of the United States, the like mode shall be pursued in draughting and turning out the quota of this State.

Pay of militia in actual service, when to commence.

Persons may find substitutes.

XX. AND BE IT ENACTED, That it shall and may be lawful for any person, called to do a tour of duty, to find a substitute, who, if approved of by the captain or commanding officer of the company, may serve in the place of such person.

Notice of draughts, how to be given.

XXI. AND BE IT ENACTED, That when any draught or draughts of the militia shall be called to perform any tour of duty, the majors of the battalions shall cause each and every person so called, to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other suitable person employed for that purpose by the commanding officer of the said company, at least three days before the time of assembling said militia, unless the commander in chief, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, and then the notice, mentioning such special order, shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, or to procure a substitute, shall pay a fine of twenty dollars for every such neglect or refusal; which fines as aforesaid shall be paid to the captain or commanding officer of the company, to which such delinquent belongs, and be by him appropriated, under the direction of the commander of the regiment or battalion, to which the said company belongs, for the purpose of hiring substitutes to supply the place of the delinquents belonging to the said company; and in case of a surplusage of money arising from such fines, it shall be paid to the paymaster of the regiment, to be appropriated and accounted for as other fines are directed to be by law. And every non commissioned officer, whilst engaged in warning the company, to which he belongs, under the orders of the commanding officer of the company, shall receive one dollar per day, for the time he may be necessarily engaged in such duty.

Penalty for not performing a tour of duty, and how to be appropriated.

Rules for the government of the militia.

XXII. AND BE IT ENACTED, That the militia of this State shall be governed by the following articles, rules and regulations:

ARTICLE 1. If any field or other commissioned officer, at any review, or on any other occasion, when the regiment, battalion or company, to which he may belong, or in which he holds a command, is paraded in arms, shall misbehave, or demean himself in an unofficer like manner, he shall, for such offence, be cashiered, or punished by fine, at the discretion of a general court martial, as the case may require, in any sum not exceeding thirty dollars; and if any non commissioned officer or private shall, on any occasion of parading the company, to which he belongs, appear drunk, or shall disobey orders, or use any reproachful or abusive language to his officers, or any of them, or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined, at the discretion of a regimental court martial, in any sum not exceeding eight dollars.

Penalty for unofficer like behaviour.

Penalty on privates for being drunk, disobeying orders, using abusive language, or quarreling.

ARTICLE 2. If the commanding officer of any regiment, battalion or squadron, shall neglect or refuse to give orders for assembling his regiment, battalion, or squadron, at the time appointed by this law, or at the direction of the inspector of the brigade, to which he belongs, when the said inspector is thereto commanded by the commander in chief, or in case of an invasion of the city or county, to which such regiment, battalion, or squadron belongs, he shall be cashiered, and punished by fine not exceeding one hundred dollars, at the discretion of a general court martial; and if a commissioned officer of any company or troop shall, on any occasion, neglect or refuse to give orders for assembling the company, to which he belongs, or any part thereof, at the direction of the commanding officer of the regiment, battalion or squadron, to which such company or troop belongs, he shall be

Penalty on officers for not assembling militia at the time appointed, or agreeably thereto.

be cashiered or punished by fine not exceeding thirty dollars, at the discretion of a regimental court martial; and a non commissioned officer offending in such case shall be fined, at the discretion of a regimental court martial, in any sum not exceeding twenty dollars.

Penalty on captain for not making and sending a list of the person to perform a tour of duty.

ARTICLE 3. If any captain or commanding officer of a company or troop shall refuse or neglect to make out a list of the persons, noticed to perform any tour of duty, and send or convey the same to the commanding officer of the regiment, battalion, or squadron, to which such company or troop may belong; for such neglect or refusal, he shall be cashiered or fined, at the discretion of a regimental court martial, in any sum not exceeding thirty dollars.

Desertion, while on a tour of duty, how to be punished.

ARTICLE 4. If any militia man shall desert, while he is on a tour of duty, he shall be fined in any sum not exceeding twenty dollars for every such offence, or may be imprisoned for any time not exceeding two months, at the discretion of a court martial; and if a non commissioned officer, he shall also be degraded, and placed in the ranks.

A general court martial, how to be composed.

ARTICLE 5. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers, and of such rank as the case may require; and the senior officer shall be president, and not under the rank of a field officer.

A regimental court martial, how to be composed.

ARTICLE 6. Every regimental court martial shall be composed of five members, all commissioned officers, the senior officer to be president, not under the rank of a captain.

Two thirds of the court martial must agree or the party be acquitted.

ARTICLE 7. In any court martial, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

Witnesses before, and members of courts martial to be sworn.

ARTICLE 8. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation, that the evidence they shall give is the truth, the whole truth, and nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to them, that they will give judgment with impartiality; and the officer next in rank to the president, shall administer the like oath or affirmation to the president.

Penalty on witnesses for not attending, and giving evidence.

ARTICLE 9. Every militia man, called as a witness in any case, before a general court martial, who shall neglect or refuse to attend and give evidence, shall be censured or fined at the discretion of the court, not exceeding one hundred dollars, and if before a regimental court martial, not exceeding twenty five dollars, unless he shall render a satisfactory reason to the president of the court for his non attendance, in one month thereafter.

Transgressors against these rules not to do duty till tried.

ARTICLE 10. No officer or private, being charged with transgressing these rules, shall be suffered to do duty in the regiment, company or troop, to which he belongs, until he has had his trial by a court martial; and every person, so charged, shall be tried as soon as a court martial can be conveniently assembled.

Party injured by the commanding officer of the regiment, battalion, or squadron, how to be redressed.

ARTICLE 11. If any officer or private shall think himself injured by the commanding officer of the regiment, battalion or squadron, and shall upon due application made to him, be refused redress, he may complain to the brigadier general, who shall direct the inspector of the brigade to summon a general court martial, that justice may be done.

Party injured by his captain, how to be redressed.

ARTICLE 12. If any inferior officer or private shall think himself injured by his captain or other superior officer in the regiment, troop or company, to which he belongs, he may complain to the commanding officer of the regiment or independent battalion, who shall summon a regimental court martial, for doing justice according to the nature of the case.

A. D. 1799.

Punishment, how far discretionary.

ARTICLE 13. No penalty shall be inflicted at the discretion of a court martial, other than degrading, cashiering, fining, or imprisoning agreeable to the fourth article.

How far and by whom offenders may be pardoned, and penalties mitigated.

ARTICLE 14. Every offender, convicted by any regimental court martial, may be pardoned or have the penalty mitigated by the commanding officer of the regiment or independent battalion, excepting only where such censures or penalties are directed as a satisfaction for injuries received by any officer or private from another: but in case of officers, every sentence of a court martial shall be approved of by the commander in chief, or the major general of the division, who are respectively empowered to pardon or mitigate such sentence.

Hours of exercise not to exceed six.

ARTICLE 15. The militia, on the days of exercise, may be detained under arms, on duty in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Spiritous liquors, at the place of exercise, prohibited.

ARTICLE 16. Any person, who shall bring any kind of spiritous liquors to the place of exercise, shall forfeit such liquors, for the use of the poor, belonging to the city or township, where such exercise is had; and the commanding officer of the regiment, battalion or company, is charged with the execution of this article.

Rules of discipline, what.

ARTICLE 17. The rules of discipline, approved and established by congress, in their resolution of the twenty ninth day of March, one thousand, seven hundred and seventy nine, shall be the rules of discipline to be observed by the militia throughout this State, except such deviations from said rules, as may be rendered necessary by the requisitions of the acts of congress, or some other unavoidable circumstances. It shall be the duty of the commanding officer, at every training, whether by regiment or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline; and the instructions laid down by the Baron Steuben, and annexed to the said rules of discipline, pointing out the respective duties of the officers, non commissioned officers and privates, are recommended and enjoined upon the militia of this State, as particularly and fully as if the said instructions were repeated in this act at length.

Allowance to officers attending court martial, and witnesses.

XXIII. AND BE IT ENACTED, That every officer, who shall attend on courts martial, or courts of enquiry, shall be entitled to receive from the paymaster of the regiment or independent battalion, in which the offender resides, the sum of one dollar each, for every day he shall attend; and all persons attending before said courts, or either of them, as witnesses, shall be entitled to receive from the said paymaster, fifty cents each per day, provided that no more than two witnesses on the part of the State, and two witnesses on the part of the offender, shall be entitled to pay; all which sums shall be paid by the said paymaster, on certificates signed by the president of the court martial.

Salary of the adjutant general and brigade inspectors.

XXIV. AND BE IT ENACTED, That the adjutant general, for the time being, shall be allowed, as a compensation for his services, the sum of one hundred and fifty dollars, annually, on his producing a certificate from the governor of the State, certifying that he has performed the services required of him by law; and the several brigade inspectors of infantry, shall be entitled to receive of the treasurer, for the time being, out of the exempt money in the treasury, the sum of thirty dollars each, annually, after the passing of this act, upon their producing to the said treasurer a certificate from the brigadier general of the brigade, to which they belong, certifying that they have performed the services required of them by law.

Cavalry horses by whom to be appraised, and how to be paid for.

XXV. AND BE IT ENACTED, That the brigade inspector shall call to his assistance two reputable freeholders, above forty five years of age, who shall appraise on oath or affirmation, the horse of each person serving as a light horseman, immediately before the time of going into actual service, and describe the age, size, colour and marks of the said horse, and enter the same in a book; and in case such horse shall be killed or be taken by the enemy, he shall be paid the full value of his horse, according to the said appraisement, by an order to be drawn,

drawn, on the certificate of the inspector, by the brigadier general or commanding officer of the brigade, on the treasurer of this State, provided such claim be made in one year after the loss so sustained. A. D. 1799.

XXVI. And be it enacted, That it shall and may be lawful for the captains or commanding officers of the several companies of cavalry, artillery, infantry and grenadiers, to enroll in their respective companies, from the several companies composing the regiment or battalion, to which they may belong, such men as may, from time to time, be necessary to complete their respective companies; and a certificate from the said captain or commanding officer shall exonerate the bearer from serving or paying any fine thereafter imposed on him by the officers of the company, to which he formerly belonged, any law, usage or custom to the contrary notwithstanding. Provided always, That it shall not be lawful for the captain or commanding officer of the cavalry, artillery, or other uniform company, to grant a certificate to any person prior to his appearing in uniform agreeably to law.

Uniform companies, how to be completed.

XXVII. And be it enacted, That every captain, lieutenant, or ensign, who shall from time to time be chosen by the several companies, shall report his acceptance of the office, within thirty days after having received notice thereof, to the major or commanding officer of the regiment or battalion; and in case such report is not made as aforesaid, the said office shall be deemed as vacant. And the resignation of every captain, lieutenant and ensign, shall be delivered to the lieutenant colonel or commanding officer of the regiment, independent battalion, or squadron, to which the said company or troop shall belong; and where vacancies shall happen in any company or troop, by the death, removal or resignation of a captain, lieutenant, ensign or cornet, it shall be lawful for the commanding officer of the regiment or independent battalion, by warrant under his hand and seal, directed, if by the commanding officer of the regiment, to the major or commanding officer of the battalion or squadron, to which such company or troop belongs; if by the commanding officer of an independent battalion, to the senior captain thereof, to hold an election, within the limits of such company or troop, to supply the vacancy occasioned by the non acceptance, resignation, removal, death or otherwise, of any such officer; and thereupon the said major or commanding officer of the said battalion or squadron, or senior captain, shall give fifteen days notice, by advertisement in three of the most public places within the limits of such company, of an election to supply the place of the officer or officers of the company or troop, which may be vacant; and the said company or troop, or such of them as may attend, shall proceed, by plurality of votes, to choose such officer or officers residing within the bounds of the said company or troop; and the said major or commanding officer of the said battalion or squadron, or senior captain, shall certify under his hand and seal, annexed to, or endorsed on the warrant aforesaid, the name and rank of each officer, so chosen or elected, to the commander in chief of the State, who shall commission the said officer accordingly.

The acceptance and resignation of certain militia officers, how to be signified and made.

Vacancies, how to be supplied.

XXVIII. And be it enacted, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, regiment, battalion, squadron, troop or company, or shall be absent therefrom more than nine months, his office shall be thereby vacated.

Offices vacated by removal or absence for nine months.

XXIX. And be it enacted, That if the lieutenant colonel, major and captains of any regiment, or the major and captains of any independent battalion in this State, shall think it necessary to make an alteration in the bounds of any company, battalion or regiment, then the said lieutenant colonel, majors and captains, or the said major and captains, as the case may be, shall, under their hands in writing, apply to the brigadier general to make such alteration as they may think necessary; and the said brigadier general is hereby authorised to make such alteration as he may think necessary in any regiments, battalions or companies within his brigade, and shall inform the said officer or officers, commanding the said regiments, battalions or companies, of such alteration, who are hereby required to give at least ten days notice, by advertisement, of such alteration, previous to the meeting of the said regiments, battalions or companies; and all persons, annexed to any regiments, battalions or companies as aforesaid, shall be

Alteration in the bounds of a company, how to be effected.

A. D. 1799.

subject to the command of the said officers, respectively, and also to all fines and penalties for neglect of duty, which are inflicted by law on persons, who originally belonged to the said regiments, battalions or companies.

New companies, how to be formed.

XXX. And be it enacted, That if, at any time hereafter, from the encrease of the militia, or otherwise, it shall be deemed necessary, in the opinion of the field officers of any regiment, to form a new company or companies, it shall be lawful for the brigadier general, upon application of the field officers, to order such company or companies to be formed accordingly, and to attach them to their proper battalions; which company shall choose their officers in the presence of the major, and the officers shall be commissioned by the commander in chief, upon a certificate signed by the said major.

Militia men exempt from paying toll, and to pay no more than one third ferriage.

XXXI. And be it enacted, That no officer or private shall, on the way to or from the place of any review, regimental or company training, to which he shall belong, pay more than one third of the usual rate of ferriage, or be charged any toll for passing any toll bridge; and if any ferryman or keeper of any toll bridge, shall refuse a passage, or make a demand contrary to the directions of this act, he shall, for each offence, forfeit and pay the sum of eight dollars, to be recovered by any person, who will sue for the same, one half to the prosecutor, and the other half to the paymaster, for the use of the regiment or independent battalion, where such demand or refusal is made, any law, usage or custom to the contrary notwithstanding.

Candidates not to treat on days of election.

XXXII. And be it enacted, That no candidate shall give any spiritous liquors or treat to any officers or privates on any day of election of officers, under the penalty of twenty dollars.

In suits for things done under this act, the general issue may be pleaded, &c.

XXXIII. And be it enacted, That if any suit shall be brought or commenced against any person, for any thing done in pursuance of this act, the venue shall be laid in the county, where the cause of action arose; and the defendant in such action may plead the general issue, and give this act and the special matter in evidence.

Captains yearly, to deliver rolls of their companies to the assessors.

XXXIV. And be it enacted, That the captains or commanding officers of the different companies or troops of militia in this State shall, yearly, on or before the twentieth day of June, make and deliver a full and complete roll, on oath or affirmation, to the assessors of the respective townships, in which they reside, of all persons duly enrolled in their respective companies, who perform military duty; for which service the said captains or commanding officers shall respectively be entitled to receive of the collector of the county, the sum of one dollar, on producing a receipt of his having delivered the said roll to the assessor as aforesaid; and the assessors of the several townships of this State, shall, yearly, between the twentieth day of June and the twentieth day of August, take an exact list of the names and sirnames of all free white male inhabitants in their respective townships, between the ages of eighteen and forty five years, except such persons as are exempted from militia duty by the first section of this act, and all general, field and staff officers in actual commission, and excepting those, who shall produce to the said assessor a certificate signed by the commanding officer, surgeon or surgeon's mate, and any one captain of said battalion, to which they belong, or any two of them, of their inability of body to perform military duty; and the said assessors, respectively, shall, after comparing the returns made by the respective captains or commanding officers, with the list of the names by them respectively taken, insert all the names not contained in the rolls or returns made by the said captains or commanding officers, in a separate list to be annexed to their respective duplicates or tax lists, and they and every of them, shall be considered as exempts, and the several assessors shall fine them in their respective duplicates, the sum of three dollars each, over and above the amount of their taxes; and the said assessors shall, yearly and every year, make out a duplicate list of the names of every exempt contained in his or their respective duplicates or tax lists, and shall deliver or safely transmit the same to the collector of their respective counties; and also, at their annual meeting in September, yearly, make out a general abstract of the same, which they shall deliver or safely transmit to the said county collector, who is hereby required and enjoined to deliver

Persons of bodily inability to be exempt from military duty, and to be assessed, annually, three dollars.

A list of such exempts to be delivered to the collectors, and an abstract thereof to the treasurer.

deliver or safely transmit the same to the treasurer of the State; and the said treasurer shall thereupon charge the county, in which the said townships are situated, with the amount of the money due on the said duplicate lists for exempt fines, in the public books of his office; and the several county collectors of this State, shall pay forward to the treasurer thereof the sum due on the respective lists for exempt fines, over and above the quotas due from the several counties by law, on the same day, on which the said quotas become due, unless he or they shall produce an account from the township collector or constable, certified on oath or affirmation, that the persons named in the said account for exempt fines are either dead, absconded, or insolvent, and that the money cannot be recovered; and on neglect thereof, the said treasurer shall prosecute the said county collector for and recover the same, or any part thereof, in any court where the same may be cognizable; and the said treasurer is hereby directed to keep separate and distinct accounts of all monies received in pursuance of this act, and to lay an account thereof, annually, before the legislature. And if any assessor shall neglect or refuse to insert the names of the persons not contained in the company rolls as aforesaid, he shall forfeit and pay the sum of six dollars for every name by him omitted or neglected to be inserted in his duplicate, to be recovered by the collector of the township, in an action of debt, in any court where the same may be cognizable, with costs of suit, to and for the use of the State; and the said assessors, respectively, shall be entitled to receive, in addition to their other fees, to which they are entitled by law, the sum of two cents for every name contained in their lists, of all persons between the ages of eighteen and forty five years; and the said collectors, respectively, shall be entitled to receive, in addition to their other fees, the sum of two cents for the name of every exempt contained in their respective duplicates; all which fees shall be paid by the county collector, out of the exempt fines, and a receipt of such payment, with two cents on a dollar, shall be allowed such county collector in his settlement with the treasurer.

Penalty on assessors for neglect of certain duties.

Allowance to them.

Allowance to the county collector.

XXXV. And be it enacted, That the commanding officer of the regiment or independent battalion, the surgeon or surgeon's mate, and any one captain of the same, shall constitute a court of appeal, and shall meet for that purpose on the second Monday in November, yearly, at some convenient place to be appointed by the said commanding officer, public notice whereof shall be given by advertisements, fixed up in at least three of the most public places within the limits of the said battalion or regiment, at least ten days previous to the day of meeting; and any person, who may think himself aggrieved, may apply to the said court, which is hereby invested with full power and authority to hear and decide thereon; and if he shall make it appear to the satisfaction of the said court, that he is wholly unable to perform military duty, or not within the age prescribed by law, and is enrolled as a militia man, to remit such exempt fine; and a certificate from the officers, composing the said court, or any two of them, shall be deemed good and valid, and the appellant shall thereupon be discharged from the payment thereof; and the said court shall make out and transmit a duplicate certificate to the collector of the county, in which such applicant resides; which certificate shall be allowed as a sufficient voucher to the county collector, in his settlement with the treasurer of this State, for so much of the exempt fines.

Who shall constitute a court of appeals in cases of improper enrollments; when to meet, and power of the court.

XXXVI. And be it enacted, That the respective township collectors shall collect the said exempt fines, at the same time and in the same manner, in which the township quota of other taxes is directed by law to be collected; and if the said township collectors, or any of them, shall neglect or refuse to pay forward the amount of said exempt fines as aforesaid, the collector of said county shall prosecute for and recover the same, in the manner the State taxes are recoverable.

Exempt fines, how to be collected.

XXXVII. And be it enacted, That if any assessor shall neglect or refuse to execute any of the duties enjoined on him by this act, he shall forfeit and pay the sum of thirty dollars for each offence, to be recovered by action of debt, with costs of suit, by the collector of the county; and if any county collector shall neglect or refuse to execute any duty enjoined on him by this act, he shall forfeit and pay the sum of one hundred dollars for each offence, to be recovered by action of debt, with costs, by the treasurer of this State, and applied to the use of the State; and all other officers, as well civil as military, who shall neglect or refuse

Penalty on assessors for neglect of duty;

On county collectors;

And on all other officers.

A. D. 1799.

fuse to perform any of the duties required of them by this act, and not otherwise punishable by the same, or who shall neglect or refuse to pay forward the monies by them received, in pursuance of this act, to the paymaster of the regiment or independent battalion, to which they belong, or in which they reside, they shall respectively forfeit and pay the sum of thirty dollars for each offence, to be recovered, by action of debt, by the paymaster of the said regiment or battalion, in any court where the same may be cognizable, with costs of suit, to and for the use of the said regiment or independent battalion; and shall moreover be liable to an action at the suit of the said paymaster of the regiment or independent battalion for the sums, which may be in his or their hands, to be recovered in any court where the same may be cognizable, with costs of suit, to be applied as aforesaid.

Youths to be taught music, &c.

XXXVIII. And be it enacted, That if any youth of the age of twelve years, and not exceeding the age of eighteen years, shall with the consent and approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife, or blow the trumpet, provided the number shall not exceed one person for the drum and one for the fife, in each company, and one for the trumpet in each troop of horse, every such person or persons shall be put under the instructions of the drum or fife major, or trumpeter, as the case may be, whose duty it shall be to teach such person or persons in the best manner in his power; and as soon as such person or persons shall be able to perform field duty, to the satisfaction of the commanding officer, he shall draw his warrant on the paymaster of the regiment, in favor of the drum or fife major, or trumpeter, who may have taught such person or persons to beat the drum, play the fife, or blow the trumpet as aforesaid, for the sum of ten dollars for every person so taught; and the person so taught shall be furnished with a suit of regimentals, to be paid for out of the funds of the regiment or battalion, as the case may be; and the father of every youth, who shall have been instructed as aforesaid, shall be exempted and excused from every kind of military duty, so long as his son shall continue to perform the duties of a drummer, fifer, or trumpeter in any militia company or troop, and be under the age of eighteen years.

Surplus money in the hands of paymasters, how to be appropriated.

XXXIX. And be it enacted, That the surplus money, which may be in the hands of any paymaster of any regiment or independent battalion, on the settlement of his accounts, shall be appropriated to the purchase of arms and accoutrements for the use of the said regiment or independent battalion, at the discretion of a majority of the commissioned officers thereof.

Militia on parade days not to be arrested and arms not to be levied on.

XL. And be it enacted, That no commissioned officer, non commissioned officer, or private, shall be arrested on any civil process in going to or returning from any place of exercise or training, nor shall any arms or accoutrements of a militia man be levied on or sold by virtue of any execution.

Former acts repealed.

XLI. And be it enacted, That the act, entitled, "An Act for organizing and training the militia of this State," passed the thirtieth day of November, one thousand, seven hundred and ninety two, and the several supplements thereto, be, and the same are hereby repealed. Provided always, That nothing herein contained shall be deemed to repeal, alter or dispense with the powers, authorities, or duties of the several officers under the said acts, in and concerning the fines, penalties, and forfeitures heretofore incurred under the same, and that the proper officers be, and they are hereby authorised and enjoined to collect, or cause to be collected, all such fines and forfeitures as have been incurred, and pay the same agreeably to the laws aforesaid, on or before the first day of January next: And provided, That so much of this act as respects the time of trainings and exercises of the several regiments, battalions and independent battalions, shall not be in force until the first day of January next.

A supplementary ACT *to the Act, entitled, "An Act to incorporate societies for the promotion of learning."*

A. D 17 9.

Passed the 11th of November, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the act, entitled, "An Act to incorporate societies for the promotion of learning," passed the twenty seventh day of November, seventeen hundred and ninety four, and every article and clause therein, excepting the fifth section of the said act, shall extend unto, and operate as an incorporating act for all library companies that now are, or shall hereafter be formed in any of the counties of this State, and which have not been, by letters patent or act of assembly, already incorporated.

A certain act of incorporation extended to library companies.

II. AND BE IT ENACTED *by the authority aforesaid*, That the trustees or heads of each associated library company, as aforesaid, and their successors, shall have full power and authority to make all such necessary and useful orders and regulations, not inconsistent with the laws of this State, for the well ordering and governing the said library companies, and for promoting the interests thereof, as to them may seem proper. PROVIDED ALWAYS, That there be a majority of the whole number of trustees present and agreeing, in order to make valid any such order, regulation, vote or proceeding.

Powers vested in such companies.

For the act to which this is supplementary, see page 138 of this volume.

A SUPPLEMENT *to the act, entitled, "An Act incorporating the inhabitants of townships, designating their powers and regulating their meetings," passed the 21st day of February*, 1798.

Passed the 15th of November, 1799.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That if any person, chosen at any town meeting, by virtue of the above recited act, shall serve in any town office for one year, or pay the fine or forfeiture, that the law inflicts for neglecting or refusing to take upon him the said office, such person shall not be compelled to serve in the said office, or pay any fine or forfeiture for neglecting or refusing to execute the same, for five years thereafter.

For the act to which this is a supplement, see page 276 of this volume.

A SUPPLEMENT *to an act, entitled, "An Act making provision for carrying into effect the act for the punishment of crimes."*

Passed the 19th of November, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the inspectors of the State prison shall, from and after the passing of this act, be entitled to receive the sum of one dollar per day, for every day necessarily employed in the duties of their appointment, on an order drawn on the treasurer of this State, by the president of the board of inspectors, and signed by any two of the said inspectors.

Compensation to the inspectors of the state prison, what, and how to be paid.

II. AND BE IT ENACTED, That the governor, or person administering the government, shall have power to remit any costs of prosecution, which are or shall be due on any criminal imprisoned in the State prison, on a recommendation of any five of the inspectors of said prison and certificate from the visiting physician of said prison, certifying, that in their opinion the said criminal has no property, and from bodily inability is unable to earn more than is sufficient to defray the expense of his or her clothing and provisions.

Costs against certain criminals, by whom to be remitted.

For the act to which this is a supplement, see page 271 of this volume.

A. D. 1799.

An ACT *relative to the secretary's office.*

Passed the 19th of November, 1799.

Clerks of the pleas to transmit, annually, abstracts of fines, &c. to the secretary of the State.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That the clerks of the pleas of the several counties of this State shall, within ten days after each session or term of the said courts, respectively make out a duplicate abstract from the minutes of all fines and amercements awarded, and the amount of all judgments entered on forfeited recognizances, payable into the treasury of the State, and transmit the same to the secretary of this State on or before the first day of November, annually, in like manner and under the same pains and penalties as is directed to be made to the treasurer of the State, in and by the act, entitled, "An Act directing the clerks of courts to make return to the treasurer of amercements, fines and forfeitures," passed May the thirty first, seventeen hundred and ninety nine; and the secretary is hereby required to open an account of the same against the treasurer, in the public books in his office.

Receipts for monies paid into the treasury to be entered, and endorsed by the secretary of the State.

II. AND BE IT ENACTED, That all persons, paying monies into the treasury of this State, on any account whatsoever, shall immediately, on receiving the treasurer's receipt for the same, carry the said receipt to the secretary of this State, to be by him entered in the public books in his office, in an account to be opened therein against the treasurer; and the said secretary is hereby required, on such receipt being offered to him for that purpose, without fee or reward, to enter the same accordingly, and to endorse thereon the time when, and the book and page where the same was entered, signing his name to the said endorsement, and no receipt from the treasurer shall hereafter be deemed valid in the settlement of accounts, or allowed to operate against the State, without such endorsement thereon, and that no one may plead ignorance of this law, the treasurer is hereby directed to cause a fair copy of the enacting clause of this section to be set up in some conspicuous part of his office for the information of every one concerned.

Fees to be taken by the secretary, and annual allowance to him.

III. AND BE IT ENACTED, That the secretary of this State shall be entitled to demand and receive from persons making searches and obtaining extracts from any of the public books and papers in the auditor's office, the same fees as by law he is entitled to receive for like services in the secretary's office; and as a compensation for his trouble in settling the accounts of the agents of forfeited estates, registering and endorsing receipts, opening accounts against the treasurer of fines and amercements, and other services required by law, he shall receive, from the treasurer of this State, the sum of fifty dollars, yearly.

An ACT *to provide for the security of the citizens of this State against the introduction of contagious diseases.*

Passed the 19th of November, 1799.

Preamble.

WHEREAS it hath been represented to the legislature, that for want of due provision on the part of this State, the laws of the States of Pennsylvania and New-York, for preventing contagious diseases, have been repeatedly evaded by the citizens of this State, and by the crews and passengers of infected vessels landing on the shores of this State; and it being necessary to prevent a repetition of a conduct so dangerous.

In what case the governor shall issue his proclamation, prohibiting all communication with certain infected vessels.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the governor of the State, for the time being, upon application to him made by the executive or other competent authority, in the States of Pennsylvania or New-York, of any vessel infected with a malignant disease, and performing quarantine under the laws of the said States of Pennsylvania or New-York, being then in the rivers Delaware or Hudson, or the waters adjacent to the city of New-York, to issue his proclamation, forwarning all citizens of this State from entering on board of, or having

having any communication with such infected vessel; and if any person or persons shall, after the publication of the said proclamation, and in contravention thereof, enter on board of any such vessel so as aforesaid described in the said proclamation, or be any way concerned in bringing to the shores of this State, any goods, merchandize, bedding or cloathing, he, she or they, for every such offence, shall, on conviction thereof, in due course of law, be fined in any sum not exceeding three hundred dollars, at the discretion of the court, before whom such conviction shall be had.

Penalty on persons transgressing.

An ACT *to limit and explain the sixty eighth section of the act, entitled, "An Act for the punishment of crimes," passed the eighteenth day of March,* 1796.

Passed the 19th of November, 1799.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all crimes, enumerated and expressed in the sixty eighth section of the act, entitled, "An Act for the punishment of crimes," and not provided for in the said act, or some other law of this State, mayhems and atrocious assaults and batteries excepted, shall be punished by fine or imprisonment, or both, at the discretion of the court, before whom the conviction shall be had; the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months, any thing in the before recited section to the contrary notwithstanding.

Certain criminals how to be punished.

An ACT *for the relief of certain stage proprietors, and to repeal certain acts relative to public stages.*

Passed the 20th of November, 1799.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the several lines of stages, heretofore taxed, shall be exonerated and discharged from the payment of any taxes, or for licenses for running the said line of stages through this State, from and after the first day of January, one thousand, seven hundred and ninety eight, any suit depending, or any judgment obtained, or any law, usage or custom, to the contrary notwithstanding.

Stages to be exonerated from payment of taxes, from the first January, 1798.

II. AND BE IT FURTHER ENACTED, That the treasurer of this State shall be, and he is hereby directed to refund to the owner or owners of any line of stages, all such sum or sums of money, which he or they may have paid into the treasury on account of taxes or licenses, which have become due since the said first day of January, one thousand, seven hundred and ninety eight.

What monies to be refunded by the treasurer.

III. AND BE IT FURTHER ENACTED, That the act, entitled, "An Act for raising a revenue from certain stages, ferries and taverns," passed the twenty fourth day of November, one thousand, seven hundred and eighty six, and the supplement thereto, passed the twenty first day of February, one thousand, seven hundred and ninety four, shall be, and they are hereby repealed. PROVIDED, That nothing in this act contained, shall be construed to prevent the treasurer from collecting and receiving from any or all the owners of the several lines of stages, any sum or sums of money due on or before the said first day of January, one thousand, seven hundred and ninety eight, agreeably to the above recited acts, as fully as if this act had not been made.

Certain acts repealed.

Proviso.

An ACT

A. D. 1799.

An ACT *to revive and continue in force a certain act therein mentioned.*

Passed the 20th of November, 1799.

Act to authorise aliens to purchase lands revived, with a certain condition.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the act, entitled, "An Act to authorise aliens to purchase and hold real estates within this State," passed the sixth day of February, seventeen hundred and ninety four, be, and the same is hereby revived and continued in force for five years, and from thence to the end of the next sitting of the Legislature----PROVIDED ALWAYS NEVERTHELESS, That any foreigner or foreigners, alien or aliens, shall, previously to such purchase or purchases, declare his or their intention to become a citizen or citizens, agreeably to the act of Congress, entitled, "An Act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on the subject," passed the eighteenth day of June, seventeen hundred and ninety eight.

For the original act see page 123 of this volume.

An ACT *respecting suits for the recovery of monies due to the State.*

Passed the 21st of November, 1799.

Suits brought in the name of James Mott, treasurer, to be sustained, notwithstanding his resignation.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That all suits and actions now depending in the court of chancery, or in any court of record of this State, in the name of James Mott, treasurer, for the recovery of monies due to this State, be continued in the name of the said James Mott, treasurer, aforesaid, and that no exception be taken, or allowed, in any of the said courts, by reason of the resignation of the said James Mott, of the said office of treasurer, and the appointment of another person to the said office.

For the recovery of monies for the use of the State, actions to be brought in the name of the State.

II. AND BE IT FURTHER ENACTED *by the authority aforesaid,* That all suits and actions hereafter to be brought and instituted in any of the said courts, for the recovery of monies for the use of this State, be brought and instituted in the name of the State of New-Jersey, and not otherwise, any act of the Legislature to the contrary notwithstanding.

An ACT *to provide for the distribution of the revised laws of this State, and to appropriate a further sum of money towards defraying the expenses of the revision.*

Passed the 21st of November, 1799.

Revised laws of this State, to be delivered to the treasurer.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That William Paterson, esquire, be authorised and required, as soon as may be, to deliver, or cause to be delivered, to the treasurer of this State, after retaining one copy for himself, nine hundred and ninety nine copies of the revised laws heretofore directed to be printed for the use of the State.

Such laws, how and to whom to be distributed by the treasurer.

II. AND BE IT FURTHER ENACTED, That the treasurer shall, on the receipt of the laws aforesaid, after retaining one copy for himself, cause the residue to be delivered to, and distributed among the persons, and in the proportions hereafter mentioned; namely: to the governor of the State, for himself, and to exchange with the executive of the different States, sixteen copies; to the secretary of state, of the United States, the senators and representatives of this State in the Congress of the United States, to the justices of the supreme court, the attorney general, the secretary of this State, and the clerk of the supreme court, each, one copy; to the clerk of the Council, for the use of the Council, four copies; to the clerk of the Assembly, for the use of the Assembly, six copies; and the remainder shall be

be distributed among the several counties of this State, in the same proportion as the said counties contribute to the support of government, and shall transmit them, at the expense of the State, to the collectors of the several counties of this State. A. D. 1799.

III. And be it enacted, That each and every of the said county collectors, after retaining one copy for himself and his successors in office, shall, at the expense of the county, transmit one copy of the laws aforesaid to each of the following officers: the judges of the court of common pleas, the justices of the peace, the sheriff, clerk of the court of common pleas, and surrogate of each county, the clerk of the board of chosen freeholders, for the use of the board, and the representatives of the county in the State legislature----Provided always, That no more than one copy shall be delivered to any one person, notwithstanding such person may hold several offices; and the remainder shall be transmitted to the clerk of each township, in equal proportion, who shall, within one week after the receipt of the same, retaining one copy for himself, cause the residue to be distributed among the officers of the township, giving them a preference in the following order, namely; the assessor, collector, township committee, overseers of the poor, and surveyors of the highway, and the receipts of the persons, so entitled to receive the same, shall be a sufficient voucher to the said treasurer and collectors, in the settlement of their accounts, for the money by them for this purpose expended.

To whom the county collector shall distribute the said laws in his county.

To whom the clerk of the board of chosen freeholders shall distribute the said laws in his township.

IV. And be it further enacted, That at the death, expiration or removal from office of any judge or clerk of the court of common pleas, justice of the peace, sheriff, or county collector, it shall be his duty, in case of removal or expiration of office, to deliver the aforesaid copy of laws to the clerk of the county, to be deposited in his office for the use of such person as shall be appointed to execute the said office in his place or stead, and in case of the death of any of the aforesaid officers, the said copy shall be delivered, as aforesaid, by their lawful representatives; and in case of neglect or refusal for three months, in any of the aforesaid officers, or their representatives, then it shall be the duty of the said clerk to prosecute the delinquent or delinquents for double the value of the said copy or copies, in any court where the same may be cognizable, and recover the same, with costs of suit, for the use of the county, by action of debt, in the name of the State.

At the death, expiration, or removal from office of any judge or clerk of the pleas, justice, sheriff, or county collector, to whom the said laws shall be delivered, and how disposed of.

V. And be it enacted, That if any of the before recited officers of any township, who shall have received any of the aforesaid copies, or in case of their decease, their lawful representatives shall neglect or refuse, within one month after the expiration of his office, to deliver to the clerk of the township, to which he belongs, the copy by him received, it shall be the duty of the clerk of the township to prosecute and recover from the delinquent, for the use of the township, double the value of the said copy, in any court where the same is cognizable, with costs of suit, in manner provided in the fourth section of this act.

Penalty on township officers, &c. who shall not, at the expiration of office, deliver the said laws to the town clerk.

VI. And be it enacted, That if any collector or clerk shall neglect or refuse to perform any of the duties required of him by this act, he shall, for each offence, forfeit and pay the sum of fifty dollars, to be sued for in any court of competent jurisdiction, by the director of the board of chosen freeholders of the county where he may reside, to be applied to the use of the said county.

Penalty on collector and clerk, for neglecting to perform the duties required of him by this act.

VII. and VIII. Executed.

A. D. 1794.

APPENDIX.

An ACT *to prevent unnecessary costs in collecting debts.*

Passed the 20th of February, 1794.

WHEREAS doubts have sometimes arisen, whether, as the law now is, actions may be entered by plaintiffs in person in the minutes, and whether judgments may be confessed by defendants in person in the courts of this State:

How a debtor may personally appear in court, and confess judgment.

BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That, from and after the passing of this act, any person, who is indebted to or may owe another, either by bond, covenant, note, book account or agreement, express or implied, shall have liberty to appear in person before the judges of the supreme court, or the judges of the court of common pleas, in the time of their holding their respective courts, and then and there in open court, on motion of the plaintiff or his attorney, a form of action, suitable to the cause, may be instituted and entered on the records, and the defendant's appearance entered and accepted, and thereon it shall and may be lawful for the said defendant to confess judgment to the plaintiff or plaintiffs, or by a rule submit their cause to referees, in the usual form, whose report, when made, shall be entered on the records as a judgment of the court; which judgment, so confessed or obtained, and entered agreeably to the common rules of law, is hereby declared to be good and valid, and execution shall thereon issue in the same manner as if judgment had been obtained upon a legal process; and that the following fees shall be allowed, to wit:

Costs thereof.

To the plaintiff for his costs, the sum of fifteen shillings.

To the clerk for entering the action, six pence; for entering the defendant's appearance, six pence; for entering a rule of reference and copy, one shilling; for entering judgment, six pence; for drawing bill of costs, one shilling.

To the court for judgment, three shillings.

To the judge for taxing the bill of cost, one shilling.

And to the crier for his fees, eight pence.

And no other nor greater fees shall be taxed in actions instituted as aforesaid until after judgment.

An ACT *directing the mode of entering judgments upon bonds with warrants to confess judgments.*

Passed the 9th of March, 1798.

How a judgment on a bond, with a warrant to confess judgment, may be entered.

I. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That in all cases where a bond or other obligation is given for the payment of money only, together with a warrant, under hand

A. D. 1798.

hand and seal, to any attorney at law, or other person, to appear in any court of record, to an action brought or to be brought on such obligation, against the person or persons executing such bond and warrant, and to confess judgment against him or them for the sum mentioned in such bond and warrant, with costs of suit, or to the like effect, it shall and may be lawful for the obligee or obligees, his, her or their executors, administrators or assigns, at any time after the day of payment mentioned in such obligation, to apply to any one of the justices of the supreme court, or to any one of the judges of the inferior court of common pleas in this State, with such bond and warrant, and the said justice or judge shall, at the request of the person applying, at the end of a fair copy of such bond and warrant, made on a whole sheet of paper for that purpose, enter, or cause to be entered an appearance for the obligor or obligors to an action as of the last precedent term, and a confession and judgment against him or them for the sum mentioned in such bond, signed by said justice or judge, in the following form, to wit:

Supreme court of New-Jersey [or, inferior court of common pleas]
Of the term of
A. B. } In debt on bond and warrant of attorney.
C. D. }

The defendant's appearance to this action is entered, and judgment confessed to the plaintiff for the sum mentioned in the above obligation, by virtue of the warrant thereunto annexed, and pursuant to the directions of an act, entitled, "An Act directing the mode of entering judgments on bonds with warrants to confess judgments;" whereupon it is considered, that the said A. B. do recover against the said C. D. the sum of debt, and three dollars, costs of suit. Judgment signed this day of

E. F.

II. And be it enacted, That the copy of the bond and warrant to confess judgment, with the entry of the judgment thereon as aforesaid, shall be delivered by the plaintiff or person applying for said judgment to the clerk of the supreme court, when the judgment is signed by one of the justices of the supreme court, or to the clerk of the inferior court of common pleas of the county where the judgment is entered, if signed by a judge of the inferior court of common pleas, and the clerk shall immediately file the same of record in his office, marking thereon the time of filing, and shall enter the judgment at large in the minutes of the court.

Copy of the bond and warrant, with the entry of judgment, to be filed in the clerk's office.

III. And be it enacted, That all judgments entered as aforesaid shall be as good and effectual in law, to all intents and purposes whatsoever, as judgments entered in the manner heretofore practised, and as if judgment rolls were drawn up and signed in the usual form; and no such judgment shall be reversed for error, misprision, or defect of form in the entry thereof; and execution shall issue thereon as in case of a judgment entered in the mode heretofore practised.

The force and operation of such judgment.

IV. And be it enacted, That the following fees shall be allowed for said services, and no other, to wit: to the plaintiff, for the copy of the bond and warrant, entering the proceedings thereon, attending upon the judge to obtain the judgment, and delivering the same to the clerk to be filed, two dollars; to the justice or judge, for inspecting the bond and warrant, examining the copies, and entering and signing the judgment, fifty cents; to the clerk, for marking and filing the proceedings, and entering the judgment, fifty cents; the fees to be paid by the plaintiff to the judge and clerk when the business is done by them, and recovered of the defendant with the other costs. And when execution shall issue on such judgment, the following additional fees shall be allowed, and no others, to wit: to the plaintiff, for drawing the execution, twenty cents, and to the clerk, for sealing, entering, recording and filing the execution and return of the sheriff, seventy-five cents.

Fees allowed in such cases.

EXPLANATION OF CERTAIN LATIN AND FRENCH TERMS MADE USE OF IN THE PRECEDING LAWS.

A B initio. From the beginning.
Administrator cum testamento annexo. Administrator with the teſtament annexed.
Administrator de bonis non. Administrator of the goods of the deceased not administered by the former executor or administrator.
Administrator dur rie absentia. Administrator during the absence of the executor.
Administrator durante minore ætate. Administrator during the minority of an infant executor or administrator.
Administrator pendente lite. Administrator pending a suit relative to the validity of the will, or the right to administration.
Ad quod damnum. A writ to enquire what damages, &c.
Aid-prayer. When the tenant, in a real action, prays in aid, or calls for the assistance of another person who is interested, to help him to plead.
Bona fide. With good faith.
Capias ad respondendum. Process of arrest to compel the defendant to appear in court, and answer the plaintiff.
Capias ad satisfaciendum. A writ of execution against the person.
Cepi corpus. I have taken the body.
Cestui que trust. He for whom the trust is, or the person entitled to the fiduciary profits.
Choses in action. Things in action.
De bene esse. Conditionally.
De novo. Anew.
Distringas juratores. A writ to distrain the jurors, who have been previously summoned, by their lands and goods, in order to compel their appearance at the time and place appointed.
Ex officio. By virtue of his office.
Ex parte. Of the one part.
Fieri facias. / *Fieri facias de bonis.* } A writ of execution against goods and chattels.
Fieri facias de bonis et terris. A writ of execution against goods and lands.
Habeas corpora juratorum. A compulsive process to bring in the jurors, who have been previously summoned.
Feme covert. A married woman.
Femes covert. Married women.
Instanter. Instantly.
In ventre sa mere. Unborn; literally, in its mother's womb.
Ne exeat. A writ to restrain a person from going out of the State.
Nil dicit. / *Nihil dicit.* } He says nothing.
Non compos. / *Non compos mentis.* } Not of sound mind.
Non est inventus. He is not found.
Non sum informatus. I am not informed.
Quare clausum fregit. Wherefore he broke the close.
Rescous. Rescue.
Riens per discent. Nothing by descent.
Scire facias. A writ to shew cause.
Subpœna ad revivendum. Process to revive a suit in chancery.
Subpœna ad testificandum. Process to compel witnesses to appear and testify.
Supersedeas. A writ to stay proceedings.
Talesmen. A supply of such men, as being summoned for jurors on the first panel do not attend, in order to make up the deficiency.
Tales de circumstantibus. A supply of such men, as are present in court, and necessary to complete the jury.
Venire. / *Venire facias.* / *Venire facias juratores.* } First process for convening a jury.
Vi et armis. With force and arms.
Viva voce. Orally, or by word of mouth.
Writ of dower unde nihil habet. A writ to recover dower, where none has been assigned.

A TABLE

OF THE TITLES CONTAINED IN THE

INDEX.

A

Abatement.
Account, action of.
Actions.
Acts repealed.
Administration.
Administrators.
Affidavits.
Affinity.
Alienation.
Aliens.
Alimony.
Amendments.
Appeal in cases of taxation.
Appeals.
Apprentices and servants.
Arbitration.
Assessors.
Assignment.
Attachment.
Attorney-General.
Attorney at law.
Attorney in fact.
Attornment.
Avowry.

B

Bail-bond.
Bail in civil cases.
Bail in criminal cases.
Bastards.
Beggars.
Bergen county.
Bills of exceptions.
Bills of exchange.
Births and deaths.
Bonds.
Boundaries.
Bridges.
Burlington, city of.
Burlington county.

C

Cape May county.
Certiorari.
Challenge of judges.
Challenge of jurors.
Chancery.
Chosen freeholders.
Circuit courts.
Citizens.
Clergy.
Clerk of the court of appeals.
Clerk of the court of chancery.
Clerk of the supreme court.
Clerk of the circuit court.
Clerk of the court of oyer and terminer and gaol delivery.
Clerk of the court of common pleas and general quarter sessions.
Clerk of township.
Cock fighting.
Colleges.
Commissioners of appeal.
Consanguinity.
Constables.
Constitution.
Contagious diseases.
Contracts.
Conveyances.
Convicts.
Coparceners.
Coroners.
Costs.
Counties.
County collector.
Courts.
Court of appeals,
of chancery,
of oyer and terminer and gaol delivery,
of common pleas,
of general quarter sessions,
for the trial of small causes.
Cranberries.
Creditors.
Crimes and punishments.
Cumberland county.
Cursing.

D

Damages.
Death.
Debtors.
Debtors absconding and absent.
Debtors insolvent.
Debts.
Declarations.
Decrees.
Deeds.
Deer.
Delaware river.
Depositions.
Descent.
Detinue.
Devises.
Devisees.
Discount.
Disorderly persons.
Distress.
Distribution.
Divorce.
Dogs.
Dower.
Drunkenness.

E

Ejectment.
Elections.
Electors of President and Vice President of the United States.
Elizabeth, borough of.
Enquiry, writ of.
Entry.
Error.
Errors, court of.
Escape.
Essex county.
Essoins.
Estates pur auter vie.
Estates-tail.
Evidence.
Exceptions, bills of.
Execution.
Executors.
Exemplifications.

F

Fairs.
Fees.
Feme-covert.
Fences.
Ferries.
Fines.
Fines and common recoveries.
Fire.
Fisheries.
Forcible entry and detainer.
Forfeited estates.
Frauds and perjuries.
Freeholders.

G

Gaming.
Gaolers.
Gaols.
General issue.
Gloucester county.
Governor.
Grand jurors.
Grants.
Guardians.
Gunning.

H

Habeas corpus.
Hackinsack river.
Hawkers.
Heir.
Highways.
Horseracing.
Horses.
House of correction.
Hunting and gunning.
Hunterdon county.
Husband and wife.

I

Idiots.
Indians.
Indictment.
Infants.
Informations.
Injunctions.
Inns.
Inquisitions.
Insolvent.
Interest.
Intestate.
Inventories.
Joint tenants.
Jointures.
Islands.
Issue.
Judges.

A TABLE &c.

Judgments.
Judiciary.
Jurisdiction.
Jurors.
Justices of the peace.

L

Landlord and tenant.
Lands.
Laws.
Leases.
Legacies.
Legatees.
Letters of attorney.
Letters of administration.
Libels.
Library companies.
Limitation.
Literature.
Livery of seisin.
Lost deeds.
Lotteries.
Lunatics.

M

Mandamus.
Manufactures.
Marriages.
Marshes.
Meadows.
Medical society.
Middlesex county.
Militia.
Millers.
Minors.
Money.
Monmouth county.
Morris county.
Mortgages.

N

Navigation.
New Brunswick.
New Jersey.
Notaries public.
Notice.
Nuisances.
Nuncupative wills.

O

Oath.
Obligations.
Offices.
Ordinary.
Orphan's court.
Overseers of the highways.
Overseers of the poor.
Oysters.

P

Partition.
Passaic river.
Paterson, Town of.
Paupers.
Pedlers.
Peine forte et dure.
Penal law.
Perth-Amboy.
Petit Jurors.
Physic and surgery.
Pleadings.
Poor.
Poor houses.
Possession.
Posthumous children.
Pounds.
Practice.
Prerogative court and office.
Private acts.
Process.
Promissory notes,
Proprietaries.
Protections.

Q

Quarter sessions.
Quo warranto.

R

Rams.
Raritan river.
Real estate.
Recognizance.
Recording.
Records.
Reference.
Register of births and deaths.
Religious societies.
Rent.
Replevin.
Representatives.
Reversioners and remainder-men.
Reversions.
Routs, riots, and tumultuous assemblies.
Rivers.
Roads.

S

Salem county.
Sandy hook.
Scire facias.
Seals.
Secretary of State.
Senators of the United States.
Servants.
Set-off.
Sheep.
Sheriff.
Slaves.
Somerset county.
Spiritous liquors.
Stages.
State.
State prison.
Statutes.
Strays.
Sunday.
Supreme court.
Surrogates.
Surveyor general.
Surveyors of highways.
Surveys.
Sussex county.
Swamps.
Swearing.
Swine.

T

Taverns.
Taxes.
Tenants.
Tenants in common.
Tenures.
Timber.
Town clerk.
Town collectors.
Town committee.
Town meetings.
Townships.
Traps.
Treasurer.
Treaty.
Trenton.
Trials.
Trustees.
Trusts.

U

United States.
Use.
Usury.

V

Vagrants and Vagabonds.
Vendues.
Verdict.
Vice and immorality.
View.
Void.

W

Wager of law.
Waggons.
Warrant of Attorney.
Waste.
Widows.
Wills.
Witchcraft.
Witnesses.
Woods.
Workhouses.
Wrecks.
Writs.

INDEX.

ABATEMENT.

ACTION not to abate after interlocutory judgment, by the death of either party, 146
not to abate by the death of one of the plaintiffs or defendants, if the cause of action survive, 146
not to abate after issue joined, by the death of either party, if sustainable by or against the executors or administrators, 146
Suits in chancery not to abate by the death of one of the complainants or defendants, if the cause of action survive, 146
If in a suit in chancery by or against several persons, the cause of action shall not survive, then the suit to abate only as to the person deceased, 147
How the complainant may make the representatives of such deceased person parties to the suit, 147
How the representatives of a deceased complainant may be made parties to such suit, 147
No plea in abatement to be admitted in actions of partition, 251
Action of attachment not to abate by the death of the defendant, 301
Writ of dower, when not to abate, 343

ACCOUNT, action of.

May be brought by executors, 140
May be brought against executors or administrators of guardians, bailiffs, and receivers, 140
May be brought by one joint-tenant or tenant in common against another, 140
Proceedings in actions of account, 140
Auditors therein may examine parties on oath, 140
Compensation of auditors, 140

ACTIONS.

When not sustainable on promises and contracts, unless accompanied with certain requisites, 136
Not to be brought against persons, in whose houses fires shall accidentally begin, 180
Not sustainable for witchcraft or for charging another with it, 210
Of appeal for murder and other offences abolished, 221
May be maintained on specialties and simple contracts against heirs and devisees, 243
When reversioner may defend an action brought against the tenants for life or years. 288
When feme covert may defend an action without her husband, 289
Transitory actions instituted in the supreme court, where to be tried, 393
Actions brought in the name of the late treasurer to be sustained, notwithstanding his resignation, 452
Actions for the recovery of money for the use of the State, to be brought in the name of the State, 452

ACTS REPEALED.

For the repeal of certain acts, see pages 22, 38, 44, 45, 47, 50, 55, 59, 75, 80, 81, 82, 83, 102, 116, 121, 125, 133, 148, 160, 161, 172, 181, 207, 221, 224, 225, 226, 227, 228, 233, 240, 241, 243, 245, 248, 257, 258, 263, 271, 287, 295, 302, 303, 305, 307, 313, 323, 324, 325, 328, 333, 334, 335, 339, 340, 349, 352, 355, 365, 366, 367, 368, 369, 373, 378, 382, 383, 385, 386, 387, 390, 391, 392, 395, 396, 397, 401, 402, 403, 409, 415, 418, 428, 435, 436, 448, 451.

ADMINISTRATION.

In what cases letters of administration may be revoked by the orphan court, 60
If an intestate leave no relations, to whom administration shall be granted, and how the estate shall be distributed and applied, 75
Administration of estates, to whom to be granted, 154
Inventories, how to be taken and where to be deposited, 155
Administration bonds, how to be proceeded upon, in case of forfeiture, 156
Husband to have administration of the personal estate of his wife, 157
Will to be observed, where administration is granted with it annexed, 157

ADMINISTRATORS.

All bona fide acts done by or purchases made of an administrator, before notice of a will, shall be good, 37, 38
If their sureties be insufficient, to give further, if required, 60
When one administrator shall account with and give security to his co-administrator, 61
Minor's money to be put out on security, and when the administrator shall be liable for the principal only, and when for the interest as well as the principal, 61
Their accounts to be exhibited to, audited, and reported upon by the surrogate, of which they are to give two months notice, 62
Not liable on their own promises, unless in writing, 136
Not liable to pay costs in actions prosecuted in right of their intestate, 149
May have actions for taking the goods of their intestate, 153
Liable to actions for goods taken by their intestate, 154
Administrators of executors, or administrators liable for waste, 154
Administrators de bonis non may bring scire facias on a judgment, 154
Administrators shall recover and be amenable as executors, 155
To give bond, with sureties, 155, 156
Such bond, when forfeited, how to be prosecuted, 156
Not to be cited to render an account, otherwise than by inventory, unless in behalf of a minor, or a party interested, 157
Estates for the life of another to be assets in their hands, 189
When and where to file bond to refund, 354
Judgments against them not to affect lands of the intestate, 372
May, by order of orphan court, sell lands of intestate for payment of debts, 372
To make deed for lands so sold, 373
The monies thence arising to be assets in their hands, 373
Allowed six months to ascertain the situation of intestate's estate, and amount of his debts, 435

AFFIDAVITS.

What affidavits taken before commissioners to be read in the supreme court, 125
See *Evidence. Witnesses.*

AFFINITY. See *Marriages. Divorce.*

ALIENATION.

Freeholders may alien their lands at pleasure, 148
Fines for alienation taken away, 148
Wrongful alienations relieved against, 289, 290

ALIENS.

The titles of a certain description of inhabitants, who claim under aliens, not to be defeated merely on that account, 26
Rights of alien friends, being mortgagees, not to be defeated for alienism, 93
Alien friends authorized to purchase lands till the 1st of November, 1799; but such purchase shall not entitle them to hold any office, or to vote at elections for representatives, 123
Antecedent purchases of lands by aliens legalized, 124
The act, authorizing alien friends to purchase lands, revived for a limited time with a certain condition, 452

ALIMONY. See *Divorce.*

AMENDMENTS.

Defects of form in original judgments or orders relative to paupers, to be amended, 34
Mistakes in process and records, how and when to be amended, 126
Courts may amend all imperfections and defects in point of form other than those which are expressed as cause of demurrer, and may permit the parties to amend any defect in the process or pleadings, on such conditions as they shall direct, 128
Of declarations and pleadings, and on what terms, 361
In chancery proceedings, how to be made, 431

INDEX.

APPEAL in cases of taxation.

Commissioners of appeal where to meet and how to give notice, 257
Assessor to attend, 257
Judgment, in what time to be rendered, and when rendered, to be final, 257
Transcript of judgment to be given to the appellant, if in his favor, 257
Commissioners to issue subpœnas and to swear witnesses, 257
Compensation of commissioners, and how paid, 257
Costs, by whom to be paid, 257
Penalty on commissioners for neglect of duty, 257
Appeal in taxes ordered by the boards of chosen freeholders, 267
Commissioners of appeal, how elected, 284
Their oath of office, 286
Penalty for refusing to serve, 287

APPEALS. See *Court of appeals.*

APPRENTICES and SERVANTS.

Poor children to be bound out and how, 31
Infants may be bound, 305
Ages of infants to be expressed in the indentures, 305
Indentures of infants contrary to the act, to be void as to them, 305
Not to be void for want of being indented only, 305
Complaints, how to be settled, and abuses, how to be redressed, 305, 306
When and by whom they may be discharged or corrected, 306
Penalty on assisting them to run away, or to absent themselves, 306
Penalty for harbouring them, 306
What servants, who run away, shall serve double the time, 306
In what cases an action may be brought against them for damages, 307
What servants may be sent to the work house, and how maintained, 379
Children of certain disorderly persons to be bound out, and by whom, 411
Militia fines imposed on them, by whom to be paid, 440

ARBITRATION. See *Reference.*

ASSESSORS.

Their duty at elections, 229
To attend appeals in cases of taxation, 257
Their duties, compensation, and penalties, when money is ordered to be raised by the boards of chosen freeholders, 267
How elected, 284
Their oath of office, 286
Penalty for refusing to serve, 287
To make assessment rolls in dollars, dismes, cents, and milles, 380
Their duties, penalties, and fees under the act concerning taxes, 404, to 409
Their duties, compensation, and penalties under the act for the regulation of the militia, 446, 447

See *Taxes. Townships.*

ASSIGNMENT.

Of leases, estates, and uncertain interest in land to be in writing, 136
Replevin bonds assignable, 184
Bills, bonds, &c. assignable, and assignee may sue in his own name, allowing all just discounts, 254
Choses in action, rights and credits of absconding and absent debtors to be assigned by auditors, 299
Of bail bonds, 359

ATTACHMENT.

May be awarded by the courts of common pleas in cases of contempt, 206
How to be issued and executed against absconding and absent debtors, 296
Inventory and appraisement to be made, 296
Property bound from service of attachment, 296
Goods attached, how to be kept, 296
When houses, &c. may be broken open in search of property, 296
Notice of attachment, how to be published, 297
In what cases and how the garnishee may be sued, 297
Suit against garnishee to be continued till the principal action be determined, 297
When goods attached are claimed by others, the right of property to be tried by a jury, 297
Court to appoint auditors, whose report shall be filed, and judgment entered thereon, 298
Attachment to be set aside, if the defendant appear and file special bail, 298
Plaintiff not to discontinue without leave of the creditors, 298
Auditors to examine persons touching the defendant's property, 298
Auditors may direct houses, &c. to be broken open, and searched for property, 298
Upon judgment on report of auditors, scire facias to issue against garnishee, 298
On judgment against the defendant, the auditors may, by virtue of a rule of court, sell his real and personal estate; but perishable goods may be sold before judgment, 299
Proceeds to be distributed among the creditors, 299
Auditors to assign the choses in action, rights and credits of the defendant to his creditors, 299
Auditors to make report of such distribution and assignment, 300
Sale and conveyance of auditors to be good, 300
Debts not due to be paid as if due, 300
Creditors not applying to have no share, 300
Property of debtors, residing out of this State, how to be attached and advertised, 300
How to be issued against joint obligors and partners, 300
Creditors to give bond before they receive a dividend or assignment, 301
Action not to abate by the death of the defendant, 301
Creditors, not residing in this State, to have the benefit of the act, 301
Compensation of auditors, 301
Act to be construed liberally, 301
Justice of the peace, how to proceed in attachments cognizable before him, 301
Attachment from a superior court to supersede an attachment before a justice, 301

ATTORNEY GENERAL.

In what cases to exhibit informations in nature of a quo warranto, 177, 178
To prosecute forfeited recognizances, 180, 181, 239
His costs against convicts sentenced to hard labor, how to be paid, 275
His costs on indictments, 422

ATTORNEY AT LAW.

His fees on forcible entries and detainers, 294
May be sued in courts for the trial of small causes, 321
Not to be special bail, 348
What persons may prosecute or defend by attorney, 355
Dying, another to be appointed in his stead, 355
Penalty for malepractice, mismanagement of a cause, or taking illegal fees, 355, 356
Limitation of certain actions against him under the practice law, 356
When to deliver a copy of the taxed bill of costs to his client, 356
To produce his warrant on confessing judgment, 356
His name to be subscribed to, or indorsed on process, 357
Fees of, 421, 422

ATTORNEY in fact. See *Conveyances.*

ATTORNMENT.

Of tenants to strangers void, 167
Grants and conveyances good without, 401

AVOWRY.

In replevin, how, when, and by whom to be made, 183, 184

BAIL BOND. See *Sheriff. Bail in civil cases.*

BAIL IN CIVIL CASES.

IN the supreme court may be taken before commissioners, 124
How such bail may justify, 125
Bail bond how to be taken, 203
When required, affidavit to be made of the cause of action, 348
Before whom such affidavit may be taken, and its nature, 348
Sum sworn to shall be indorsed on the writ, 348
What persons shall or shall not be permitted to be special bail, 348
But any court or judge may order bail as heretofore, 348
Special bail, when to be filed, 357
How to proceed, if special bail be not filed in due time, or if bail, and a copy of the bail bond be not returned, or the plaintiff be dissatisfied with the bail, 357
May be put in by the sheriff or his bail, 358
Exception to, and justification of, when and how to be made, 358
What notice of justification of bail is required, 358
Not justifying to be out of court, and if allowed, how to proceed, 358
When justification of bail shall not be permitted without the consent of the plaintiff or his attorney, 358

INDEX

Form of the recognizance of special bail, 358
Form of special bail piece, 359
Mode of justifying special bail, 359
Bail bond, how to be assigned, 359
Proceedings on bail bond, when to be set aside, and when to be stayed or not, 359
When to be put in and perfected in open court, 360
The fact to be taken as sworn, 360
When and how he may surrender the principal, 360
Entry of an exoneretur on the bail piece, 360
How far liable, 360
When to be proceeded against, 363
When and how proceedings against special bail may be stayed, when error is brought by the principal, 363
When such proceedings shall not be stayed, 363
Required in causes removed by habeas corpus, 364
When such bail to be filed, excepted to, and justified, 364

BAIL IN CRIMINAL CASES.

What offenders may or may not be admitted to bail by justices of the peace, 151

BASTARDS.

How to be maintained, 152
Reputed father to give security or be committed, 152
In what cases the reputed father shall be discharged, 152
Estates of fathers and mothers to be applied towards the maintenance of their illegitimate children, 153
Pleas of bastardy to be tried by the country only, 394

BEGGARS. See *Disorderly persons.*

BERGEN COUNTY.

Bounds of, 2, 3
Courts of common pleas and quarter sessions for the county of Bergen, when and where to be held, 392
Circuit courts, and courts of oyer and terminer, and gaol delivery, for the said county, when and where to be held, 393, 395

BILLS OF EXCEPTIONS.

To be sealed, 245
The justice sealing to confess or deny his seal, 245

BILLS OF EXCHANGE.

Inland bills of eight dollars and upwards put on the same footing as foreign bills, 341
Before whom to be protested, 341
When an inland bill is lost, the drawer to give another on security, 341
Acceptance of an inland bill for a precedent debt, when to be deemed payment, 341, 342

BIRTHS AND DEATHS.

How and by whom to be registered, 381
Proof of birth or of death, how, and before whom to be made, 381, 382
Registers to be evidence, 382
Penalty for not registering in due time, 382
Punishment for false swearing to certificate, or for false entry, 382

BONDS.

Defendant, when sued on a bond secured by mortgage, may bring the money into court, and compel a reconveyance, 144, 145
Administration bonds, when forfeited, how to be proceeded upon, 150
Form of sheriff's bond, 201
How to be taken by sheriffs of *prisoners*, 203
Bonds assignable, and assignee may sue in his own name, allowing all just discounts, 254
Representatives of one jointly bound shall be chargeable as in joint and several obligations, 255
In an action on a bond for non performance of covenants, or with condition other than for payment of money, the plaintiff may assign as many breaches as he pleases, on which the jury shall assess damages, 255
Judgment on such action to remain as a security against future breaches, 255
In actions on bonds, payment after the day may be pleaded, 255, 256
In such actions, the defendant may bring the money into court, 256
Sum due on bond and not the penalty, shall be considered as the debt, 256
How judgments shall be entered on bonds for the payment of money, 256
Warrants of attorney not to be included in bonds, 356
Form of treasurer's bond, 306

BOUNDARIES.

Of counties, 2, 3, 4, 12, 13, 14, 15, 17, 102
Between New Jersey and New York, 22, 23, 26
Of lands between persons, how to be ascertained, 82
Of counties, how to be ascertained, 294, 295
Of townships, how to be ascertained, 295

BRIDGES.

Penalty on leaving open the draws of certain bridges in Burlington county, 103
Over or near dams or races, how to be made and kept in repair, 329
How to be built or repaired, when the expense exceeds 150 dollars, 333
How——when the expense will not exceed the above sum, 334
How——when the expense will not exceed 30 dollars, 334
The breadth, &c. of small bridges, 334
Between counties, to be built and repaired at joint expense, 334
To what bridges the act does not extend, 334

BURLINGTON, City of.

City and port of Burlington to be free for a limited time, 55
Boundaries of the city, 70
Mayor, recorder, and aldermen, to be appointed by the council; their duration in office, to whom amenable for acts, and by whom removable, 70, 71
Common council to be elected by the freemen, 71
Name of the body politic, 71
To hold and dispose of property, to sue and be sued, and have a common seal, 72
Marshal, coroner, and constables, how elected; their powers and duties, 72
Other officers to be appointed by the common council, 72
Vacancies, how to be supplied, 72
What town meetings to be legal, 72
Powers of the corporation, 72
A common council, how constituted, 73
What officers to take cognizance of fines, to license taverns, and to constitute a court of record, 73
Fees of the court and officers, 74
Property of former corporation vested in the present, 74

BURLINGTON COUNTY.

Bounds of 3
To elect four representatives, 31
Courts of common pleas and quarter sessions for the county of Burlington, when and where to be held, 391
Circuit courts, and courts of oyer and terminer, and gaol delivery, for the said county, when and where to be held, 393, 394, 395

CAPE MAY COUNTY.

Bounds of, 4
Boats may be stowed in the highway at Cape Island, 104
To elect one representative, 33
Courts of common pleas and quarter sessions, for the county of Cape May, when and where to be held, 393
Circuit courts, and courts of oyer and terminer, and gaol delivery, for the said county, when and where to be held, 393, 394, 395

CERTIORARI.

To remove judgment on forcible entry and detainer, 293
Not to issue to remove any proceedings under the act respecting apprentices and servants, 307
To courts for the trial of small causes, 310
Not to issue to remove convictions under the act for suppressing vice and immorality, 311
To the quarter sessions for the removal of indictments for trial, 311
For the removal of judgments or orders from a justice of the peace, or quarter sessions, 350
To be signed by a justice of the supreme court, 351
To be delivered in open court, 351

CHALLENGE OF JUDGES. See *Judges.*

CHALLENGE OF JURORS. See *Jurors.*

CHANCERY. See *Judges.*

CHOSEN FREEHOLDERS.

Their duty with respect to monies arising on tavern licenses, 310
Incorporation of, in the several counties, and names, 160, 210

INDEX

May hold property, have a common seal, sue and be sued, and make by laws, 266
Process against, how to be served, 266
In what cases to grant and raise money, 266
May adjourn, 266
Time and place of their annual stated meetings, 266
To elect a director of the board, 266
To elect a clerk, his pay and duty, 266
On death, &c. of clerk, the corporation books and papers to be delivered to his successor, 267
Special meetings, how to be convened, 267
Penalty on non attending members, 267
Money, when granted, how to be assessed and raised, 267
The duties, penalties, and compensation of assessors and collectors, 267
Appeal allowed, 267
Names of delinquents when to be returned to a justice of the peace for prosecution, if taxes be not duly paid, 268
Taxes, when to be paid to the county collector, 268
Mode of proceeding against delinquents, 268
Duty of constables, 268
To choose county collector, who shall give bond, 268
In what cases to prosecute persons having state or county money or other property in their hands, 268
Penalty on county collector neglecting or refusing to account, 269
Constables receiving taxes, when to pay the same, 269
Townships, when liable for their collectors, 269
To order the payment of tax money, 269
Penalty on county collector for neglect of duty, 269
Pay of county collector, 269
Duties, compensation, and penalties of justices and constables under the act, 269, 270
May purchase or build poor houses and have the direction thereof, 270
Paupers to be kept therein at the expense of the county, 270
Two or more counties may unite in building or purchasing a poor house, 270
Compensation of the members of the corporation, 270
How to be elected, and penalty for refusing to serve, 284, 287
To distribute laws of the United States and how, 288
Their duties with respect to ascertaining the boundaries of counties and townships, 294, 295
Their duties respecting bridges, 333, 334
Their powers and duties relative to work houses, 378, 379, 380
To keep their accounts in dollars, dismes, cents, and milles, 380
May apply for a special court of oyer and terminer and gaol delivery, 395
Fines, penalties, and other monies, directed to be paid to the justices and freeholders, shall be paid to the board of chosen freeholders, 411
Property of the former corporations vested in the present, 411
Attending members may adjourn, when there is not a quorum, 411

CIRCUIT COURTS. See *Judiciary.*

CITIZENS.

Not to be sent out of this State for any offence, which they have committed in it, 171
Having committed offences in another State, to be sent there for trial, 171

CLERGY.

Benefit of clergy abolished, 221

CLERK OF THE COURT OF APPEALS.
See *Court of appeals.*

CLERK OF THE COURT OF CHANCERY.
See *Court of chancery.*

CLERK OF THE SUPREME COURT.
See *Supreme court.*

CLERK OF THE CIRCUIT COURTS.
See *Circuit courts.*

CLERK OF THE COURT OF OYER AND TERMINER, AND GAOL DELIVERY.
See *Court of oyer and terminer and gaol delivery.*

CLERK OF THE COURTS OF COMMON PLEAS AND GENERAL QUARTER SESSIONS.

To record boundaries of lands, 82
To record returns of marriages, 159
To file sheriff's bond and oath of office, 202
His duties, penalties, oath, and compensation relative to elections, 229, 230, 232, 233
When and how to advertise a new election for sheriff, 252
To file appointment and official oath of under sheriff, 253
To record and file the boundaries between townships as certified by the commissioners, 295
Penalty on him for sealing an attachment contrary to the act, 296
How to give notice of attachment. 297
Docket of justice of the peace, after his death, to be deposited in the office of the clerk of common pleas, 320
His fees on appeals, 322
To sign process, 357
To furnish judges with a list of causes for trial and argument, 362
His official oath, 376
His duty as to the administration of certain oaths, 377
Penalty for neglect of duty therein. 377
To transmit, annually, to the treasurer of the State, an abstract of amercements, fines, and forfeitures, 386
Penalty for not doing so, 386
His duty, penalties, and fees relative to roads, 387 to 390
To be clerk of the circuit court, 395
To deliver a certified list of defaulting jurors and their fines to the sheriff, 395
To record conveyances and how, 399, 400
Penalty for the neglect of any duty required by the act respecting conveyances, 400
To give bond for the performance of the duties required by the said act, 400
To give receipt for books, in which conveyances are recorded, 400
On his death, removal, &c. the official seal, papers, records, and books, to be delivered to his successor, 400
His duties, penalties, and fees relative to the recording of mortgages, 402, 403
His duties under the act concerning taxes, 409
Fees of, 425, 426
His fees for attending courts with records, 427
To tax bills of costs, 427
His fees for taxation, 428
Penalty on him for taking illegal fees, 428
To transmit, annually, abstracts of fines, amercements, and judgments on forfeited recognizances, to the secretary of this State, 450
His duty relative to the disposal of the revised laws of this State, 453

CLERK OF TOWNSHIP. See *Town clerk.*

COCK FIGHTING. See *Gaming.*

COLLEGES.

The charter of the college of New Jersey confirmed, with certain alterations and amendments, 382
Oaths to be taken by the trustees and officers of the said college, 383
The number of trustees requisite to constitute a quorum, 383
To what amount the corporation may hold property, 383
Oaths to be taken by the trustees of Queen's college, 384
Notice of their meeting, how to be published, 384
Certain restrictions taken off, 384
Power of granting degrees in the said college extended, 384
Confirmation of charter, so altered and amended, 385

COMMISSIONERS OF APPEAL.
See *Appeal in cases of taxation.*

CONSANGUINITY. See *Marriages. Divorce.*

CONSTABLES.

To be officers of the orphans court, 61
To order inhabitants to extinguish fire in woods, 135
To swear appraisers of goods distrained, 173
To execute precepts issued by coroners, 195
How to be punished for neglect of duty therein, 196
Their power and duty at riots, 231
Their duties, compensation, and penalties in cases of taxation by the board of chosen freeholders, 268, 269
How to be elected, 284
Oath of office, 286
Penalty for refusing to serve, 287
Their duty under the act respecting slaves, 305
Their duty, penalties, and fees under the act constituting courts for the trial of small causes, 314, 316, 317, 318, 321
To give, if required, security for the performance of their duties under the said act, 323
On judgment against them, execution to issue immediately, 369
Their duties, penalties, and fees under the act concerning taxes, 406 to 409
Their duty with respect to disorderly persons, 416
Fees of, 427
Their duty with respect to militia fines, 439

CONSTITUTION. See *United States.*

CONTAGIOUS DISEASES.

An act to prevent the introduction of. 470, 471

I N D E X.

C O N T R A C T S.

What contracts, agreements, and promises shall not be binding, unless in writing, and signed by the party, 136
Action will not lie on a contract for the sale of goods for the price of 30 dollars, unless goods be delivered, earnest given, or note in writing, 136
For gaming void, 224
For usury void, 225
Relative to horse racing void, 241

C O N V E Y A N C E S.

Made by virtue of letters of attorney, recorded prior to the 17th of March, 1713-14, to be good, 6
What conveyances, since that time, by attornies, shall be valid, 6
What exemplifications of conveyances shall be received in evidence, 6
Of the use of land shall transfer the possession, 6
When lost, how to be supplied on application to the supreme court, 45, 46
When fraudulent and void against creditors and purchasers, 133, 134
By executors of lands devised to be sold, 191
For gaming debts, void, 224
For usurious contracts, void, 225
Made in pursuance of lotteries, void, 228
Of certain lands in the Delaware, acknowledged or proved according to the laws of Pennsylvania, to be recorded in this State, and received in evidence, 244
By husband of his wife's lands not to prejudice her or her heirs, 289
Of lands sold by auditors under the attachment act, 300
By sheriffs of lands sold in virtue of executions, 371
By executors or administrators of lands sold in pursuance of orders from the orphan's court, 373
How to be acknowledged or proved before they can be received in evidence or recorded, 398
By a feme covert, how to be acknowledged before her estate can pass, 398, 399
How to be acknowledged or proved, if the grantors or witnesses reside in some other State in the Union, 398
How to be acknowledged or proved, if the grantors or witnesses reside in a foreign kingdom or state, 399
Made on or after the 1st of January, 1800, to be void against purchasers and mortgagees, not having notice thereof, unless lodged, in six months after their execution, in the proper office to be recorded, 399
How to be proved, if the grantors and witnesses be dead, or cannot be obtained, 399
To be recorded in the office of the secretary, or of the clerk of the common pleas, 399
Manner of recording, 400
Such records, and certified copies thereof to be received in evidence, 400
Good without attornment, 401
Warranty of lands by tenant for life, to be void against the reversioner or remainder man, 401
When collateral warranties of lands shall be void against heirs, 401

C O N V I C T S.

No person to import or bring into this State any felon convict, or other convict of an infamous crime, or under sentence of death, or other legal disability, incurred by a criminal prosecution, or delivered to him from any place of confinement out of the United States, 223
Penalty for so doing, or offering such for sale, 223
Offenders against the act to enter into recognizance to send such imported convict out of the United States, 223
What convicts to be sent to the State prison, &c. 271 to 275

C O P A R C E N E R S.

Compellable to make partition, 89, 250
Proceedings in waste between, 179

See *Partition*.

C O R O N E R S.

To apply for commissions in a month after being elected, but may act before, 40
Three to be elected annually in each county, 195
Oath of office, 195
In what cases the return of one of them shall be effectual, 195
To issue precept for jurors, 196
To administer an oath to jurors, 196
How to charge the jurors, 197
To issue process for witnesses, 197
When to reduce evidence to writing, and bind witnesses to court, 197
How to be punished for neglect of duty, 197
Inquisitions taken before them shall be good, though not indented, 198
To serve process until sheriff shall have given bond, 202
To serve process on the death, removal, or disability of sheriff, 253
If coroner, after levying an execution on property, die, remove or be disabled to discharge his official duties, how and by whom such property shall be sold, 253
May seize vessels fitted out for the slave trade, 319
Fees of, 426

C O S T S.

On appeals concerning paupers, 35
How to be awarded, in certain cases, on suits instituted for the recovery of legacies, 57
Arising on partition of real estate made by order of orphan's court, how to be ascertained, apportioned, and recovered, 78
Of partition made by commissioners, how to be apportioned and paid, 81
On writs of mandamus, 143
A plaintiff, who shall recover damages, shall recover costs, 149
When not to be paid by executors or administrators, 149
The defendant, if he prevail, shall have costs in all cases, where the plaintiff would have been entitled to them, 149
Avowants in replevin to have costs, 150
In what cases the plaintiff shall recover no more costs than damages, 150
The plaintiff shall have full costs, if the trespass be wilful and malicious, 150
On writs of scire facias and prohibition, 150
Plaintiff to pay costs, if he discontinue, be nonsuit, or a verdict pass against him, 150
In what cases, some of the defendants, when acquitted, shall have costs, 150
If, on demurrer, judgment be against the plaintiff, or on error, it be affirmed, he shall pay costs, 151
Costs in error, if it be discontinued, or judgment be affirmed, or the plaintiff be nonsuit, 151
On affirmance of judgment in error, after verdict, defendant in error shall recover double costs, 151
Defendant to have costs on quashing a writ of error, 151
Complainant to pay costs, when his bill is dismissed, 151
Defendants to pay costs in suits for debts due to the State, 151
Defendants in such suits not to recover costs, 151
Defendants, who are sued for executing the act concerning bastards, and acquitted, shall have treble costs, 153
In replevin, 183
On declarations filed by insolvent debtors, 187
On writs of partition, how to be apportioned and paid, 252
On appeal in cases of taxation, 257
When there shall be no costs on suits removed into the supreme court, 258
Against convicts, sentenced to hard labor, how to be paid, 273
On forcible entries and detainers, 293
When garnishee shall have costs, 297
On the trial of the right of property attached by whom to be paid, 297
On attachments, 298
In courts for the trial of small causes, 317
To be allowed on affirmance, but not on reversal of judgment removed from such courts, 321
Not to be paid by poor persons, when plaintiffs, 329
When to be paid by prosecutors on penal statutes, 329
When not to be paid on indictments, 349, 422, 423, 426
When not to be paid by recognizer, 349
To be taxed and filed before execution, 359
Particulars of costs, when to be demanded, 359
Taxed bill of costs, when to be delivered, 359
What officers to tax and retax, 360
For not executing writs of enquiry, 362, 363
When security for payment of costs may be required, 363
On arrest of judgment, 364
Of security for the payment of costs in ejectment, 364
By whom to be taxed and retaxed 427, 428
When security for the payment of costs may be required by the complainant, 429
On pleas, demurrers, and exceptions in chancery, 431
In chancery, when discretionary, and how to be recovered, 431
Against certain criminals, how and by whom to be remitted, 449
On judgments upon warrants of attorney in certain specified cases, 454, 455

C O U N T I E S.

Bounds of, 2, 3, 4, 12, 13, 14, 15 17, 101
Divided by rivers or highways, to have reciprocal jurisdiction, 213
Two or more counties may unite to build or purchase a poor-house, 270
Boundaries of counties, how to be ascertained, 294, 295
Times and places of holding the courts of common pleas and quarter sessions in the several counties of the State, 302, 303
Bridges between counties to be built and repaired at joint expense, 324
Two or more counties may unite in building or purchasing a work-house, 330
Circuit courts, and courts of oyer and terminer and goal delivery,

INDEX.

when and where to be held in the several counties, 393, 394, 395
Liable for any deficiency or loss occasioned by the malepractice or insolvency of their collectors. 408

COUNTY COLLECTOR.

His duty with respect to money arising from tavern licenses, 257
To receive a moiety of the penalties under the act for the preservation of oysters. 263
When and by whom to be elected, 268
To give bond for the execution of his office, 268
His duties, compensation, and penalties in cases of taxation by the board of chosen freeholders, 269
How to distribute the laws of this State and of the United States, 288
Penalty for not performing his duty therein, 288
To keep his accounts in dollars, dismes, cents and mills, 380
His duties, penalties, and fees under the act concerning taxes, 404 to 409
His duties, compensation and penalties under the act for the regulation of the militia. 446. 447
How and among whom to distribute the revised laws of this State, 453
Penalty for not performing the duties required of him by the act providing for the distribution of the revised laws, 453

See *Chosen freeholders. Taxes.*

COURTS. See *Judiciary.*

COURT OF APPEALS. See *Judiciary.*

COURT OF CHANCERY. See *Judiciary.*

COURTS OF OYER AND TERMINER AND GAOL DELIVERY. See *Judiciary.*

COURTS OF COMMON PLEAS. See *Judiciary.*

COURTS OF GENERAL QUARTER SESSIONS. See *Judiciary.*

COURTS FOR THE TRIAL OF SMALL CAUSES. See *Judiciary.*

CRANBERRIES.

Penalty on persons, who shall gather cranberries, on lands not their own, after the 1st of June and before the 10th of October, 83

CREDITORS.

May maintain actions on specialties and simple contracts against heirs and devisees, 243
An act for their relief against absconding and absent debtors, 296 to 302
May, if alien friends, secure their debts by mortgage, 92, 93

See *Attachment. Debtors. Debtors insolvent. Execution. Frauds and perjuries. Mortgages.*

CRIMES AND PUNISHMENTS. See *Penal law.*

CUMBERLAND COUNTY.

Part of the county of Salem erected into a new county and called Cumberland; its bounds, and townships, 13, 14
Boundary between Cumberland and Salem, 17
To elect two representatives, 250
Courts of common pleas and quarter sessions for the county of Cumberland, when and where to be held, 393
Circuit courts, and courts of oyer and terminer and gaol delivery, for the said county, when and where to be held, 393, 394, 395

CURSING.

Profane cursing, how punished, 331
Form of conviction. 332
Penalty to be sued for in thirty days, 333

DAMAGES.

May be recovered on Mandamus. 143
To be recovered in assizes, writs of entry, and possessory actions, 161
Treble damages for pound breach, or rescous of distress, 174
In waste, 179
How to be ascertained on bonds with conditions other than for payment of money, 295
Where one of several counts is bad, and general damages given, the verdict shall be good.
In what cases to be assessed by the court.

DEATH.

The death of either party, after interlocutory judgment, not to abate the action, 156
The death of one of the plaintiffs or defendants not to abate the suit, if the cause of action survive, 156
The death of either party, after issue, not to abate the action, if sustainable by or against the executors or administrators, 146
Suits in equity, when not abated by the death of either party, 146, 147
The death of either party between verdict and judgment not to be error, 147
Punishment of death, how to be inflicted, 221
If debtor die in prison upon a capias ad satisfaciendum, the plaintiff may have execution against his estate, 223
When persons absenting themselves shall be presumed to be dead, 241
Action of attachment not to abate by death of the defendant, 301
How and by whom to be registered, 581, 582

DEBTORS.

Not to be confined with criminals,
Escaping from prison, the plaintiffs may have a new execution, 224
Dying in prison upon a capias ad satisfaciendum, the plaintiff may have execution against their estates, 225

DEBTORS absconding and absent.

How to be proceeded against, 296 to 302

See *Attachment.*

DEBTORS Insolvent.

A debtor insolvent and in prison, how to apply to the court of common pleas to be discharged, 164
Court to appoint a hearing, of which notice is to be given to the creditors, 165
What is requisite to be produced and done at such hearing, 165
Debtors to be examined on oath, in open court, respecting the disposition of his estate and the truth of his inventory. 165
Punishment for false swearing, 165
Court to appoint assignees, 165
When debtor shall be remanded to prison, and a further hearing ordered, 165
Debtor, when so remanded, to file a declaration, and the proceedings thereon, 165
If the jury find for him, he shall be discharged; if against him, he shall be continued in custody, 165
Costs to abide the event of the suit, 165
Debtor's estate vested in the assignees, 167
Powers and duties of assignees, 167
Controversies, relative to debts, how to be determined, 167
Oath and compensation of assignees, 168
By whom persons are to be examined respecting the debtor's estate, 168
How suits in equity may be commenced by assignees, 168
Creditors, not giving notice of and proving their debts in due time, shall not be entitled to a dividend, 168
How to proceed, where a debtor has been bail, 168
Creditors, whose debts are not due, to receive a dividend, 169
Debtor to be discharged as far as regards imprisonment, 169
Punishment of debtor, who shall secrete his estate, 169
Such debtor precluded from all benefit under the act, 169
What debtors shall not have the benefit of the act, unless they make satisfaction by servitude, 169
The act of the 18th of March, 1795, extended to all persons, who shall be imprisoned for debts contracted after the 4th of July, 1798, 263
The estates of persons, who die insolvent, how to be distributed, 433

DEBTS.

Mode of settling certain debts contracted before the 13th of June, 1781, 58, 59
On what debts and under what circumstances, no interest shall be allowed from the 4th of July, 1776, till the 3d of December, 1782, 59

See *Forfeited estates.*

DECLARATIONS.

By insolvent debtors, how to be drawn, and when to be filed, 165
Where one of several counts is bad, and general damages given, the verdict shall be good,
When not to be filed until special bail, unless it be waived,
In what time to be filed,
When a copy of the deed, account, contract, &c. on which the declaration is founded, shall be given to the defendant or his attorney,

I N D E X.

Notice of filing declarations not necessary, 361
By the bye not allowable, 361
Superfluous counts, when to be struck out, 361

D E C R E E S.

May be made in bill to foreclose before a regular hearing, 745
To be made in dollars, dismes, cents, and milles, 380
To be recorded and signed, 433
To have the operation and effect of judgments at law, 433
Directing a conveyance or release shall, if not complied with, have the operation and effect of such intended conveyance or release, 433
How to be enforced and executed, 433

See *Court of Chancery.*

D E E D S. See *Bonds. Conveyances.*

D E E R. See *Hunting and Gaming. Traps.*

D E L A W A R E R I V E R. See *Fisheries. Rivers.*

D E P O S I T I O N S. See *Evidence. Witnesses.*

D E S C E N T.

Real estate to be divided equally among the sons, if there be no daughter; but if there be sons and daughters, then every son to have double the share of a daughter, 43
Share of a child dying before the father, to be divided among its issue in the same manner, 44
If a father, in his life time, advance any part of his estate to a child, it shall be considered as part of such child's share, 44
In failure of issue, brothers and sisters to inherit in the manner above mentioned, 44
The half blood, when and how to inherit, 44
No conviction or judgment for any offence shall work corruption of blood, disinherison of heirs, or forfeiture of estate, 221

D E T I N U E.

What omissions in verdicts in detinue shall be remedied and how, 261
If no verdict be found for a part of the things in a count in detinue, it shall not be error, 261

D E V I S E S. See *Wills.*

D E V I S E E S.

Liable for debts of testator on simple contract or specialty in the same manner as heirs, 244

See *Wills. Partition.*

D I S C O U N T. See *Pleadings. Set-off.*

D I S O R D E R L Y P E R S O N S.

Description of, 410
How to be apprehended and punished, 410
The children of certain disorderly persons may be bound out, and by whom, 411

D I S T R E S S.

To be reasonable, 172
Not to be taken wrongfully, or driven out of the county, 173
Articles not liable to be distrained, if other goods may be found, 173
Beasts distrained, to be put in open pound in the township, 173
Goods distrained, shall not be impounded in different places, 173
For rent, how to be appraised and sold, 173
Specification of articles made liable to be distrained for rent, appraised, and sold; but the goods of others, though in possession of the tenant, are not to be distrained, 173, 174
Landlord to distrain only for one year's rent, and within six months, 174
May be impounded, or secured, and sold on the premises, 174
Treble damages for pound breach, or rescous of distress, 174
Penalty for distress and sale of goods, when rent is not due, 174
Not to be unlawful for any irregularity of the distrainer, 174
Goods, if removed, may be seized any where within thirty days after removal, 175
Penalty for removing goods, when the rent is unpaid, 175
When and how houses, &c. may be broken, &c. to take goods, so removed, 175
May be made after the term is ended, 176
If a person be entitled to rent for the life of another, he may sue or distrain for the same after his death, 176
By husbands after the death of their wives, 176
By executors or administrators of tenants in fee or for life, 177
If one distress be not sufficient, another may be made, 177
If a justice of the peace issue a warrant of distress, he may order the goods distrained to be sold, 177
When the distress shall remain irrepleviable, 183
Fines imposed on defaulting jurors to be levied by distress and sale of their goods, 393

D I S T R I B U T I O N.

Of the personal estate of an intestate, 156, 157
Of the proceeds among creditors, of the real and personal estates of debtors, insolvent, and in prison, and who are discharged under the act made for their relief, 187
Of the proceeds of the real and personal estates of absconding and absent debtors among their creditors, 299
Of the real and personal estates of persons, dying insolvent, among their creditors, 435

See *Intestate. Posthumous children.*

D I V O R C E.

Court of chancery to have cognizance of causes of divorce, 143
Mode of proceeding, 143
In what cases divorces from the bond of matrimony shall be decreed, 143
When no divorce shall be decreed, 144
In what case, a divorce from bed and board shall be decreed, 144
In what divorces, chancery shall take order for the maintenance of the wife and children, 144
Penalty on persons cohabiting after being divorced, 144
How to proceed, when the defendant shall have moved out of the jurisdiction of the court, 160

D O G S.

Tax on dogs, what, and how to be raised, and applied, 80

D O W E R.

Not to be affected by the act to regulate descents, 44
Not barred by conviction or judgment of any offence against this State, 221
Alienation of dower, when void, and when valid, 289, 290
A widow, when entitled to dower, 343
may remain in the mansion house until dower be assigned to her, 343
deforced of dower, may recover the same with damages, 343
When exception of the tenant, that the widow has been endowed, shall not abate her writ of dower, 343
Judgment against the husband by default or covin, shall not bar dower, 343
Remedy, where the widow is endowed to the prejudice of an infant heir, 343
Dower lost by default, how to be sued for and recovered, 343, 344
Writ of admeasurement of dower to be granted to a guardian, 344
Mode of proceeding thereon, 344
Writ of dower, out of what court to issue, 344
Where a jointure shall bar dower, 344
A widow evicted of her jointure, without fraud, shall be endowed, 344
When a widow may elect to have her jointure or dower, 344
Widow shall not have both her dower and the lands intended to be in lieu thereof, 344
Dower and jointure barred by elopement, or consenting to the ravisher, 345

D R U N K E N N E S S.

How punished, 331
Form of conviction, 332
Penalty to be sued for in thirty days, 333
Children of common drunkards may be bound apprentices or servants, 415

E J E C T M E N T.

When landlord, on rent being due, may recover the land by ejectment, 165
Tenant must give notice to his landlord of a declaration in ejectment delivered to him, 168
Landlord shall be admitted a defendant in ejectment, 168
Plaintiff in ejectment to give ten days notice to the tenant in possession, 364
Common rule, when to be entered into, 364
How proceedings may be stayed, where the plaintiff, or his lessor is unknown, or is a non resident, an infant, or dead, 364
How proceedings may be stayed in an action for the mesne profits by the nominal plaintiff in ejectment, 364
Of security for the payment of costs in ejectment, 391

INDEX

ELECTIONS.

Nominations of candidates for the legislature, and for the offices of sheriff and coroner, when, where, and by whom to be received, 229
List of nominations to be sent to the town clerks, 229
Duties of the judge of election, assessor, and collector, and their oath, 229
Oath of town clerk, 229
If the judge, assessor, or collector, be disqualified or absent, another person to be elected, and by whom, 230
If the town clerk be absent, or unable to execute the duties, by whom a clerk of election shall be appointed, 230
Votes to be by ballot, 230
County clerks to provide election boxes, 230
Ballots, how to be delivered, and by whom to be received, 230
How election box is to be secured on adjournment, 230
At the close of the poll, the poll list to be signed by the judge, inspectors, and clerk, the names numbered, and put down in writing, and then the box opened, the ballots counted, and the votes cast up, 230
What persons entitled to vote, 231
Threats, bribery, false assertions and reports, indirect means, and offensive weapons prohibited at elections, 231
Poll, when to be closed, 231
Form of election certificate, 231, 232
A duplicate certificate of the election to be filed with the town clerk, 232
Election certificate to be sent to the clerk of the pleas, and his duty thereon, 232, 233
Penalty on judges, clerks, assessors, and collectors, for partiality and misbehavior at elections, 233
Compensation to certain officers for their services relative to elections, 233
Elections, where to be held, 233
Judges of elections, when and by whom to be appointed, 233
On vacancies, warrants for a new election by whom to be issued, 233
In case of the death, removal, or disability of a sheriff, in what manner another shall be elected, 252
County collector, by whom to be chosen, 268
What officers to be elected at town meetings, 284
Officers, elected by joint meeting, to qualify in two months, or election to be void, 378

ELECTORS of president and vice president of the United States. See *United States.*

ELIZABETH, Borough of.

Constituted a free town; its bounds, 94
Its inhabitants constituted a body politic, 94
Officers, what, and how to be elected, 94, 95
The mayor, deputy mayor, and aldermen to be judges of the court, 95
The mayor, aldermen, and common council constituted a body politic, 95
Freemen, how to be admitted, 95
Powers of the mayor and deputy mayor, 96
What officers to form the courts of common pleas and quarter sessions, 96
Town clerk to be clerk of the said courts, 97
The corporation empowered to make by laws, and to build certain houses, 97, 98
What officers to summon a common council, 98
What officers to summon a general meeting of the freeholders, 98
Estate of former corporation vested in the present, 98

ENQUIRY, Writ of.

In what cases to issue in replevin, 183
Notice of executing, 362
of countermand, 362
Costs for not executing, 362, 363

ENTRY.

Not taken away by the dying seized of the disseizor without five years possession, 289
Of widow not barred by her husband's default, 289
Not to be made on lands, but when it is lawful, and then peaceably, 290

ERROR.

Inquisitions against forfeited estates, or judgments thereon, not to be reversed for informality, or other cause not material, 53
Variance between writ of error and record may be amended, 128
Death of either party, between verdict and judgment, not to be error, 147
The want of 15 days between the teste and return of certain writs not to be error, 147
In what cases, writs of error shall be considered as of right or of grace, 163
Not error, if no verdict be found for part of the things in a count in detinue, 261
Reversioners and remainder men may have writs of error on judgments against tenants, 290
Writs of error not to issue to courts for the trial of small causes, 320
Errors in the supreme court to be rectified by the court of appeals, 345
Errors in the common pleas to be rectified by the supreme court, 345
When writ of error shall stay execution, and when not, 345, 346
Writ of error not to issue before final judgment, 346
To be brought within five years after judgment, 346
When brought by the principal, how proceedings against the special bail may be stayed, 363
When such proceedings shall not be stayed, 363
Execution not to be issued on the second judgment, pending a writ of error on the first, 363
Where a writ of error shall not supersede an execution, 364
Of assigning errors in the supreme court, and joining therein, 365
Of the time for arguing the same, 365
Of returning such writ of error, 365
Reversal of judgment for error not to affect lands sold by the sheriff prior to such reversal, 371

ERRORS, Court of. See *Court of appeals.*

ESCAPE.

Sheriffs and other officers liable for escapes, 140, 206
What shall be an escape. 206
If debtor escape from prison, the plaintiff may have a new execution, 222
Sheriffs, how liable for escapes under the act constituting courts for the trial of small causes, 318

ESSEX COUNTY.

Bounds of, 3
Part of Essex annexed to Somerset, 13
Courts of common pleas and quarter sessions for the county of Essex, when and where to be held, 302
Circuit courts and courts of over and terminer and gaol delivery for the said county, when and where to be held 393, 395

ESSOINS.

Not to be allowed in any action, 160

ESTATES PUR AUTER VIE.

Rent, due upon an estate for the life of another, how to be recovered, 175
Estates for the life of another, may be devised; and if not devised, shall be assets, and distributed as personal estate, 189, 190

ESTATES TAIL.

The operation and effect of devises in tail before the 23d of March, 1786, 54, 78
How lands, devised in tail since that time, shall pass, 54, 78
How long lands given or devised in tail shall continue entailed, 54

EVIDENCE.

Books or records of wills to be received in evidence, 5
What exemplifications of deeds and writings shall be received in evidence, 6
Books, in which deeds are recorded, to be received in evidence, 6
Records of surveys to be evidence, 14
What affidavits taken before commissioners to be read in the supreme court, 125
Books of marriages admissible, 159
No evidence to be given of a treason not charged, 162
Retaking on fresh pursuit not to be given in evidence in an action of escape, 206
Conveyances of certain lands in the Delaware, acknowledged or proved according to the laws of Pennsylvania, to be received in evidence, 244
No evidence to be given at views, 260
How to be given by jurors, 261
Of demurrer to evidence, and argument thereof, 364
Records of executions to be received in evidence, 370
When and how examinations and depositions may be taken and used in evidence, 374, 375
Registers of births and deaths to be admitted in evidence, 382
Registry of wills and office-transcripts thereof to be received in evidence, 397
Conveyances of lands, how to be acknowledged or proved before they can be received in evidence, 396, 398

I N D E X.

Records of conveyances and certified copies thereof to be received in evidence, 400
Records of conveyances not to be removed out of the county, where transcripts may be given in evidence, 401
What crimes exclude from testimony, 401
Mode of proof to be the same in equity as at law, 432

EXCEPTIONS, bills of. See *Bills of exceptions.*

EXECUTION.

If debtor escape from prison, the plaintiff may have a new execution, 222
If debtor die in prison on a capias ad satisfaciendum, the plaintiff may hand execution against his estate, 223
When to be stayed or not by writ of error, 345, 346
The sum due to be endorsed on the capias ad satisfaciendum, 363
Not to be issued on the second judgment, pending a writ of error on the first, 363
When not superseded by a writ of error, 364
To bind goods from the time of its being delivered to the sheriff, or other officer, 369
Time of its delivery to be endorsed, 369
Priority of executions, how to be ascertained, 369
May be issued against the body or estate, 369
In what form and manner to be issued against lands, 369
Sum due to be endorsed, 370
Against lands to be recorded, 370
May be issued against proprietary rights, 372
Against executors or administrators not to affect lands of the testator or intestate, 372
May issue out of chancery, 433
From chancery to bind goods from its delivery, as at law, 433
Not to be served on the arms or accoutrements of militia men, 448

EXECUTORS.

When to pay costs on legacies, 37
In what cases to give security, 61
When one executor shall account with and give security to his co-executor, 61
To put out minor's money on security, and when they shall be liable for the principal only, and when for the interest also, 61
Their accounts to be exhibited to, and audited and reported upon by the surrogate, of which they are to give two months notice, 62
Not liable on their own promises, unless in writing, 136
Not liable to pay costs in actions prosecuted in right of their testator, 149
May have actions for taking the goods of their testator, 153
Liable to actions for goods taken by their testator, 154
Executors of executors liable for waste, 154
Executors of executors may have actions of debt, account, &c. of the first testator, and shall be amenable to others, 154
All the executors to be considered as one person in actions against them, and such of them as are summoned or taken shall answer to the plaintiff, 154
What persons, through fraud, shall be charged as executors in their own wrong, 155
Inventories, how to be taken, and where to be deposited, 155
Not to be cited to render an account, otherwise than by inventory, unless in behalf of a minor, or person interested, 157
Estates for the life of another to be assets in their hands, 189
When authorised to sell lands, such of them as prove the will may sell, 191
When and where to file bond to refund, 354
Judgments against them not to affect lands of the testator, 372
May, by order of orphan's court, sell lands of the testator for payment of his debts, 372
To make conveyances for the same, 373
Monies thence arising to be assets in their hands, 373
Allowed six months to ascertain the situation of testator's estate, and amount of his debts, 435

EXEMPLIFICATIONS. See *Conveyances. Evidence. Wills.*

F A I R S.

Suppressed, 222

F E E S.

Of the judges of the supreme court for a license to practise physic and surgery, 51
Of the judges of the orphans court, 63
Of the clerk of the orphans court, 63
Of surrogates, 64
Of the corporation court of Perth Amboy, 69
of Burlington, 72
Of the courts of common pleas in cases relative to tide swamps, marshes, and meadows, 88
Of judges, commissioners, and witnesses on partition made by commissioners, 91
Of auditors in the action of account, 140
Of referees, 142
Of judges of the common pleas on certificate to sheriff, 202
On tavern licenses, 236
To be paid by pedlers, 246, 247
In forcible entry and detainer, 293, 294
Of auditors on attachment, 301
Of courts for the trial of small causes, 321, 322
Of notaries public, 342
Penalty for taking more than legal fees, 356
Of justices of the peace for recording executions, &c. 368
Of witnesses examined on commission, &c. 375
For registering births and deaths, 382
Of courts, surveyors, and clerks relative to roads, 390
For giving notice to defaulting jurors of the fines imposed upon them, 396
For registering mortgages, 403
Of the governor, 418
Of the clerk of the court of errors, 418
Of the secretary of state, 419
Of the prerogative office, 419
Of the ordinary, 419
Of the register of the prerogative court, 419
Of the chancellor, 419
Of the masters in chancery 420
Of the clerk in chancery, 420
Of examiners, 420
Of solicitor and counsel, 420
Of sheriffs in the court of chancery, 421
Of the sergeant at arms, 421
Of the judges of the supreme court, 421
Of counsel in the court of appeals, and supreme court, 421
Of attornies at law, 421
Of the attorney general, 422
Of the clerk of the supreme court in civil cases, 422, 425
Of the clerk of the supreme court, and of the courts of oyer and terminer, and gaol delivery in criminal cases, 423
Of clerks of the circuit courts, 423
Of Sheriffs, 424
Of judges of the courts of common pleas, 425
Of justices of the courts of general quarter sessions, 425
Of clerks of the courts of common pleas, and quarter sessions, 425, 426
Of coroners, 426
Of cryers, 427
Of jurors, 427
Of witnesses, 427
Of secretary and clerk, attending court with wills, records, &c. 427
Of surveyors and chain bearers, 427
For serving subpœna, 427
Of constables, 427
On private statutes, 436

FEME COVERT. See *Conveyances. Husband and Wife.*

F E N C E S.

What fences lawful, 335
Beasts, creeping through or breaking over lawful fences, may be impounded, and owner to pay damages. 335
Division fences, how to be made and repaired, 335
If the parties cannot agree on the place for the partition fence, two of the township committee shall fix the same; but the place so fixed not to affect the claim of either party, 336
Partition fences shall be equally divided, made and maintained by the parties, 336
If lands of different occupants be bounded upon or divided by a pond or brook, how the partition fence shall be fixed, made and maintained, 336
Partition fence not to be removed without twelve months previous notice, 337
Agreements respecting fences not to be affected by the act, 337
If two of the township committee cannot agree, they may call in a third person, 337
Persons, who neglect to make their part of a partition fence, to make good all damages, 337
Beasts of an innocent person, trespassing through an unlawful fence, not to be impounded, nor damages recovered, 337
When persons do not keep up their part of fences, beasts, trespassing through the same, shall not be impounded, nor damages recovered; and if they injure such beasts, they shall pay full damages, with costs, 337
When horses, cattle, or sheep break over lawful fences, their owners shall pay all damages, to be ascertained by appraisers, 338

F E R R I E S.

Rates to be taken at, by whom fixed, 351

INDEX.

Table of rates, where and how to be posted up, 351
Penalty for neglect, 351
Clerk's fee for a copy of rates, 351
Penalty for taking more than the legal rates, 351
To be provided with good boats and ferrymen, 351
Penalty for using insufficient boats, 351
for not having sufficient implements or skilful ferrymen, 352
for denying or delaying to carry over passengers, 352
Ferrymen may keep or put persons out of their boats, 352
Persons to be carried over according to their arrival, with certain exceptions, 352
Good wharves and landing places to be kept at, 352

FINES.

For alienation taken away, 148
In certain actions remitted, 151
To be paid annually by sheriffs to the treasurer, 181
Certain fines appropriated to the use of the poor, 210, 227, 247, 252, 309, 310, 329, to 332
Abstracts of fines to be transmitted annually to the treasurer by the clerks of courts, 386
Fines on defaulting jurors, how to be recovered, 395
To be paid annually by the clerk in chancery to the treasurer, 434
Militia fines and penalties, 438 to 447

FINES AND COMMON RECOVERIES.

Act to abolish, 411

FIRE.

Penalty for setting fire to woods, marshes, and meadows, 132
Woods on fire how to be extinguished, 133
No action to be brought against a person, in whose house a fire shall accidentally begin, 180

FISHERIES.

What nets to be used in the eastern division from the mouth of Raritan river northward, excepting Passaic river, above its falls, 18, 19
In Hackinsack river regulated, 79
In certain parts of Raritan river regulated, 390
An act to regulate certain fisheries in the river Delaware, 416, 417

FORCIBLE ENTRY AND DETAINER.

No entry to be made on lands, but what is lawful, and then peaceably, 290
What shall be a forcible entry and detainer, 291
What shall be a forcible detainer, 291
To what estates the act shall extend, 291
What shall constitute an unlawful detainer, without force, 291
All such entries and detainers cognizable before a justice of the peace, 291
On complaint thereof, justice to issue process; its form, 291
Party to be summoned; form of summons, and how to be served, 292
Defendant, when and what to plead, 292
How to proceed, if the defendant shall not appear or plead, 292
Oath of jurors, 292
Complaint to be read, and supported, 292
Verdict and judgment, 292
Trial, when to be postponed, and for what time, 293
Docket of the justice, how to be kept, 293
Penalty on sheriffs for not performing the duties prescribed by the act, 293
Judgment to be removed by certiorari, 293
The act not to bar the injured party of his action, 293
Merits of the title not to be enquired into, 293
The act not to extend to a person who has had three years quiet possession, 293
Subpœnas may be issued into another county, 293
Table of fees, 293, 294
Penalty on defaulting jurors and witnesses, 294

FORFEITED ESTATES.

Sales and alienations made by offenders of their estates after joining the enemy to be void, 39, 43
If judgment be entered on inquisition against certain fugitives and offenders, their estates to be forfeited, 41, 42
Persons, who joined the enemy between the 19th of April, 1775, and the 4th of October, 1776, to forfeit their estates, 41
Inhabitants of other States, possessed of property in this State, to forfeit the same, if convicted of treason, 41
Forfeited estates, how to be sold and conveyed, 42
Where proceedings against forfeited estates are reversed, such reversal shall not affect purchasers, 43
Offenders dying before inquisition, their estates to be proceeded against, as if they were alive, 43
Debts and demands against forfeited estates, how adjusted, 52
Mortgages and other demands against them, to be exhibited within a limited time for adjustment, or to be barred, 53
Inquisitions against forfeited estates not to be reversed for informality, or other cause not material, 53
Restoration of the records of final judgments on certain inquisitions against forfeited estates in the county of Monmouth, 198, 199

FRAUDS AND PERJURIES.

Deed of gift of goods to the use of the donor to be void, 133
Bonds, judgments, conveyances, &c. to defraud creditors, or deceive purchasers, shall, as to them, be void, 133, 134
Penalty on persons making use of such fraudulent bonds, judgments, &c. 134
A prior conveyance, with clause of revocation, shall be void against a posterior conveyance of the same lands, made by the same person, for a good consideration; but a bona fide grantee or mortgagee, without notice of the fraud, shall not be affected, 135
Frauds, how prevented, 135, 136
Relief against collusive judgments in certain cases, 288, 289, 290

FREEHOLDERS. See *Alienation. Chosen freeholders.*

GAMING.

Gaming or cock fighting for money or goods an indictable offence, 224
Agreements, bonds, securities, and conveyances for gaming debts, or for repaying money lent for such uses, shall be void, 224
Estates sold or mortgaged for gaming debts shall descend to the heirs, or legal representatives, as if the vendor or mortgagor had died intestate, 224
When and how persons, who shall lose money by gaming, may recover the same, 224
Winners compellable to answer bills in equity for money won by gaming, 225
Gaming not permitted in taverns, 238

GAOLERS.

How to be punished for not receiving offenders, 203
Not to keep taverns, 237
To receive prisoners committed by the authority of the United States, 390
To make out, under oath, a list of the names of such prisoners and their expenses for payment, 396

GAOLS.

Bounds and rules of gaols to be assigned by the courts of common pleas, 365

GENERAL ISSUE. See *Issue. Pleadings.*

GLOUCESTER COUNTY.

Bounds of, 3
Courts of common pleas and quarter sessions for the county of Gloucester, when and where to be held, 303
Part of a certain highway in the said county altered, 384
Circuit courts, and courts of oyer and terminer and goal delivery for the same, when and where to be held, 393, 394, 395

GOVERNOR.

To subscribe to the general manufactory, 115
To issue his proclamation, and offer a reward for apprehending persons charged with certain crimes, 161
To order suits on sheriffs bonds, 203
To license pedlers, 246
To exchange laws with the executives of other States, 287
To appoint notaries public, 342
His oath of office, 370
To purchase field artillery, 380
His fees for certain services, 418
May order out militia in case of invasion, or other emergency, 440
May remit costs against certain criminals, 449
When to issue his proclamation, prohibiting all communication with certain infected vessels, 450

GRAND JURORS. See *Jurors.*

GRANTS.

The word "*or*" in the habendum of grants and patents by Philip Carteret, to have the same force as the word "*and*," 2

INDEX.

Of trusts void, unless in writing, 136
Good without attornment, 401

See *Conveyances. Frauds and perjuries. Void.*

GUARDIANS.

In what cases the orphan's court may order guardians to give security, 61
To put out the money of their wards, and when liable for the principal only, and when for the interest also, 61
Their accounts, how and by whom to be audited, reported, and settled, 62
When, how, and to whom letters of guardianship may be granted, 63
Not to suffer or to make waste, 179
How to be appointed by fathers for their infant children, 192
Powers and duties of such guardians, 192
May have writ of admeasurement of dower, 344
Testamentary guardian to give bond for the faithful execution of his office, unless it be otherwise directed by the will, 346
Court, appointing guardian, to take bond, with surety, 346
To deliver inventory to the orphan's court, and to account with the same annually, 346, 347
Penalty for not delivering inventory, or accounting, 347
In what cases to give further security, 347
May, by order of the orphan's court, sell lands of the ward, 347
In such case to advertise lands for two months, and, when sold, to make deed, 347

GUNNING. See *Hunting and gunning.*

HABEAS CORPUS.

By whom to be signed, and how to be marked, served and returned, 106
How and by whom to be granted in vacation, 109
In what cases prisoner may be discharged on recognizance, 169
When not to be granted in vacation, 109
Penalty on officers and others for not obeying the writ, or refusing a copy of the commitment, 109
Persons, who are liberated on habeas corpus, shall not be committed for the same offence, unless by a court having cognizance of the cause, 170
Criminals are not to be removed from the custody of one officer to that of another, but by habeas corpus, or other legal process, 170
May be obtained from the chancery or supreme court, or any judge of the latter, 171
Penalty on chancellor or judge, who shall refuse to issue habeas corpus, 171
Prisoner not to be removed after sessions of oyer and terminer and general gaol delivery have been proclaimed, 172
If, upon the return of habeas corpus, it appear, that the prisoner is in execution, he shall be remanded, 207
Not to remove actions, unless they exceed 200 dollars, 258
Not to be received after issue joined, 258
Cause, once remanded, shall never again be removed, 258
When contrary to the act, not to be regarded, 258
Proceedings on habeas corpus respecting slaves, 313
In causes removed by habeas corpus special bail required, 364
Such bail, when to be filed, excepted to, and justified, 364
Of proceedings in causes removed by habeas corpus, 364

HACKINSACK RIVER. See *Fisheries. Rivers.*

HAWKERS. See *Pedlers.*

HEIR.

Lands, how to descend, 43, 44
May have action for waste committed in the life time of his ancestor, 179
No conviction or judgment for any offence shall work corruption of blood, disinherison of heirs, or forfeiture of estate, 221
Liable for the debt of his ancestor, whether by simple contract, or specialty, 243
If the heir alien land descended to him, before action brought, he shall be liable to the value thereof, 244
In such action, the heir may plead riens per discent, 244
Mode of proceeding if judgment pass against him by verdict, confession, nil dicet, or on demurrer, 244

See *Descent. Intestate. Posthumous children.*

HIGHWAYS.

Overseer of, to order inhabitants to extinguish fire in woods, 133
Where counties are divided by highways, jurisdiction shall be reciprocal, 245
Surveyor of how elected, his oath of office, and penalty for refusing to serve, 284, 286, 287
Overseer of how elected, and penalty for refusing to serve, 284, 287
Limits and divisions of highways, how and by whom to be assigned, 325
Duty and compensation of the overseers of highways, 325
Monies for repairing highways, how to be raised, 325
Overseers to account with the township for the expenditure of such monies, 325
Overseers to be fined for the badness of the highways, 325, 326
In what cases persons assessed may work out their road tax, 326
Over or near dams or races, how to be made and repaired, 326
Overseers may enter on adjacent lands and cut drains, 327
Penalty for killing or girdling trees on or near the highway, 327
Penalty on workmen on the highway for extorting money from travellers, 327
Incroachments to be removed, and highways to be opened to their full width, 327
Penalty for narrowing or obstructing highways, 327
Act not to extend to cities, towns, and villages, 327
Streets in Greenwich and Bridgetown to be highways, 327
Certain roads not alterable by the surveyors, 328
Town meetings to determine, how highways shall be repaired, 328
In what manner to be worked by labor, 328
Penalty for not working on them, when warned, 328
Penalty on overseers for neglect of duty, 328
The duties of overseers of highways respecting bridges, 333, 334
Part of a certain highway in the county of Gloucester altered, 334
Width of public roads, 367
How to lay out new roads, and alter or vacate former ones, 367
Returns to be recorded, 367
Duty of surveyors and clerks, 367, 383
Penalty on them for neglect of duty, 368
How to lay out, vacate, or alter a public road on the line between two counties, or part in one and part in another county, 383
Width of private roads, 368
How to lay out new, and vacate or alter former private roads, 388
By whom private roads shall be cleared and worked, 388
Swinging gates may be erected on private roads, 389
Penalty for leaving such gates open, &c. 389
Court not to appoint surveyors to lay out, vacate, or alter a road oftener than once in the same year, 309
How the party may avail himself of any irregularity or illegality in the proceedings of surveyors or applicants for a road, 309
Clerks not to record returns for ten days, 309
Certain by-roads being shut up, how to be laid out, 389
What public roads shall not be liable to be vacated or altered by the court or surveyors, 389
Fees of the court, surveyors, and clerks, and by whom to be paid, 390
Duty of overseers of the highways under the act to regulate certain fisheries in the river Delaware, 416, 417

HORSERACING.

For money or goods indictable, 241
All bets, wagers, agreements, bonds, securities, and conveyances thereon, to be void, 241
When and how persons, who lose money on horseracing, may recover the same, 241
Penalty for collecting money to make up a purse or plate, 241
Penalty for running horses, where ten or more are met, without betting, 241

HORSES.

Penalty for suffering stone horses of the age of 18 months to run at large, 324
Of light horsemen, going into actual service, by whom to be appraised, and how to be paid for, 444

HOUSE OF CORRECTION. See *Workhouses.*

HUNTING AND GUNNING.

Penalty for hunting or gunning on lands, without license from the owner, 19, 20
Penalty on non-residents hunting, 20
Penalty for hunting or killing deer out of season, and on what evidence the offender shall be convicted, 20
What persons may or may not hunt on unimproved lands, 20
Penalty for setting loaded guns, 21
Penalty for watching at night near a road to shoot at deer, 21
Slaves, who shall hunt on Sunday, how punished, 308
Hunting and gunning on Sunday, how punished, 339

INDEX.

HUNTERDON COUNTY

The upper parts of the western division erected into a new county, and called "Hunterdon." 4
To elect four representatives, 250
Courts of common pleas and quarter sessions for the county of Hunterdon, when and where to be held, 303
Circuit courts and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 394, 395

HUSBAND AND WIFE.

Husband to have administration of the personal estate of his wife, 157
Wives cannot make wills of lands, 190
In what cases wives may defend their right to land, without their husbands, 289
Conveyance, by husband alone, of his wife's lands, shall not prejudice her or her heirs, 289
In what manner a conveyance by a wife is to be acknowledged, before her estate can pass, 398

IDIOTS.

Chancellor to have the care of idiots and their estates, 125
Their estates, on their death, to descend or be distributed according to law, 125
Cannot make wills of lands, 190

INDIANS.

Lands not to be purchased of Indians, without a proprietary right and a license from the governor, 1
Their claim to lands in this State purchased, 16
Commissioners appointed to take charge of a certain tract of land in trust for them, 200
Powers and duties of the said commissioners, 200

INDICTMENT.

How to conclude, 59
What indictments found in the quarter sessions shall be tried in other courts, 130
To be sent by the quarter sessions to the court of general gaol delivery, 130
When prisoner shall have a copy of the indictment, and a list of the jurors and witnesses, 162
To what defendants the court shall assign counsel on indictments, 162
No evidence to be given of any treason not laid, 162
If a person plead not guilty, he shall be considered as putting himself upon the country, 162
How to proceed, where the party stands mute, or refuses to plead, 162
No indictor to be on the inquest for the trial, 163
The words, "with force and arms," not necessary, 163
When not to be quashed for miswriting, misspelling, or false, or improper English, 163
Within what time persons committed for certain offences are to be indicted and tried, 170
For perjury and subornation of perjury sufficient, if it contains the substance of the charge, 211
Limitation of indictments, 221
Indictments for offences committed on rivers, creeks, bays, or highways, which divide counties, where to be found and tried, 245
If a person die in one county of a stroke or poison given in another, where the indictment shall be found, 248
Where indictment shall be found, if a person die in this State of a stroke or poison given out of it, or if he die out of this State of a stroke or poison given in it, 249
When to be tried, 349
When the defendant shall not pay costs on an indictment, 349
Costs, what on a joint indictment against several, 349
How to be removed from the quarter sessions before trial, 350, 351

INFANTS.

Being trustees, to convey by direction of the court of chancery, 41
Their money to be put out on security, and when executors, administrators, or guardians shall be liable for the principal only, and when for the interest also, 61
Cannot make wills of lands, 190
Fathers may appoint guardians for them by deed or will, 192
May be bound out, and how, 395
Remedy, where the widow is endowed to the prejudice of the infant heir, 343
How to prosecute and defend, 355
Not to demur, nor proceedings to be stayed till of age, 355
Certain infants may be bound out and by whom, 411
Militia fines imposed on them, by whom to be paid, 440

INFORMATIONS.

In what cases not to be exhibited or sustained, 172
In the nature of a quo warranto and proceedings thereon, 177, 178
The time of exhibiting to be noted, 348
The general issue may be pleaded, giving notice of the special matter, 349
Recovery therein by covin to be no bar to an action prosecuted with good faith, 349
In what cases a prosecutor, compounding without leave of the court, shall be liable for a proportion of the penalty, 349
When the defendant shall be entitled to costs, 349
To whom the act does not extend, 349

INJUNCTIONS.

The court of chancery to be always open for granting them, 429
On what terms to be issued after verdict or judgment, 429
How to be granted before verdict or judgment, 429
Of dissolving them, 430
If after injunction, waste be committed, how to proceed, 430
To cause the possession of property to be given, 433

INNS. See *Taverns.*

INQUISITIONS. See *Coroners. Forfeited estates.*

INSOLVENT. See *Debtors insolvent.*

INTEREST.

On what debts, and under what circumstances, no interest shall be allowed from the 4th of July, 1776, till the 3d of December, 1783, 59
Rate of interest, 225
Contracts, bonds, mortgages, and conveyances for a greater rate to be void, 225
Penalty for taking more than legal interest, 225
Lenders of money compellable to answer bills in equity for discovery, 226
Rate of brocage on loans, 226

INTESTATE.

In what cases the orphan's court may direct the real estate of an intestate to be divided and how, 62
The estate of an intestate, leaving no relations, to be disposed of and paid, 75
If any heirs of an intestate be under age, the orphan's court may appoint persons to make partition of the lands, 77
How and among whom distribution of the personal estate of an intestate shall be made, 156, 157
Persons, who shall receive a distributive share, to give bond to refund in case of debts, 157
When such bond shall be filed in the orphan's court, 354
The estates of persons, who die insolvent, how to be distributed, 435

See *Descent. Distribution. Heir. Lands. Partition. Posthumous Children.*

INVENTORIES. See *Administration. Guardians.*

JOINT TENANTS.

Compellable to make partition, 89, 250
Action of account may be brought by one joint tenant against another, 140
Proceedings in waste between joint tenants, 179

See *Partition.*

JOINTURES.

Not affected by the act to regulate descents, 44
When a bar to dower, 344
Barred by elopement, or consenting to the ravisher, 345

ISLANDS. See *Jurisdiction. Rivers.*

ISSUE.

In what cases the defendant may plead the general issue, and give the special matter in evidence, 172, 175, 333, 348, 349, 445
Issue in law to be determined before issue in fact, 362
In the supreme court, where to be tried, 393
On legality of marriage, and pleas of bastardy to be tried by the country only, 394
Of issues from chancery, 432

JUDGES.

What circumstances preclude them from sitting on the trial or ar-

I N D E X.

gument of a cause, or from nominating or striking a jury, 254
Challenges to them, when and how to be made and tried, 254
Their oath of office, 276
Their duties under the act concerning taxes, 407 to 409
How, at their death, expiration of, or removal from office, the revised laws of this State shall be disposed of, 453

JUDGMENTS.

On inquisitions against forfeited estates, when not to be reversed, 53
Not to be reversed for razures, interlineations, or misprision of clerk, 126
In what cases not to be reversed for mispleading, want of form, or variance, 127, 129
Not to be stayed or arrested on indictments for miswriting, mispelling, or false, or improper English, 163
On certain inquisitions in the county of Monmouth restored, 199
In actions for non performance of covenants to remain as a security against future breaches, 255
In debt or scire facias on judgment, payment may be pleaded, 255
How to be entered in actions of debt on bonds, 256
On appeal in cases of taxation, 257
Collusive judgments in certain cases provided against, 288, 289, 290
Against the husband by default or covin shall not bar dower, 343
When confessed warrant to be produced and filed, 350
How to be confessed on a warrant of attorney after ten years, 356
Of motion in arrest of judgment, 363
No judgment roll to be made up, 363
Inspection of judgment unnecessary, 363
To bind lands from the time of entry, 369
Not to affect lands sold by the sheriff, if no execution has been issued thereon, 371
Reversal of judgment for error not to affect lands, which have been sold by the sheriff prior to such reversal, 371
Against executors or administrators not to affect lands of the testator or intestate, 372
To be entered in dollars, dismes, cents, and milles, 380
How to be entered on warrants of attorney in certain specified cases, 454, 455

JUDICIARY.

Courts of law and equity established, confirmed, and continued with the same powers under the present as former government, 38
All judicial proceedings to be in the English language, except names of writs, and technical terms, 129

COURT OF APPEALS.

When and where to be held, 340
A special court, by whom to be appointed, 340
Secretary of state to be clerk of the court, 340
Compensation of judges and clerk, 340
Errors in the supreme court to be rectified by the court of appeals, 345
Proceedure on writs of error to the supreme court, 345
Of the adjournment of the court of appeals, when a quorum of members do not attend, 345
Official oath of the judges thereof, 376
Fees in the said court, 418, 421
Clerk to tax bills of costs, 427, 428
Appeal thereto given from the court of chancery, 434

COURT OF CHANCERY.

To have the care of idiots and lunatics, and their estates, 125
To have jurisdiction of causes of divorce, 143
When, on a bill to foreclose, chancery may decree before a regular hearing, 145
Suits in chancery, when not abateable, 146, 147
Proceedings on bill to foreclose the equity of redemption, 304, 305
Of taxing and retaxing costs in chancery, 356
Official oath of the chancellor, 376
Decrees to be made in dollars, dismes, cents and milles, 380
Fees in chancery, 419, 420
Clerk to tax bills of costs, 427, 428
When and where to be held, 428
Process and suits to be continued, if the court shall not sit, 429
For what purposes to be considered as always open, 429
Name of solicitor or party, and clerk to be subscribed to process, 429
Process not to issue, until bill be filed, except in waste, 429
Bond to be given for payment of costs, if the complainant reside out of this State, 429
Process, by whom and how to be served, 429
On what terms, injunctions may be issued after verdicts and judgments, 429
Injunctions, before verdict or judgment, on what to be grounded, 429
When answer shall be filed ten days before motion to dissolve injunction, 430
Of special motions eight days notice to be given, 430
If, after injunction, waste be committed, an attachment of contempt may be issued, 430
When and on what terms, writs of ne exeat may be granted, 430
Within what time the defendant is to plead, demur, and answer, or the bill be taken as confessed, 430
How to proceed, if some of the defendants live in and some out of this State, 430
When to set down plea or demurrer for argument, 430
When complainant may reply to plea, 431
In case of demurrer and answer, the demurrer to be first disposed of, 431
If plea or demurrer be over ruled, no other to be received, and answer to be filed in 40 days, 431
Costs on pleas on demurrers allowed or over ruled, 431
When exceptions or replication to be filed, or the cause to be set down for hearing on bill and answer, 431
Exceptions to answers to be referred to a master, 431
Costs on exceptions, by whom to be paid, 431
Within what time a second answer shall be filed, 431
If second answer be insufficient, the defendant to pay double costs, and to file further answer within 20 days, 431
If third answer be insufficient, the defendant to pay treble costs, and bill be taken as confessed, 431
Cross bill, when to be answered, 431
Rules by consent to be entered of course, 431
Amendments, how to be made, 432
Parties to take notice of pleadings and decrees at their peril, 432
If hearing be on bill and answer, the answer to be taken as true, 432
Cause to be at issue on filing replication, 432
Defendant, after answer, may exhibit interrogatories to complainant, 432
Mode of proof to be the same in chancery as at law, 432
May take the opinion of the supreme court on any matter of law, 432
May direct an issue on matter of fact, 432
Cause, when to be heard, 432
Bill to be dismissed, if complainant make default at the time appointed for hearing, 432
Hearing to proceed, though defendant shall not attend, 432
Pleadings and proofs to be used at the argument, or hearing, without costs, except for reading, 432
Compensation to judges and masters, when called by the chancellor to his assistance, 432
In what time a petition for a rehearing shall be preferred, 433
Pleadings and decrees to be recorded by the clerk, and signed by the chancellor, 433
Decrees to have the effect of judgments at law, 433
A decree, directing a conveyance or release, shall, if not complied with, have the operation of a conveyance or release, 433
What process may be issued for the performance of a decree, 433
Property of goods bound from the delivery of execution, 433
When sheriff may be amerced to the amount of the decree, with costs, 433
The effect of such amercement, 434
Party aggrieved by the default of the sheriff, how to be redressed, 434
Sheriff, who shall not make due return of process, to be in contempt and fined, 434
Persons in contempt may be fined and committed, 434
Clerk to pay fines, annually, to the treasurer, 434
Costs, when discretionary, and how to be recovered, 434
Certain process to be omitted, 434
May make rules of practice not contrary to the act, 434
Appeal given from chancery to the court of appeals, 434

SUPREME COURT.

To appoint commissioners to take bail and affidavits, 124, 125
To make rules for the justifying of such bail, 125
Clerk of the supreme court to issue precepts for grand and petit jurors before the courts of oyer and terminer, and goal delivery, 137
Suits on sheriff's bond to be instituted in the supreme court, 205
Appearance to be entered, when endorsed on process, 205
May award execution on amercement against the sheriff to censors, 205
To have jurisdiction of writs of partition, 252
In what cases there shall be no costs in the supreme court, unless the plaintiff recover above 200 dollars, 253
When to appoint commissioners to ascertain the boundaries between counties, 294
Penalty on the clerk's sealing a writ of attachment contrary to the act, 296
Clerk, how to give notice of attachment, 297
To have cognizance of dower, 344
Errors in the supreme court to be rectified by the court of appeals, 345
To rectify errors in the common pleas. 345
Clerk to sign process, 347
Mode of justifying special bail, 355

INDEX

To be furnished by the clerk with a list of causes for trial and argument, 362
Of assigning and joining in errors, and argument thereof, 365
In what time and by whom such writ of error shall be returned, 365
To make rules of practice and transmit the same to the courts of common pleas, 365
Official oath of the judges, 376
Clerk of the supreme court to transmit, annually, to the treasurer, an abstract of amercements, fines, and forfeitures, 386
Penalty for not doing so, 386
Powers, duties, and fees of the supreme court relative to roads, 388 to 390
To consist of four judges, 393
When and where to be held, 393
One judge to constitute a court, 393
Return day, 393
Issues in the supreme court to be tried in the proper counties, unless a trial at bar be ordered, 393
Transitory actions therein, where to be tried, 393
May order trials by foreign juries, 393
One of the justices of the supreme court to hold circuit courts, try issues, and take assizes, 393, 394
May order a tales de circumstantibus, 395
Any justice of the supreme court may, on the application in writing of the board of chosen freeholders, appoint a special court of oyer and terminer and gaol delivery, 395
Compensation for holding circuit courts, 395
Clerk of the supreme court to deliver to the sheriff a certified list of defaulting jurors and their fines, 395
Duties of the justices of the supreme court under the act concerning taxes, 407
Duties of the clerk under the same act, 409
Fees in the supreme court, 421, 422, 423
Clerk to tax bills of costs, 427, 428
To give opinions on matters of law, when required by the court of chancery, 432
Compensation to the justices of the supreme court, when called to assist in chancery, 432

CIRCUIT COURTS.

Clerk of, to transmit, annually, to the treasurer, abstracts of amercements, fines, and forfeitures, 386
Penalty for not doing so, 386
How constituted, 393
When and where to be held, 393, 394
Transcript of the pleadings, how to be made, and sent, 394
Jury process what, whence to issue, and where to be returned and filed, 394
Their authority and jurisdiction, 394
Sheriffs and other officers to make return to them of certain writs and juries, 394
To make return of proceedings to the supreme court, 394
May award a tales de circumstantibus, 394
May fine talesmen, 395
Compensation for holding circuit courts, 395
Clerk to deliver to the sheriff a certified list of defaulting jurors and their fines, 395
Clerk's fees, 423

COURTS OF OYER AND TERMINER AND GAOL DELIVERY.

How constituted, 137
Times and places of holding them, 137, 395
Their continuance, 137
Their jurisdiction, 137
Sheriffs to return jurors, 137
Clerk of the supreme court to issue precepts for jurors, 137
Sheriffs to attend the said courts, and to give notice to officers and prosecutors to attend, 137
May send process into any county, 138
May try prisoners indicted before the quarter sessions, 138
May order indictments found before them to be delivered to the quarter sessions for trial, 138
May remand to the quarter sessions indictments transmitted to them, 138
To punish constables and jurors, who are returned as delinquents by coroners, 196
To punish coroners for delinquency, 197
Clerk's duty as to amercements, fines, and forfeitures, 386
May order a tales de circumstantibus, 395
Special courts, how to be appointed, 395
Fees in, 423

COURTS OF COMMON PLEAS.

Judges of, when and where to meet to take security from sheriff, 201
Penalty on them for neglect therein, 201
To administer official oath to the sheriff, and give him a certificate of the same, 201, 202
Appearance to be entered, when endorsed on process, 204
May award execution on amercement against the sheriff to elisors, 205
May award attachment in cases of contempt, 206
When to appoint commissioners to ascertain the boundaries between townships, 295
When and where to be held, 302, 303
To continue till the business be done, 303
To have cognizance of appeals from courts for the trial of small causes, 319
May enter rules of reference on such appeals, 319
Their fees on appeals, 322
Errors in the common pleas to be rectified by the supreme court, 345
Mode of justifying special bail, 359
Official oath of the judges, 376
Their powers, duties, and fees relative to roads, 387 to 390
May issue subpœna for witnesses, who reside out of their jurisdiction, 401, 402
Duties of the courts, and any judge thereof, under the act concerning taxes, 407 to 409
Their duties under the act to regulate certain fisheries in the river Delaware, 417
Fees in the said courts, 425

ORDINARY.

Jurisdiction of, 59, 62
To appoint but one deputy or surrogate in a county, 60
Fees of, 419

PREROGATIVE COURT AND OFFICE.

When and where to be held, 60
Secretary of state to be register of the court, 60
May issue process to enforce decrees, 127
Register to take an oath of office and to give bond, 193
when to report to the governor and legislature, 194
his duty as to recording, 194
removable on impeachment, 194
to set up in his office a table of fees, 195
to reside at Trenton, 195
Fees of, 419

ORPHAN'S COURT.

Constituted a court of record, and when, where and by whom to be held, 60
Surrogate of the county to be clerk, 60
Jurisdiction of, 60, 62
In what cases to direct administrators to give further security, 60
For what causes to revoke letters of administration, 60
In what cases to order executors, guardians, and trustees to give security, 61
May direct one executor or administrator to account with and give security to his co-executor or administrator, 61
To direct minor's money to be put out to interest, upon security, 61
May direct the real estate of an intestate, any of whose children is under age, to be divided, 62, 77
When to examine, revise and correct the accounts of executors, administrators, guardians, and trustees, which have been audited by the surrogate, 62
Their decree on such accounts to be conclusive, 62
When and whom to admit to be guardians, 63
May compel obedience to its process, orders, and sentences, 63
Final decrees, where no appeal is allowed, may be removed into the supreme court, 63
Fees in the orphan's court, 63, 64
Sheriffs and constables to be officers of the court, 64
Where there are several devisees, some being under age, and the bounds of their lands not ascertained by the will, the orphan's court may appoint persons to make partition of the same, 77
Suits therein to be continued, when no court is held, 193
To direct a distribution of the personal estate among the next of kin to the intestate, 156
Guardian to file inventory, and also to account annually with orphan's court, 346, 347
May order guardian in certain cases to give further security, 347
In what cases may order guardian to sell lands of the ward, 347
When to order executors or administrators to sell lands of the testator or intestate for the payment of debts, 374
Official oath of the judges of, 375

COURTS OF GENERAL QUARTER SESSIONS.

To amend defects of form in orders and judgments for the removal of paupers, and to determine appeals therefrom, 34
How constituted, and their jurisdiction, 130
Writs and process of the said courts, how to be signed, sealed, and tested, 130

INDEX.

What indictments found therein to be tried in other courts, 130
To send indictments to the court of gaol delivery, 130
The act to prevent routs, riots, and tumultuous assemblies to be read at the opening of the courts, 235
To grant tavern licenses; their powers and duties therein, 235 to 240
To recommend pedlers, 246
When and where to be held, 302, 303
To be continued till the business be done, 303
To determine appeals from convictions, under the act for suppressing vice and immorality, 332
Indictments in, and judgments and orders of the said courts, how to be removed by certiorari, 350, 351
May order a tales de circumstantibus, 395
May issue subpœnas for witnesses out of their jurisdiction, 401
Fees in, 425

COURTS FOR THE TRIAL OF SMALL CAUSES.

How constituted; and their jurisdiction, 313, 314
May issue subpœna for witnesses out of their jurisdiction, 314
Constables to be their ministerial officers, 314
Process, how to be tested, signed, and sealed, 314
First process to be a summons or a warrant, 314
Summons, in what cases to be used, and how to be served, 314
If the defendant shall not appear, to proceed in his absence, 314
Warrant, when to be issued, 314
The demand to be endorsed on process, 315
Defendant to enter into recognizance, and its form, 315
When to proceed in absence of the defendant, 315
When the plaintiff is to deliver a copy of his account, or state of his demand, 315
The defendant may plead payment, and set off any demand he may have against the plaintiff, 316
Defendant, if he neglect to set off, shall be barred, unless the balance exceed 60 dollars, 316
Of trials and their adjournment, 316
How trial may be had without process, 316
Either party may demand a jury, and when a venire shall issue for 6 or 12 men, 316
Costs thereof, how to be paid, 317
Oath of jurors, witnesses, and constable, 317
Penalty on defaulting jurors, and witnesses, 317
Costs, when to be given against the plaintiff, 317
Execution, when and how to be awarded, 317, 318
When and how goods taken in execution shall be advertised and sold, 318
Defendant to be committed for want of goods, and if suffered to escape, the sheriff shall be responsible, 318
Penalty on constables for neglect of duty, 318
Proceedings on plea of title to lands, 318, 319
Appeals, to what court, in what cases, and on what terms, to be granted, 319
On appeal, the bond and copy of proceedings, when and to whom to be transmitted, 319
Rules of reference may be entered, 319
Justice's docket, how to be kept, and where to be deposited after his death, 320
Penalty for suing otherwise than is directed by the act, 320
To have cognizance of balances on bonds, and of penalties, not exceeding 60 dollars, 320
Causes, how to be removed, and on removal, when to be determined, 320, 321
Costs allowed on affirmance, but not on reversal of judgment, 321
Attornies at law suable in the said courts, 321
Table of fees, 321, 322
In what cases, creditors may sue in the common pleas, although their demands be under 60 dollars, 322
Not to be affected by the act to regulate the practice of the courts of law, 365
Return of execution to be recorded, 368
To issue execution immediately on a judgment against a constable, 369

JUSTICES OF THE PEACE.

Their duty respecting paupers, 30 to 34
Their powers and duties in criminal cases, 129, 130, 131
Penalty for neglect of duty therein, 131
What offenders to admit to bail, 131
In what cases to endorse warrants, 131, 132
To order inhabitants to extinguish fire in woods, 133
Their duty respecting bastard children, 152, 153
Authorised to solemnize marriages; their duties therein, and penalties for neglect or misbehaviour, 158, 159, 160
Two of them may, if tenant desert the premises, put the landlord into possession; but their proceedings therein shall be examinable by the supreme court, 166
A justice, if he issue a warrant of distress by virtue of any law, may order the goods distrained to be sold within a limited time, 177
By accepting the office of sheriff, their commissions as justices to be void, 207
What larcenies may be tried before two justices, 213, 219
Their power and duty at riots, 234
Their duty under the act for the preservation of oysters, 262, 263
Their duties, compensation, and penalties in cases of taxation by the boards of chosen freeholders, 268, 269
To have cognizance of forcible entries and detainers, 291 to 295
How to proceed in cases of attachment cognizable before them, 301
In what cases to discharge apprentices and servants, or to cause them to be corrected, 306
How to proceed with slaves, who shall meet together in a disorderly manner, or be out after 10 o'clock at night, or hunt on a Sunday, 308
To seize vessels fitted out for the slave trade, 310
To have cognizance of causes to the value of 60 dollars, 313 to 3[illegible]
Not to be licensed to keep taverns, [illegible]
Their powers and duties under the act for suppressing vice and immorality, 329 to 333
Certain judgments and orders of justices, how to be removed, 350, 351
Their fees for recording executions, &c. 368
When to administer the oath of allegiance, 378
Their duties, penalties, and fees under the act concerning taxes, 405 to 411
Their duty with respect to disorderly persons, 410
May bind out as apprentices or servants the children of certain persons, 411
Their duty with respect to militia fines, 439

See *Courts for the trial of small causes. Forcible entry and detainer. Marriages. Taxes.*

JURISDICTION.

Of certain islands in the Delaware, 48, 50
Over a certain lot of land at Sandy Hook vested in the United States, 103
Of counties, which are divided by rivers, creeks, bays, or highways, to be reciprocal, 245
Offences committed on such rivers, creeks, bays, or higways, where to be tried, 245
In cases of murder, where the stroke and death happen in different counties, and where either the stroke or death only happens in this State, 248, 249

See *New Jersey. Rivers.*

JURORS.

GRAND JURORS.

Qualifications of, 259
Foreman to administer oaths to witnesses, 259
If sick, &c. others may be sworn in their stead, 259
How to be summoned, 259
Penalty on them for not attending, 259
Penalty for refusing to take the oath of allegiance, 378
Fines imposed upon defaulting grand jurors, how to be recovered, 395

PETIT JURORS.

On what indictments a list of jurors shall be given to the defendant, 162
How many may be peremptorily challenged, 162
How to be challenged by the State, 163
Peremptory challenges, to what offenders allowed, 163
An indictor of defendant may be challenged, 163
How and by whom to be punished for not attending before coroner, 196
For taking an illegal reward, to be disqualified, 212
Venire facias to be awarded of the body of the county, 250
Qualifications of petit jurors, 259
Penalty on them for not attending, 259
What sufficient to be inserted in the mandatory part of the habeas corpus juratorum or distringas, 260
View, how to be had, 260
Expense thereof, how to be paid, 260
No evidence to be given at the view, 260
If no view, &c. trial to proceed, 260
Sheriffs to make, annually, a list or book of jurors, 260
Struck juries, by what courts to be ordered, 260
Mode of striking them, 260, 261
Fees for striking to be paid by the applicant, 261
Challenges by the State, how to be decided, 261
May find special verdicts, 261
How to give evidence, 261
May take with them papers, though not under seal, 261
Their fees and penalties on forcible entries and detainers, 294

INDEX.

Penalty on defaulting jurors in courts for the trial of small causes, 317
Their fees in the said courts, 322
Penalty for refusing to take the oath of allegiance, 378
Process for convening a jury before the circuit court, what, whence to issue, and where to be returned and filed, 394
Fines imposed upon defaulting petit jurors, how to be recovered, 395
Their fees, 427

JUSTICES OF THE PEACE. See *Judiciary.*

LANDLORD AND TENANT.

Debt may be brought for rent in arrear on a lease for life, 163
If tenant for life, die on or before the day that the rent is due, his executors or administrators may recover the same, or a proportional part of it, 164
When agreement is not by deed, the landlord may recover a reasonable satisfaction for his lands, 164
Goods not liable to be taken by execution, unless one year's rent be paid, 164
A tenant, who holds over, to pay at the rate of double the yearly value of the lands, 164
A tenant, giving notice of his intention to quit the premises, and then refusing to do so, to pay double rent, 165
Where half a year's rent is in arrear, the landlord, having a right to re-enter, may recover the land by ejectment, 165
If tenant desert the premises, two justices of the peace may put the landlord in possession, 166
Attornment of tenant to strangers to be void, 167
Tenant to give notice to his landlord of service of a declaration in ejectment, 168
Landlord to be admitted a defendant in ejectment, 168
Landlord, how to proceed by way of distress for rent, 173 to 177
Tenant not to suffer or make waste, 179
A tenant, who grants his estate to another, shall, if he take the profits, be liable for waste, 180
A tenant, or any person under him, who holds over lands, without force, after demand and notice in writing given for the delivery of the possession, shall be guilty of an unlawful detainer, 291
Tenant to pay taxes, and deduct the same from the rent; but not to affect any contract between him and his landlord, 408

See *Distress. Rent.*

LANDS.

How to be purchased of Indians, 1
May be devised, 5
Conveyance of the use shall transfer the possession, 6
Claim of Indians to lands in this State purchased, 16
The title of a certain description of inhabitants, who claim lands under aliens, not to be defeated on that account, 26
Of certain offenders forfeited to and vested in the State, 40
To whom and how to descend, 43, 44
Conveyances, when lost, how to be supplied, 45, 46
In what cases, the orphan's court may direct a partition of lands, 62, 77
Boundaries of lands between individuals, how to be ascertained, 82
In what manner tide swamps, marshes, and meadows, held and owned by different persons, may be improved, banked, and kept in repair, 84 to 88
Partition of lands, how to be made by commissioners, 89 to 98
Ditches, drains, and water courses, how to be laid out through meadows, owned by different persons, 119, 120, 121
May be purchased and held by alien friends, 123, 124, 452
Conveyances of lands, to defraud creditors, or to deceive purchasers, shall be void as to them, 133 to 135
Not to be granted or assigned but by writing, 136
What trusts of lands to be in writing, 136
Estates for the life of another devisable, 189
Not to be sold or mortgaged for gaming debts, 224
Aliened by heirs or devisees, before action brought, not liable to be taken by execution, 243, 244
Partition of lands, how to be made by writ, 250, 251, 252
Grantees of lands to have the same benefits as the original lessors, 262
Lessees of lands to have the same advantages against the grantees of reversions as against the original lessors, 262
When the dying seized of a disseizor shall not take away the right of entry, 289
Widow not barred of right of entry into her lands lost by her husbands default, 289
Entry on lands not to be made, but where it is lawful, and then peaceably, 290
When and how lands may be sold by guardians, 347
Made liable to be taken by execution and sold for the payment of debts and damages, 369
Bound by judgment from the time of entry, 369
Taken in execution to be advertised for sale, 370
Sale of such lands may be adjourned, 370
Sold by sheriff to be clear of all judgments, on which executions have not been issued, 371
In what cases the orphan's court may order lands of the testator or intestate to be sold for the payment of debts, 372
Bound by decrees, 433

LAWS.

Of this State, how to be printed and distributed, 287, 288
Of the United States, how to be distributed, 288
Statutes to be in force from their passing, unless another time be mentioned, 435
Fees on private statutes, 436
Statutes of England and Great Britain not to be in force in this State, 436
Decisions of the courts of Great Britain, since the 4th of July, 1776, not to be read or be of any avail in any court of this State, 436
Revised laws of this State, to whom to be delivered, and how to be distributed, 452, 453
How such revised laws, at the death, expiration, or removal from office of any judge, or clerk of the pleas, justice, sheriff, or county collector, shall be disposed of, 453

LEASES.

Parol leases, exceeding three years, shall have the effect of estates at will only, 135, 136
No lease to be granted or assigned but by writing, 136
Debt may be brought for rent in arrear on a lease for life, 163
Surrender of a chief lease, for the purpose of renewal, and a new lease made, shall be good, without a surrender of the under leases, 167
Grantees of reversions to enjoy the same privileges as the original lessees, 262
Lessees to have the same advantages against the grantees of reversions as against the original lessors, 262

See *Landlord and Tenant. Rent.*

LEGACIES.

How to be recovered, 37
When there shall be a proportional abatement of them, 37
On plea of want of assets to pay all the debts and legacies, auditors to be appointed to examine, settle, and report on the accounts of the executors, 37
No action to be commenced for any legacy, till demand be made, and the legatee give bond, with surety, to refund, 37
Costs how to be awarded, in certain cases on actions brought for the recovery of legacies, 37
Legatees, when and how to refund, 38
If no time be limited for the payment of a legacy, a year shall be allowed, 38
Not to be paid to the prejudice of creditors, 38
When and where bond to refund shall be filed, 354

LEGATEES. See *Legacies.*

LETTERS OF ATTORNEY. See *Conveyances.*

LETTERS OF ADMINISTRATION. See *Administration.*

LIBELS.

Truth of, may be given in evidence, 411

LIBRARY COMPANIES.

How to be incorporated, 449
Their powers, 449

LIMITATION.

Of actions for cutting, &c. timber, and trees, 49
Of demands against forfeited estates, 52, 53
Sixty years possessions of lands shall vest a good title, and be a bar to all claims and actions, 81
In what cases a possession for 30 years shall be a bar to prior locations, rights, and conveyances, 81
Proviso in favor of infants, femes covert, persons insane, imprisoned, or out of the United States, 81
Surveys inspected, approved, and recorded shall bar the proprietaries, 82
Of actions for offences against the habeas corpus act, 171
Of criminal prosecutions, 221

INDEX

Of actions for money lost by gaming, 225
Of actions for certain penalties accruing under the act relative to inns and taverns, 238
Of actions for penalties under the act concerning horse racing, 241
Of actions for offences against the act relating to pedlers, 248
Of prosecutions for offences against the act for suppressing vice and immorality, 333
Of writs of error, 346
Of personal actions, 352, 353
Of actions on sheriff's bonds, 353
Of the revival of judgments, 353
Of the right of entry into lands, 353
Of real, possessory, ancestrel, mixed, or other actions for lands, 354
Proviso in favor of infants, femes covert, and persons insane, 353, 354
Equity of redemption, when barred, 354
Of actions of the State, 354
Of demands against the estates of deceased persons, 354
Of actions and informations on penal statutes, 354
Of actions against attornies at law under the practice act, 356

LITERATURE.

Societies for its promotion, how to be incorporated, 138
may purchase and hold property to a limited amount, may sue and be sued, have a common seal, and make regulations, 138, 139
Line of succession, how to be perpetuated, 139
Proceedings to be entered in a book, 139
The act extended to library companies, 449

LIVERY OF SEISIN.

Estates by livery of seisin only to have the effect of estates at will, 135, 136

LOST DEEDS. See *Conveyances.*

LOTTERIES.

Declared nuisances, and indictable, 227
Penalty for making or drawing them, 227
Penalty for selling, or offering to sell, &c. lottery tickets, 228
Transfers of property made in pursuance of lotteries to be void, 228
To what lotteries the act shall not extend, 228

LUNATICS.

Chancellor to have the care of lunatics, and their estates, 125
Their estates to be restored on their recovery, or on their death to descend or be distributed, 125
Cannot make wills of lands, 190

MANDAMUS.

When to be returned, 143
Proceedings thereon, 143
Damages may be recovered, 143
Parties to have time to make return and plead, 143

MANUFACTURES. See *Paterson, town of.*

MARRIAGES.

Within what degrees of affinity and consanguinity prohibited, 158
May be solemnized by justices of the peace, and ministers of the gospel, 158
Males under 21, and females under 18, not to be married without the consent of parents or guardians, certified under their hands, 158
Marriages, by virtue of certificates, to be registered, and certificates to be filed, 159
Penalty on justices and ministers, who shall marry such minors, without certificate, 159
Justices and ministers to record marriages, and make return of them within six months to the clerk of the common pleas, who shall register the same, 159
Penalty for not making such return in due time, 159
Religious societies may marry, and record such marriages, 159
Books of marriages to be received in evidence, 159
A false return or register of marriage, how to be punished, 160
In case of a forcible abduction of a woman, and marriage, such marriage to be void, 209
Issue on legality of marriage to be tried by the country only, 304

MARSHES. See *Lands. Fire.*

MEADOWS. See *Lands. Fire.*

MEDICAL SOCIETY.

Incorporated, 100
Officers of the corporation, 101
What number of members requisite to constitute a quorum, 101

MIDDLESEX COUNTY.

Bounds of 3
Boundary line between Middlesex and Somerset, 4
between Middlesex and Monmouth, 4, 5
Part of the boundary line between Middlesex and Somerset altered and resettled, 103
Courts of common pleas and quarter sessions for the county of Middlesex, when and where to be held, 302
Circuit courts, and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 395

MILITIA.

Of whom to consist, 436
Exempts from, 436
Divided into brigades and divisions, 437
Cavalry formed into squadrons and regiments, which shall compose one brigade, 437
The artillery formed into battalions, which shall compose one regiment, 437
How officered, 437
Officers, how to take rank, 437
Time of company trainings, 438
of battalion trainings, 438
of regimental trainings, 438
Battalions, not annexed to any regiment, when to train, 438
How far and by whom the order of regimental and battalion trainings may be changed, 438
Of artillery and cavalry trainings, 438
Fines for not attending on days of exercise, 438
Roll when to be called, 439
Excuses for non performance of militia duties, which are punishable by fines, when and by whom to be heard and decided, 439
Duplicate lists of delinquents to be made out, and how to be disposed of, 439
Fines, how to be recovered, 439
Surplus money of fines, to whom to be paid, 439
Fines on minors and apprentices, by whom to be paid, 440
Who shall compose the court of appeals, in cases of fines for non performance of military duty, 440
What fees shall be paid and to what officers for certain specified services, 440
Fines to be paid to the paymaster, and their appropriation, 440
Accounts of paymasters, how to be kept, and by whom to be settled, 440
Compensation to paymasters, and penalty on them for malpractice, 440
Persons may be employed to instruct drummers, &c. in military music, 441
How money may be procured for the purchase or repair of drums, fifes, trumpets, and colours, 441
May be ordered out by the governor in case of invasion or other emergency, 441
Exempts from military duty liable to be draughted for actual service, 441
Draughts for actual service, how to be made, 441
Detachments not to be in service more than two months at a time, 441
Pay of militia in actual service, when to commence, 442
Persons called to do a tour of duty, may find substitutes, 442
Notice of draughts, how to be given, 442
Fines for not performing a tour of duty, and how appropriated, 442
Articles and regulations for the government and discipline of the militia, 443, 444, 445
Allowance to officers and witnesses attending courts martial, 445
Salary of the adjutant general, and brigade inspectors, 445
Horses of light horsemen, going into actual service, by whom to be appraised, and how to be paid for, 445
Uniform companies how to be completed, 445
The acceptance and resignation of certain militia officers, how to be signified and made, 445
Vacancies, how to be filled, 445
Offices vacated by refusal, or by absence for nine months, 445
Alteration in the bounds of a company, how to be effected, 446
New companies how to be formed, 446
When to be exempted from paying toll, and when to pay no more than one third tollage, 446
Candidates for militia offices not to treat on day of election, 446
In actions for things done under the acts, the general issue may be pleaded, 446
Captains to transmit, yearly, rolls of their companies to the assessors, 446
Persons of bodily infirmities to be exempted from military duty, and

to be assessed, annually, three dollars; a list of their names to be delivered to the collectors, and an abstract thereof to the treasurer, 446
Penalty on assessors and collectors for neglect of duty, and their compensation, 447
What persons to constitute a court of appeals in cases of improper enrollment; their time of meeting, and powers, 447
Exempt fines, how to be collected, 447
Penalty on officers for neglect of duty, 447, 448
Youths to be taught music, &c. 448
Surplus money in the hands of pay masters, how to be appropriated, 448
Militia on parade days not to be arrested, and their arms, &c. not to be levied on, 448

MILLERS.

Toll of, 381
Penalty for taking unlawful toll, 381
To keep toll measures, 381

MINORS. See *Infants.*

MONEY.

In what cases continental money paid shall be credited as specie, 172
Money of account to be expressed in dollars, dismes, cents, and milles; and all accounts in the treasury of this State, and in the treasuries of the different counties, and all decrees, verdicts, judgments, and executions, to be kept and entered conformably therewith, 380

MONMOUTH COUNTY.

Bounds of, 3
Boundary line between Monmouth and Middlesex, 4, 5
Courts of common pleas and quarter sessions for the county of Monmouth, when and where to be held, 302
Circuit courts, and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 395

MORRIS COUNTY.

The upper parts of Hunterdon erected into a new county, and called, "Morris;" its boundaries, 12, 13
Boundaries between Morris and Somerset, 14
Courts of common pleas and quarter sessions for the county of Morris, when and where to be held, 303
Circuit courts, and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 394, 395

MORTGAGES.

Against forfeited estates to be exhibited within a limited time, or be barred, 53
Rights of alien friends arising on mortgages to be good, 93, 94
In an action at law on a mortgage, and no suit thereon in equity, a tender, in court, of the sum due, with costs, shall be a full satisfaction and discharge; and thereupon the mortgagee shall be compelled to reconvey and surrender the premises; but not to affect a subsequent mortgage, nor to extend to cases, where the equity of redemption is controverted, or the money due is not adjusted, 145
On a bill to foreclose, the court, at the request of the defendant, may proceed to a decree before a regular hearing, 145
In what cases the bill of the mortgagee shall be taken as confessed, and the premises sold, 303
Mortgaged premises may be appraised before a decree, 304
On a decree for a sale, writ to be issued to the sheriff, 304
Monies thence arising, how to be appropriated, 304
Supersedeas, when to issue to stay sheriff's proceedings, 304
Mortgagor, if aggrieved, how to be redressed, 304
If mortgagor be in court on process, his appearance to be entered, 305
To be registered, and how, 402
The time, when brought to be registered, and when registered, to be endorsed thereon, 402
Not to be registered, unless acknowledged or proved, 402
What conveyances shall be considered as mortgages, 402
To be registered in the order received, and to have priority according to the time of their being registered, 403
How the registry of a mortgage, when redeemed, shall be barred, 403
Fees for registering, 403
Penalty on the clerk for misconduct with respect to the registering of mortgages, 403
To be void against subsequent bona fide mortgagees and purchasers not having notice, unless registered within 30 days after their execution, 403

NAVIGATION. See *Rivers.*

NEW BRUNSWICK.

Incorporated; its limits, and name, 56, 57
Corporation officers, when and by whom elected; their powers and duties, 57
Vacancies, how to be supplied, 58
Money, how to be raised and appropriated, 58
Subordinate officers, by whom to be elected, 58

NEW JERSEY.

Partition line between the eastern and western division of New Jersey, how to run, 7, 8
Computation to be made of the lands taken up by the eastern proprietaries to the west, and by the western proprietaries to the east of the said line, 8, 9
The proprietaries of either division, having too much land, to give an equivalent to the other, 9
But no tract settled and improved to be taken in such equivalent, 10
In what cases an eastern proprietary may locate lands with western rights, and a western proprietary with eastern rights, 10
The equivalent, by whom to be surveyed, and how recorded, 10, 11
Lands to the westward of the said line, surveyed to the eastern proprietaries, and also the equivalent lands, to be a part of the eastern division, and lands to the eastward, &c. to be part of the western division, 11
Surveys of above 100 acres, made before computation, liable to be vacated, 11
Partition line between New Jersey and New York ascertained and confirmed, 25
Titles of patentees, &c. under New York, to lands to the southward of the said line confirmed against the proprietaries and government of New Jersey, 25
An agreement between New Jersey and Pennsylvania respecting jurisdiction over islands in the Delaware, ratified, 48, 49
Another agreement between the same States respecting the division of certain islands in the Delaware, confirmed, 76, 77
The seat of government established at Trenton, 104
For the recovery of monies for the use of this State, actions to be brought in the name of the State of New Jersey, 452

NOTARIES PUBLIC.

How to be appointed, 342
Fees of, 342

NOTICE. See *Trial. Enquiry.*

NUISANCES.

In navigable waters, 15, 16
Lotteries declared to be such, 227
Horseracing a nuisance, 241

NUNCUPATIVE WILLS. See *Wills.*

OATH.

Of coroner, 195
Of sheriff, 201
Of town clerk, Of surveyor of the highways, Of assessor, Of commissioner of appeal, Of overseer of the poor, Of constable, 286
Of treasurer, 366
How a person, who is scrupulous of taking an oath in the usual form, may be qualified, 367, 368
Of allegiance, and by whom to be taken, 376
Of the governor, Of the chancellor, Of judges, Of registers and clerks of courts, Of counsellors, solicitors, and attornies, 376
Of office, where no one is specially prescribed, 377
By whom to be administered, 377, 378

OBLIGATIONS. See *Bonds.*

OFFICES.

What officers to reside in the State, and not permitted to appoint deputies, 39
County officers to reside in the county, 39
Penalty on persons, who shall let out or transfer offices, 40

I N D E X.

Resignation of offices, how to be made, 40
What offices incompatible, 178, 207
Persons, elected to office by the joint meeting, to qualify in two months, or election to be void, 378

ORDINARY. See *Judiciary.*

ORPHAN's COURT. See *Judiciary.*

OVERSEERS OF THE HIGHWAYS. See *Highways.*

OVERSEERS OF THE POOR.

To keep books, in which to enter the names of paupers, to whom relief is ordered, and to lay the same before town meeting, 30
To inventory and sell goods of paupers, 30
To bind out poor children, 31
To seize the estates of absconding persons for the support of their families, and how to account for the same, 32
To receive paupers on removal, 34
To apply the estates of fathers and mothers to the maintenance of their illegitimate children, and to whom to account for the same, 153
Their duties relative to pedlers, 247
How to be elected, 284
Oath of office, 286
Penalty for refusing to serve, 287
Their duty under the act respecting slaves, 309, 310, 311
To be paid certain fines for the use of the poor, 20, 21, 28, 34, 36, 51, 73, 210, 227, 235, 242, 243, 247, 252, 309, 310, 311, 324, 329 to 332, 390.

OYSTERS.

When not to be taken or sold, 262
Penalty, and how to be recovered, 262
Penalty for burning them for lime, 262
None but residents in the State to take and gather oysters in the same, 263
Penalty on non residents for doing so, 263

PARTITION.

Between East and West Jersey, 8, 9, 10, 11
Between New Jersey and New York, 25
If any heirs of an intestate be under age, the orphan's court may order partition to be made of their lands, 62, 77
Where there are several devisees, some being under age, and the bounds of their respective lands not ascertained by the will, how partition shall be made, 77
If waste or injury be done, how to be considered and charged in the partition of lands made by order of the orphan's court, 78
Any judge of the supreme court, or three judges of the common pleas to appoint commissioners to make partition, 89
The application for partition, and names of the commissioners to be advertised, 89
The judges to describe the land, and ascertain the number of shares, into which it is to be allotted, 89
Commissioners to take an oath of office, to cause a survey to be made, to divide the land into the requisite number of shares, to make a field book, and to give notice of the time and place of making allotment by ballot, 90
Judges, if required, to assist the commissioners, 90
Mode of making the allotments, 90
Process for witnesses, by whom to be issued, 91
Fees of judges, commissioners, and witnesses, 91
The appointment of commissioners, and their oath, and the map and field book to be recorded, 91
On the death, &c. of a commissioner, another to be appointed, 91
Expense of partition, how to be ascertained, apportioned, and paid, 91
Paramount titles, and the rights of third persons, and of the general proprietaries not to be affected, 91
Of lands by writ, and the manner of proceeding thereon, 250, 251
Plea of abatement not to be admitted in partition, 251
When and how under sheriffs may execute writs of partition, 251
Tenant to hold the part allotted to his landlord, 251
Penalty on sheriffs and other officers for neglect of duty in the execution of writs of partition, 252
Writs of partition made returnable to the supreme court, which shall have jurisdiction thereof, 252
Costs on writs of partition, how to be apportioned, and paid, 252
This act not to affect the former one, 252

PASSAIC RIVER. See *Rivers. Fisheries.*

PATERSON, Town of.

The subscribers for carrying on manufactures incorporated, 103
The capital stock of the society, and to what amount they may hold property, 104
How far exempted from taxation, 105
Number of shares, 105
Number and election of directors, and the time of their meeting, 106, 107
The directors to lay, annually, before the stockholders a state of their affairs, 107
In what manner the corporation may be dissolved, 108
Lands may be surveyed, rivers cleared, and navigable canals, cut, 108
Damages to lands, how to be assessed 110
Toll to be fixed, 110
Directors to make return, triennially, to the legislature of certain expenditures, 111
Town of, incorporated, 112
Officers of the town, and how elected, 112, 113
The common council may make by laws, 113
What town officers created justices of the peace, 114, 122
What town officers to hold a court of pleas and quarter sessions, 115
The court of sessions of the county not to have jurisdiction in the town, 115
How far certain artificers and manufacturers are exempted from military duty, 115
Nonuser not to create any forfeiture, 115

PAUPERS. See *Poor.*

PEDLERS.

To be licensed, 246
Penalty for pedling without a license, or for refusing to show it, or the certificate, 246
Of forging a license, 246
Penalty for lending or letting out a license, 246
To pay a certain sum annually, 247
Penalty for going without a receipt from overseers of the poor, or refusing to show receipt, 247
To what goods the act shall not extend, 247

PEINE FORTE ET DURE.

The law relative thereto abolished, 163

PENAL LAW.

Treason to be punished as murder, 38
A false return or register of a marriage punishable as a misdemeanor, 162
When a defendant shall have a copy of the indictment, and list of jurors and witnesses, 162
Treason committed out of the State or on the sea, where and how to be tried, 163
False swearing by an insolvent debtor, relative to his estate, &c. to be punished as perjury, 165
The same punishment, if he secrete his estate, 165
If sheriff elect, act as sheriff, before he gives bond, &c. he shall be punished for a misdemeanor, 204
Sheriffs and gaolers, who refuse to receive offenders, to be guilty of a misdemeanor, 208
How a sheriff shall be punished for a false oath relative to a return on fresh pursuit, 208
Treason, what, how proved and punished, 208
Misprision of treason, what, and how punished, 208
Murder punished with death, and court may order the offender's body to be dissected, 208
Rescue of body, ordered for dissection, how punished, 208
Manslaughter, punishment for, 209
Petit treason to be murder only, and punished accordingly, 209
Sodomy; its punishment, 210
Rape, what, and how punished, 210
Carnal knowledge of a female under 10 years, punishment for, 210
Forcible abduction of a woman and marriage or defilement, how punished, 210
Taking woman under 15 from the possession, and against the will of parents or guardians, with intent to seduce, marry or defile her, punished, 210
Polygamy, what, and how punished, 210
A woman, pregnant with a bastard child, concealing such pregnancy, and being delivered in secret, or concealing its death, how punished, 210
Incest, what, and its punishment, 210
Adultery, fornication, open lewdness, &c. how punished, 210
Pretenders to witchcraft, or to the discovery of stolen or lost goods, how punished, 210
Religious impostors, their punishment, 210
Blasphemy, what, and how punished, 211
Perjury, and subornation of perjury, punishment for, 211
Bribery, what cases shall be adjudged, and how punished, 211
Extortion, what, and its punishment, 212
Embracery, and attempts to influence a juror or jury, how punished, 212
Jurors, who shall take an illegal reward, how punished, 212

I N D E X.

Arson, what, and its punishment, 212
Burning public buildings, mills, out houses, &c. punishment for, 212
Dwelling houses, mills, &c. setting fire to, with intention to burn, how punished, 212
Burglary, what, and its punishment, 213
Larceny under six dollars, mode of trial of, and punishment for, 213
Larceny of or above six dollars, or from the person, how punished, 213
Robbery, what, and its punishment, 213
Assault, with intent to rob, or house breaking, by day, with intent to kill, rob, steal, &c. how to be punished, 214
Entering houses, without breaking, with intent to kill, rob, steal, &c. how to be punished, 214
Apprentices or servants, who are entrusted by their masters with money or goods, and who shall go away with them, with intent to steal, or who shall embezzle them, how to be punished, 214
Lodger stealing goods from his lodging, how to be punished, 214
Stealing bills, bonds, notes, &c. or taking them by robbery, punishment for, 214
Stealing charters, deeds, wills, leases, receipts, accounts, &c. how punished, 215
Stealing or avoiding records, writs, minutes, &c. how punished, 215
Forgery, what, and its punishment, 215
Acknowledging deeds, recognizances, judgments, &c. in the names of others, not privy thereto, or personating others as bail, how to be punished, 216
Using false tokens or writings to obtain money or goods, with intent to defraud, how punished, 216
Obstructing the execution of process, punishment for, 216
Escapes voluntary and negligent, how punished, 216
Rescues, how punished, 217
Criminals breaking prison, how punishable, 217
Assisting a criminal in gaol to escape, or conveying to him any disguise or arms, proper to facilitate his escape, or assisting a criminal to escape from a constable, or other person, how punished, 217
Compounding of treason, and certain specified crimes, how punished, 217
Conspiracy, what, and its punishment, 217
Kidnapping, spiriting away children, &c. punishment for, 218
Cutting out or disabling the tongue, cutting off, or sliting the nose, lip, ear, &c. with intent to kill, maim, or disfigure, how punished, 218
Challenging to fight a duel, though no duel be faught, how punished, 218
Duel, punishment for fighting, where death does dot ensue, 218
Sending letters or other writing, threatening to accuse of an indictable offence, with intent to extort money, or demanding money, or threatening to maim, or kill, or to burn houses, &c. how punished, 218
Stealing lead or iron fixed to a house, or grass or grain standing and growing, how punished, 218
Stealing, in the night time, vegetables and fruit standing and growing, mode of trial, and punishment for, 219
The malicious destruction of conveyances, bonds, and other writings, how punished, 219
Malicious injury to houses, horses, cattle, bridges, grain, lumber, &c. punishment for, 219
Receivers of goods stolen, or taken by robbery, and harbourers of thieves and robbers, how punishable, 219
Concealment of burglary, robbery, &c. how punished, 220
Persons killing others attempting to rob, murder, &c. to be acquitted, 220
If persons, attempting to commit robbery, burglary, arson, &c. shall kill another, or death shall eusue, or if any officer of justice be killed in the execution of his office, such killing shall be murder, 220
Maintainers of the authority of foreign powers over this State, how punishable, 220
Offences of an indictable nature at common law, and not provided for by any act of the legislature, how punished, 220
For what crimes corporal punishment may be imposed on slaves, 220
Convicts sentenced to hard labour and escaping, how punished, 221
Courts may order offenders to find surety to keep the peace, or be of good behaviour, 221
Limitation of criminal prosecutions and indictments, 221
Punishment of death, how to be inflicted, 221
No conviction or judgment to work corruption of blood, disinherison of heirs, loss of dower, or forfeiture of estate, 221
Until buildings be erected for hard labor, convicts to be confined in gaol, 221
Cock fighting, and playing at cards, dice, &c. for money or goods made indictable offences, 224
Lotteries declared to be public nuisances, 227
Persons, who oppose the making of the legal proclamation at riots, how punished, 234
Rioters continuing together an hour after such proclamation made, how punishable, 235
Horse racing for money or goods made indictable, 241
Forging a license to pedle, how punished, 246
What convicts to be sent to the State prison, and how to be lodged, clothed, fed, employed, and separated from each other, 271, 272
Cruel treatment of slaves made an indictable offence, and punishable by fine not exceeding 40 dollars, 310
Sabbath breaking, what, and how punished, 329, 330
Drunkenness, and profane cursing and swearing, punishment for, 331
Exhibition of plays, shows, tricks, slight of hand, &c. how punished, 331
Disturbers of assemblies at religious worship, how to be punished, 332
Swearing falsely with uplifted hand, or affirming or declaring falsely, punisnable as perjury, 367, 368
False swearing to a certificate or false entry of a birth or death, how punished, 382
Selling unwholesome liquors and provisions, punishment for, 384
Persons, who shall take goods from a vessel stranded, or in distress, and not deliver them to the sheriff, or who shall secrete such goods, or put up false lights, or wound a person escaping from or do any act tending to the loss of such vessel, shall be guilty of a misdemeanor, &c. 385, 386
Transgressors against the governor's proclamation, prohibiting all communication with certain infected vessels how to be punished, 450, 451
The offences, enumerated in the 68th section of the act for the punishment of crimes, how to be punished, 451

PERTH AMBOY.

City and port of Perth Amboy to be free for a limited time, 54
Boundaries of the city, 64
What persons to be freemen, 65
Mayor, recorder, aldermen, and common councilmen constituted a body politic, may hold, and dispose of property, sue and be sued, and have a common seal, 65, 66
What officers to be appointed by the legislature; their duration in office, to whom amenable, and for what, and by whom removeable, 66
What officers to be elected, and when, by the freemen, 66
Vacancies how to be supplied, 67
What officers to be elected by the corporation, 67
Powers of the corporation, 67, 68
What members and the number requisite to constitute a common council, 68
What officers to take cognizance of fines and forfeitures, 68
What officers shall license taverns, and constitute a court, 68
Fees of the court and officers, 69
Property of former corporation vested in the present, 70

PETIT JURORS. See *Jurors.*

PHYSIC AND SURGERY.

License to practise, how obtained, 51
Penalty for practising without license, 51
To whom the act shall not extend, 51
Penalty on mountebanks erecting stages for the sale of drugs, 52
Bills of physicians and surgeons to be in English, and taxed, 52
License to practise may be obtained on certificate of the examiners, 79

See *Medical Society.*

PLEADINGS.

To be in English, 129
In what cases the defendant may plead the general issue, and give the special matter in evidence, 172, 175, 333, 348, 349, 446
In debt on bonds for the performance of covenants or agreements, 255
In debt on bills, bonds, and judgments, and in scire facias on judgments, 255, 256
In mutual debts and dealings, 256
Proceedings on a plea of title to real estate in the courts for the trial of small causes, 318, 319
Defendant may plead several pleas, 347
In what time to be filed, 361
Imparlance not allowed, 361
Copy of deed, contract, account, &c. on which the plea is founded, to be delivered to the plaintiff or his attorney, 361
Notice of filing pleadings not necessary, 361
Of joining in demurrer and argument, 362
All the pleadings in a cause to be filed together, 363
Of demurrer to evidence, and argument thereof, 364
Pleas of bastardy to be tried by the country, 394

POOR.

What shall be a legal settlement, without notice to the overseers, 26, 27
What persons shall not gain a settlement, without such notice, 27

I N D E X.

Servants, who are procured from the gaols of other States, denied a settlement, 27
Bastard children, where settled, 27
Penalty for entertaining persons not settled, without giving notice to the overseers, 27
Persons, having a certificate of legal settlement in this State, may reside in any part of it, and shall not be removed till they become chargeable, 28, 29
Servants and apprentices, who gain a settlement under such certificate, not to be removed, 29
The expense of paupers, who fall sick or die out of their proper townships, how to be defrayed, 29, 30
Mode of granting relief to paupers, 30
Overseers to enter in books the names of paupers, with the sums allowed, and to lay the same before the town meeting, 30
Goods of paupers to be inventoried and sold by the overseers, 30, 31
To wear badges, 31
What relatives to relieve and maintain each other, and how, 31
Poor children to be bound out, 31
Estates of persons absconding may be seized, for the support of their families, by the overseers, who are to account for the same, 32
Houses for the accommodation of the poor, how to be provided, 32
Paupers, who refuse to go into such houses to be struck out of the list, 32
Settlement not to be gained by certain removals, 33
How persons, likely to become chargeable, may be removed to their place of legal settlement, 33
Persons, who return after removal, to be punished and sent back, 33
Penalty on overseers for refusing to receive paupers on warrants of removal, 34
Appeals from orders of removal allowed and regulated, 34
Defects of form in original judgments or orders, relative to the removal of paupers, to be amended, 34
Costs and charges on appeals concerning paupers, in what cases given, and how to be recovered, 35
What persons shall be deemed to be vagrants and vagabonds, and how to be punished, 35, 36
When an appeal to the second court of quarter sessions may be received, 36
Poor houses, by whom to be purchased, or built, 270
To be kept therein at the expense of the county, 270
Settlement of manumitted slaves, 312
Slaves, not legally manumitted, to be maintained by the owner, if able, and if not able, by the township, 312
Certain fines appropriated to the use of the poor, 20, 21, 28, 34, 36, 51, 52, 75, 210, 227, 235, 242, 243, 247, 252, 309, 310, 311, 324, 329 to 332, 390.
To have process, counsel, &c. gratis, 339
Not to pay costs, when plaintiffs, 339

POOR HOUSES. See *Poor.*

POSSESSION.

Of lands for 60 years shall vest a good title, 81
for 30 years shall, in certain cases, be a bar to prior locations, rights, and conveyances, 81
by mortgagee, &c, for 20 years, shall bar the equity of redemption, 354

See *Entry. Lands. Limitation.*

POSTHUMOUS CHILDREN.

To possess and inherit, when the father dies intestate, as if they had been born in his life time, 339
To possess and inherit, if the father die testate, unless expressly excluded by his will, 339

POUNDS.

Goods distrained, how to be impounded, 173, 174
Treble damages for pound breach, 174
Keeper of pounds, how elected, and penalty for refusing to serve, 284, 287
Beasts, creeping through or breaking over lawful fences, may be impounded, and owner to pay damages, 335
Beasts, trespassing through or over unlawful fences, not to be impounded, nor damages to be recovered, 337
When a person may impound beasts in his own enclosure, 338
Allowance for pounding and feeding, 338
Beasts impounded may be advertised and sold, 338

PRACTICE.

An act to regulate the practice of the courts of law, 355 to 366

PREROGATIVE COURT AND OFFICE. See *Judiciary.*

PRIVATE ACTS. See *Laws.*

PROCESS.

How to run, 39
In what cases not to be served on Sunday, 330
What process to be made use of in personal actions, 351
Name of the attorney, or party, and clerk to be subscribed to, or endorsed on process, 357
How to be executed and returned, 357
The effect of the return of C. C. C. 360
How to be served, if the defendant be in custody, 361
No inspection of process, 363
Process for convening jury before the circuit court, 394
Of process in chancery, 429, 430, 433, 434
When not to be served on militia men, 448

PROMISSORY NOTES.

Made negotiable as inland bills of exchange, 342
When discounts shall or shall not be allowed on them, 342

PROPRIETARIES.

Secured in their possessions and rights in consequence of the line of partition between East and West Jersey, 7 to 12
To give preference to prior surveys, and if they should not, the possessor may resurvey the land, and cover the surplus by rights, 99
Assessments on their lands, made in pursuance of the act to enable the owners of swamp or meadow ground to improve the same, how to be recovered, 120, 121
What proprietaries not to cut timber on unlocated lands, 124
Proprietary rights may be levied on and sold by executions, 372

PROTECTIONS.

Not to be allowed in suits, 160

QUARTER SESSIONS. See *Judiciary.*

QUO WARRANTO.

How an information in nature of a quo warranto may be exhibited, 177
Several rights of different persons may be determined on one such information, 178
Defendants when to appear and plead, 178
What judgment to be rendered therein, 178
Parties to be allowed time to plead, 178

RAMS.

Not to run at large from the 20th of August, till the 1st of November, 386
Going at large or trespassing, during the above period, may be castrated or impounded, 387

RARITAN RIVER. See *Rivers. Fisheries.*

REAL ESTATE. See *Lands.*

RECOGNIZANCE.

Taken by justices of the peace to be sent to the proper court, 130, 131
Forfeited, when, how, and by whom to be prosecuted, 180, 181
Mode of proceeding on forfeited recognizance given by tavern keepers, 239
Form of recognizance in courts for the trial of small causes, 315
When recognizor shall not pay costs, 349
Recognizance of special bail, 358

RECORDING. See *Conveyances. Mortgages.*

RECORDS.

Of conveyances to be received in evidence, 6
Not to be altered in any term after judgment, 126
Of final judgments on certain inquisitions in Monmouth restored, 198, 199
To be made of all causes, which shall be determined, 363
Of births and deaths to be received in evidence, 382
Of wills, and office transcripts thereof to be received in evidence, 397
Of conveyances and certified copies thereof to be received in evidence, 402

INDEX

Not to be removed out of the county, when transcripts may be given in evidence, 401

REFERENCE.

Submission to arbitration may be made a rule of court, 141
An arbitration procured by corruption or undue means to be void, 142
Report of referees, under a rule of court, shall conclude the parties; on which judgment shall be entered, and execution issued, 142
Arbitrators and referees to take an oath of office before they act, 142
Referees to administer oath to witnesses, 142
Compensation to referees, what, and by whom to be paid, 142
Rules of reference may be entered by justices of the peace, and by the common pleas, on appeal, 319

REGISTER OF BIRTHS AND DEATHS.

See Births and deaths.

RELIGIOUS SOCIETIES.

May solemnize marriages, 159
Their books of marriages to be admitted in evidence, 159
Penalty for disturbing them, when at worship, 332
May elect trustees, who shall be a body politic and corporate, 412
Name of corporation to be recorded, 412
Powers and privileges of the trustees, 412
Line of succession, how to be perpetuated, 412
Trustees to take certain oaths, 412
The corporation may elect a president; his powers and duties, 412
Members to have access to the papers and books of the corporation, 413
On the death or removal of the president, the official books and papers to be delivered to his successor, 413
Acts of a majority of all the trustees, and not of a less number, to be valid, 413
The law not to extend to societies of less than thirty families, 413
Rights of property under charters granted by the British government confirmed, 413
The reformed Dutch congregations, how to be incorporated, 413
The offices, powers, privileges, and duties of such corporations, 414, 415
To what amount antecedent religious corporations may hold property, 415

RENT.

Debt may be brought for arrears of rent on leases for life, 163
If tenant for life die before or on the day, that the rent becomes due, his executors or administrators may recover the same, or a proportional part, 164
Where demises are not by deed, a reasonable satisfaction for lands may be recovered, 164
Goods not liable to execution, without paying one year's rent, 164
Tenant holding over, to pay at the rate of double the yearly value of the lands, 164
Tenant, giving notice of his intention to quit the premises, and then refusing to do so, to pay double rent, 165
Where half a year's rent is in arrear, the landlord, if he have right to re-enter, may recover the land by ejectment, 165
Distress for rent, 173 to 177

See Distress. Landlord and tenant.

REPLEVIN.

In what cases, and out of what court to issue, 182
May be made by breaking open doors, 182
Sheriff to take security before goods be delivered, 182
Writ of second deliverance, 182
When the distress shall remain irrepleviable, 182
Goods, when claimed, not to be delivered till the claim be tried, 182
Avowry therein, how to be made, 183, 184
Parties to have the same pleas as at common law, 183
In what cases a writ of enquiry shall issue, 183, 184
In replevin of a distress for rent, the sheriff to take bond, which is made assignable, 184
No replevin in case of a distress for a tax or fine, 184

REPRESENTATIVES.

Appointment of—among the counties of Hunterdon, Burlington, Sussex, Cumberland, and Cape May in the general assembly, 249, 250

REVERSIONERS AND REMAINDER-MEN.

May defend suits brought against tenants for life or years, 288
Not to be prejudiced by the default, or surrender of such tenants, or judgment thereon, 289
May have writs of error on judgments against tenants for life, in dower, or by curtesy, 290

REVERSIONS.

Grantees of—to enjoy the same benefits as the original lessors, 262
Lessees to have the same advantages against the grantees of reversions as against the original lessors, 262

ROUTS, RIOTS, AND TUMULTUOUS ASSEMBLIES.

By whom proclamation shall be made among rioters, commanding them to disperse, 234
Form of the proclamation, 234
Justices, sheriffs, and constables to resort to the place, and make proclamation, 234
Rioters, not dispersing within an hour after such proclamation, to be apprehended, and if they make resistance, the persons killing them to be held guiltless and discharged, 234
Persons, who shall oppose the making such proclamation, how to be punished, 234
Punishment for unlawfully continuing together an hour after proclamation made, 235
The act to be read at the opening of the court of sessions, and at the annual town meetings. 235

RIVERS.

Obstructions in navigable waters prohibited, 15
Such obstructions made public nuisances, which any person may remove, 15
Certain bridges and dams, made before the 20th of August, 1755, may be kept up as usual before that time; but not to bar any right of action, 16
Trunks, and limbs of trees, and other obstructions, hanging over navigable waters, may be removed, 16
Fisheries regulated in certain parts of the eastern division, 18, 19
The jurisdiction of islands in the river Delaware, settled between New Jersey and Pennsylvania, 48, 49
The jurisdiction of such of the said islands as belong to New Jersey, assigned to the contiguous counties, except Petty's islands, 50, 51
Another agreement between the said States of New Jersey and Pennsylvania, respecting the division of certain islands in the Delaware, confirmed, 76, 77
Fisheries in Hackensac river regulated, 79
Jurisdiction of counties, divided by rivers, creeks, or bays, to be reciprocal, 245
The regulation of fisheries in certain parts of Raritan river, 390
Certain fisheries in the river Delaware, regulated, 416, 417

ROADS. See *Highways.*

SALEM COUNTY.

Bounds of, 4
Boundaries between Salem and Cumberland, 17
Courts of common pleas and quarter sessions for the county of Salem, when and where to be held, 303
Circuit courts and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 394, 395

SANDY HOOK.

Residents of New York, sued there for trespasses at Sandy Hook, shall not be sued for the same in New Jersey, 17
Jurisdiction over a certain lot of land at Sandy Hook, vested in the United States, 103

SCIRE FACIAS.

May be brought on a judgment by administrators de bonis non, 154
When payment may be pleaded to scire facias on judgment, 255
When to issue against garnishee, 296

SEALS.

A scroll, or ink, or other device, by way of a seal, shall be valid, 254

SECRETARY OF STATE.

Penalty on him for not issuing commissions, or for taking illegal fees for the same, 40
To be register of the prerogative court, 69
To take an oath of office, and to give bond, 193
When to make report of certain business to the governor and legislature, 194
His duty as to recording, 194

INDEX.

May be impeached and removed for misbehaviour, 194
To set up in his office a table of his fees, 194
To live at Trenton, 194
To record and file the boundaries between counties as ascertained and certified by commissioners, 295
To keep the official books and papers of the auditor, 334
To settle the accounts of agents of forfeited estates, 335
What receipts to register, 335
To be clerk of the court of appeals, 349
To prosecute clerks of courts for certain delinquencies, 386
To record conveyances and bow, 399, 400
His fees for certain services, 419
His fees for attending courts with wills, records, &c. 427
To open an account against the treasurer of fines, amercements, and judgments on forfeited recognizances, 450
To write and endorse receipts for monies paid into the treasury, 450
His fees and annual compensation for certain duties, 450

SENATORS OF THE UNITED STATES. See *United States.*

SERVANTS. See *Apprentices and Servants.*

SET OFF.

In what cases, and how, to be pleaded, 256
In courts for the trial of small causes, 316
When discounts shall or shall not be allowed on promissory notes, 342
Copy of the deed, contract, account, &c. to be delivered to the plaintiff or his attorney, 361

SHEEP. See *Fences. Strays.*

SHERIFF.

To apply for his commission in a month after his election, but may act before. 40
To be the officer of the orphan's court, 64
To return jurors to the courts of oyer and terminer and gaol delivery, 157
To attend the said courts, and to give notice to prosecutors and officers to attend, 157
To be answerable, if he suffer prisoners in the action of account to escape, 140
To execute process of the prerogative court for enforcing decrees, 157
Not to remove goods taken in execution, without paying one year's rent, 161
To swear appraisers of goods distrained, 170
To pay fines and forfeitures, annually, into the treasury, 171
To take security before goods be delivered on replevin, 182
In replevin not to deliver goods, when claimed, till the claim be tried, 182
In replevin of a distress for rent, to take bond, which is made assignable, 184
To be a freeholder for three years prior to his election, 201
To give bond, with security, and its form, 201
His oath of office, 201
Bond and affidavit, where to be filed, 202
To have a certificate thereof, 202
If a sheriff elect act as sheriff, before he gives bond, &c. he shall be guilty of a misdemeanor, and his acts be void, 202
New election, if the sheriff shall not give bond, or take the oath of office. 202
Suits on his official bond, by whom to be ordered, and where to be instituted, 203
To have the charge of gaols, and to be responsible for the conduct of gaolers, 203
To receive offenders, and, on refusal, how to be punished, 203
In what cases to let persons arrested to bail, 203
How to take bail bonds, 203
Answerable for the appearance of his prisoners, 203
How to let prisoners out of custody upon security, or endorsing appearance on process, 203
To assign bail bond if required, 204
How to make return of process, 204
Not to carry a prisoner to a tavern, without his consent, nor to charge him for victuals or drink, unless voluntarily called for, nor to take illegal fees, nor exact a reward for keeping him out of gaol, 204, 205
To permit prisoner to send for and use necessaries, 205
To keep debtors and criminals separate, 205
Penalty for offending in the premises, 205
May be amerced to the amount of debt or damages, with costs, for not executing a writ of execution, or not filing an inventory of the property, or not rendering money, 225
The effect of such amercement, 225
To detain prisoners until discharged by due course of law, 226
Liable for the debt of prisoner, if he escape, 226
When retaking may be given in evidence, 226
How to be punished for a false oath relative to a retaking on fresh pursuit, 226
His power and duty in case of resistance to process of execution, 207
To turn over writs to his successor, 207
Not to act as sheriff and justice of the peace at the same time, 207
His power and duty at riots, 234
Not to keep tavern, 237
When to pay monies received on forfeited recognizances given by tavern keepers, 239
Penalty for neglect of duty in the execution of writs of partition, 242
On his death, removal, or disability, in what manner another shall be elected, 252
In such case, who shall serve process until another be elected, 253
If after levying an execution on property he die, remove, or be disabled to discharge his official duties, how and by whom the said property shall be sold, 253
To appoint, by deed, an under sheriff, who shall take an oath of office, 253
Such appointment and oath to be filed in the office of the clerk of common pleas, 254
May remove under sheriff at pleasure, 254
Acts of under sheriff, when void, 254
Penalty for taking a reward to excuse persons from serving on juries, 260
To make, annually, a list or book of jurors, 270
His power in conveying convicts to the state prison, 277
His duties, penalties, and fees on forcible entries and detainers, 281 to 284
How to execute writs of attachment, 296
His duty, when property attached is claimed, 297
On a decree for the sale of mortgaged lands, how to advertise, sell, and convey the same, 304
May seize vessels found out for the slave trade, 310
Liable for escapes under the act constituting courts for the trial of small causes, 313
Not to be special bail, 343
How to execute and return process, 357
To return process, or be amerced, 357
To endorse on process the name of bail, and to return a copy of the bail bond, 358
When to be ruled to bring in the body, and penalty, if he fail to do so, 358
May put in special bail for the defendant, 358
In what time the old sheriff is to be ruled to bring in the body, 359
To endorse the time of receiving execution, 369
How to advertise the sale of lands taken in execution, 372
How often he may adjourn the sale of lands, 373
To make conveyances for lands sold in virtue of executions, 371
How and in what cases a succeeding sheriff may make a conveyance for lands sold by his predecessor in office, 371
How to pay the money received therefor, 371
To return juries to the circuit court, 394
To give notice to traverse jurors of the fines imposed on them, 395
His fees for doing so, 396
To receive and keep prisoners committed by the authority of the United States, 396
The expenses of such prisoners, how to be defrayed, 396
His duties, penalties, and fees under the act concerning taxes, 409
His fees in equity and at law, 421, 425
To serve process issuing out of chancery, 429
His duties and penalties with respect to process issuing from the court of chancery, 430, 431
How the revised laws of this State, at his death, expiration of, or removal from office, shall be disposed of, 453

SLAVES.

For what offences, corporal punishment may be inflicted on them, 220
To continue so, unless set free, 227
Not to be witnesses, except against each other, 311
Penalty for trading with them without permission of their masters, 311
Penalty for employing or harbouring them without consent of their masters, 312
Penalty, in case such slaves so harboured, &c. shall die, or be disabled, 313
Reward for taking up slaves not having a pass, &c. 313
Meeting together in a disorderly or tumultuous manner, how to be punished, 318
Punishment of slaves, who shall be out after 10 o'clock at night, or shall hunt on Sunday, 318
Penalty on persons, who shall suffer their slaves to go about begging, 319
Penalty for selling slaves to persons, who are unable to maintain them, 319
Penalty for bringing slaves into this State; but not to extend to foreigners, travellers, or temporary residents, 319
Citizens of this State may bring their slaves into it for service,

INDEX.

but not for sale, 309
Cruel treatment of them made an indictable offence, 310
How far to be educated, and what the forfeiture for neglect, 310
The slave trade prohibited, 310
How to be sold and removed out of the State, 311
Between the ages of 21 and 40, how to be manumitted, 312
Under the age of 21 and above the age of 40, how to be manumitted, 312
Settlement of manumitted slaves, 312
If not legally manumitted, to be maintained by the owner, if able, or if not able, by the township, 312
Free negroes from other States not to travel, or reside, or be employed, or harboured in this State, without a certificate, 312
Free negroes of this State not to go out of their proper county, without a certificate, 313
Proceedings on habeas corpus respecting slaves, what, and how to be conducted, 313
When they may be sent to the work house, and how to be maintained, 379

SOMERSET COUNTY.

Bounds of, 3
Boundaries between Somerset and Middlesex, 4
Part of Essex annexed to Somerset, 13
Boundaries between Somerset and Morris, 14
Part of the boundary between Somerset and Middlesex altered and resettled, 103
Courts of common pleas and quarter sessions for the county of Somerset, when and where to be held, 392
Circuit courts and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 395

SPIRITOUS LIQUORS.

Penalty on giving or selling them at vendues, 227
Prohibited in the state prison, 275
at the place of militia exercise, 444

STAGES.

Exonerated from the payment of certain taxes, 451

STATE.

The word "State" substituted in commissions, writs, and indictments, instead of the word "Colony," 39
For the recovery of money for the use of the State, actions to be brought in the name of the State, 452

See *New Jersey*.

STATE PRISON.

What convicts to be sent to it, 271
Convicts, how to be lodged, clothed, fed, employed, and separated from each other, 272
Hours of labor prescribed, and implements and materials, how to be kept, 272
Stock and materials, working tools and implements, clothing and diet for convicts, how to be procured, 272
An account of the expenditures and receipts of monies, &c. to be kept, and exhibited to the legislature, 272
In what cases the inspectors may examine the keeper, or other person relative to his accounts, 273
An account to be opened against each convict, 273
What persons shall have access to the prison, and how; when the doors of the rooms shall be locked, and the lights extinguished, 273
Convicts allowed to walk and air themselves, and when, 273
No debt may to be sued up in the prison, 273
How convicts may be punished, 274
Inspectors to appoint the keeper, who shall give security, 274
Eight inspectors to be annually appointed by the legislature, 274
Powers and duties of inspectors, 274
The board of inspectors to make regulations for the government of the prison, 275
Penalty on the keeper, his deputy, &c. for obstructing the inspectors in the exercise of their functions, 275
Powers of the sheriff in conveying convicts to the State prison, 275
Reward for apprehending convicts, who shall have escaped, 275
Spiritous liquors prohibited in the prison, 275
Physician to be employed, 275
Funds in the hands of the inspectors may be applied to defray expenses, 275
Compensation to the inspectors, what, and how to be paid, 449

STATUTES. See *Laws. Acts repealed.*

STRAYS.

Notice of stray cattle, horses, or sheep to be given to the town clerk, 242
When to be sold, and the money thence arising, how to be applied, 242
Penalty for concealing or not giving notice of strays, 243
Book of strays to be open and free for every person, 243

SUNDAY.

What shall be deemed to be violations of—and how punished, 329, 330
No process, except in criminal cases, to be served on Sunday, 330
Penalty for disturbing religious assemblies on Sunday, or any other day, 332
Form of conviction, 332
Prosecutions for sabbath breaking to be brought within 30 days, 333

SUPREME COURT. See *Judiciary.*

SURROGATES.

To be appointed by the ordinary, and only one for a county, 60
Their powers and duties, 60, 61, 62
Their fees. 63, 64
Not to act as attornies or counsel in their respective courts, 397
When not to act as judges, 397
In what cases to make quarterly reports to the register of the prerogative office, 397
To set up in their office a table of fees, 397
To enter into bond, with sureties, for the faithful performance of their duties, 397
On their death, removal, &c. office papers and books to be delivered to their successors, 397

SURVEYOR GENERAL.

Of the eastern division to keep an office at Perth Amboy, and of the western division at Burlington, 11
Authorised to recover books of surveys, general charts, maps, &c. made by any public surveyor, 12

SURVEYORS OF HIGHWAYS. See *Highways.*

SURVEYS.

Of lands to be recorded in the office of the surveyor general of the proper division, 11, 12
Records of surveys to be evidence, 12
To be recorded by a limited time, or to be void, 12
If inspected, approved, and recorded, to bar the proprietaries, 82
What surveys to be of no avail, without previous notice to the possessors of the land, 99
Prior surveys to be preferred, 99
What surveys not to be affected, 100

SUSSEX COUNTY.

The upper parts of Morris erected into a new county, and called "Sussex;" its boundaries, 15
To elect four representatives, 359
Courts of common pleas and quarter sessions for the county of Sussex, when and where to be held, 393
Circuit courts, and courts of oyer and terminer and gaol delivery for the said county, when and where to be held, 393, 395; 395

SWAMPS. See *Lands.*

SWEARING.

Profane swearing, how punished, 331
Form of conviction, 331
Penalty to be sued for in 30 days, 333

SWINE.

Trespassing on enclosed lands may be killed, 324
Damages done by them, how to be ascertained and recovered, 324
In what cases they shall be sold to pay the damages, 324

TAVERNS.

By what court to be licensed, 435
Recommendations for, by whom to be signed, 435
Penalty for recommending improper characters, 435
Tavern keepers to enter into recognizance, 435
License restricted to the place, and to continue for one year, but

INDEX.

may be renewed, 236
No more to be licensed than are necessary, 236
Not to be kept by sheriffs, under sheriffs, or gaolers, 237
Their accommodations, 237
Court to assess what each person shall pay for a license, 237
To whom to be paid, 237
Rates for diet, liquors, &c. to be fixed by the court, and set up in taverns, 237
Penalty for taking more than the legal rates, 238
Signs to be put before them, 238
Gaming in them prohibited, 238
Penalty on unlicensed retailers of liquors, 238
Penalty on tavern keepers for selling liquors to apprentices, servants or slaves, or for receiving goods from them in payment, 238, 239,
Tavern keepers trusting persons more than two dollars to lose the debts; and notes, bills, &c. taken for such debts to be void; but not to affect lodgers, or travellers not residing in the township, 239
Recognizances given by tavern keepers, and forfeited, how to be prosecuted, 239
Licenses revocable in certain cases, 238, 240
Not to be kept by justices of the peace, 323

TAXES.

On dogs, what, and how to be raised, and appropriated, 80
In what cases to be ordered by the board of chosen freeholders, and how to be assessed, collected, and paid, 266 to 270
Assessment rolls and duplicates to be made in dollars, dismes, cents and mills, 380
Assessors, when to make out a list of taxable persons and property, 404
Penalty for not rendering an account of taxable property, or for rendering a false one, 404
Assessors, when and where to meet, to adjust the quotas of the several townships, 404
Two abstracts of ratables to be made; one for the county collector and the other for the legislature, 404
Duplicate of assessment, when and to whom to be delivered, 404
Amount of certainties to be deducted, and the remainder to be assessed on the other taxable property, 404
Penalty on assessors for neglect of duty, 404
Persons aggrieved by assessment may appeal to the commissioners, 405
A majority of attending assessors competent to fix the quotas, 405
Town collector to advertise the day of paying the tax, and the meeting of the commissioners, 405
Town collector to make demand of the tax, &c. 405
When a return of the delinquents shall be made to a justice, 405
Town collector to make oath of the truth of his return, 405
Penalty on town collector for neglect of duty, 405
Compensation to assessors and town collectors, 405
Times appointed by the act for the performance of certain duties to govern future assessments, 405
Justice to issue a warrant for taxes unpaid, 406
Constable, when to sell the goods and pay the money, 406
If no goods, the delinquent to be imprisoned, 406
Fees of justice and constable, 406
Penalty on justice for neglect of duty, 406
Constable to return the warrant to the justice, who issued it, 406
Penalty on constable for neglect of duty, 406
Constable liable for the amount of taxes not paid over to the town committee; how, by whom, and before whom the same is to be recovered, 406
When to be paid by the town collector to the county collector, 407
Town collector liable for the amount of taxes not paid over to the county collector; how, by whom, and before whom the same is to be recovered, 407
When to be paid by the county collector to the treasurer, 407
Fees of the county collector, 407
Penalty on the county collector for neglect of duty, 407
County collector, when liable for taxes, and how to be recovered, 407
Townships made liable for any deficiency or loss occasioned by the malepractice or insolvency of their collectors and constables, 407
Counties made liable for any deficiency or loss occasioned by the malepractice or insolvency of their collectors, 408
Treasurer to add the annual deficiency of the county to the next quota of such county's tax; and the county collector to charge such deficiency to the next quota of every defaulting township's tax, 408
To be paid by tenants and deducted from the rent; but not to affect any contract between them and their landlords, 408
On lands unimproved, or untenanted, how to be recovered, 408
Justices of the peace, constables, and town collectors to account for tax money to the town committee, 408
When the judge or justice may take warrant from one constable, and direct it to another, or issue a new one, 408
When and how execution shall be issued against the real estate or the body of a county collector, town collector, or constable, for tax money, 409
Sheriff, how to be proceeded against, if he shall not execute the warrant or writ of execution, agreeably to law, 409

TENANTS. See *Landlord and Tenant.*

TENANTS IN COMMON.

Action of account may be brought by one tenant in common against another, 140
Proceedings in waste between, 179
Compellable to make partition, 89, 250

See *Partition.*

TENURES.

By knight's service abolished, 148
Of any estate of inheritance, before the 4th of July, 1776, turned into free and common socage, 148
Of lands granted by the State to be allodial and not feudal, 149

TIMBER.

Penalty on persons, who cut or destroy the trees, saplings, or timber of others, without leave; and how and by whom to be recovered, 49
Proceedings, when the defendant claims the land, 49
Penalty, and how recovered, on sawing stolen logs, 49
What persons not to be affected, 49, 50
On unlocated lands, not to be cut by certain proprietaries, 124
Penalty for killing or girdling trees on or near the highways, 327

TOWN CLERK.

To record notices of residence given to the overseers of the poor, 27
To file the certificate of a person's last place of legal settlement, 29
To file examination of vagrants, vagabonds, and beggars taken before a justice of the peace, 36
His duties with respect to elections, and compensation, 229, 230, 233
If absent, &c. by whom a clerk of election shall be appointed, 230
His duty relative to strays, 245
How elected, 264
To record by laws of the township, 274
To call special town meetings, 275
To record proceedings of town meetings, 275
To whom to send and how to publish the names of town officers, 275
To take an oath of office; its form, 276
To file certain official oaths, 277
Penalty for refusing to serve, 287
On his death, removal, &c. office books, and papers to be delivered to his successor, 287
How to distribute the laws of this State, 288
Penalty for not doing his duty therein, 288
To record and file bonds given by constables, 313
When to receive and how to appropriate surplus money arising from the sale of impounded beasts, 350
His fee for a copy of the rates to be taken at a ferry, 371
To register births and deaths, when required, 382
His fees therefor, 382
Penalty for not registering births and deaths in due time, 382
How and among whom to distribute the revised laws of this State, 388
Penalty for not performing the duties required of him by the act providing for the distribution of the revised laws of this State, 388

TOWN COLLECTORS.

Their duties, compensation, and penalties, when money is ordered to be raised by the board of chosen freeholders, 267, 268
How elected, 272
Their duty under the act respecting slaves, 350
Their duties, penalties, and fees under the act concerning taxes, 404 to 408
Their duties, compensation, and penalties under the act for the regulation of the militia, 444, 447

See *Chosen Freeholders. Taxes.*

TOWN COMMITTEE.

When and how elected: their powers and duties, 284, 285
May require constables to give bond, with sureties, for the performance of their official duties, 323
To assign divisions of the highways, 328, 328
Their duty with respect to partition fences, 336, 337
Penalty for neglecting or refusing to perform the duty required by the act regulating fences, 338
Compensation to them under the said act, and by whom to be

INDEX.

paid, 338, 339
Justices of the peace, constables, and town collectors to account with them for tax money, 408

TOWN MEETINGS. See *Townships.*

TOWNSHIPS.

Bounds of townships in Cumberland, 12
of Dover in Monmouth, 15
Addition to Freehold and Upper Freehold in Monmouth, 18
Township of Independence, } erected, 46
of Vernon, } erected, 110
of Springfield, } erected, 122
of Westfield, } erected, 123
Part of Elizabeth annexed to Springfield, 123
Township of Pompton, } erected, 226
of Westfield, } erected, 227
The act to prevent routs, riots and tumultuous assemblies to be read at every annual town meeting, 235
Township of Frankford erected, 249
of Byram, } erected, 264
of Washington, } erected, 264
of Weymouth, } erected, 264
When liable for their collectors, 269
Collectors and constables to account for and pay surplus money on assessments by the board of chosen freeholders to their respective townships, 269
Township of Caldwell erected, 276
The inhabitants of townships constituted bodies politic; their names, 276 to 283
Process against a township, how to be served, 283
Town meetings, when and where to be held, 283
Qualifications of electors at town meetings, 283
To elect a president of their meetings, 283
Disorderly behaviour at town meetings, how to be punished, 283
May make by laws, 283
By laws to be recorded, 284
May make provision for destroying noxious animals and birds, 284
For what purposes, may grant and raise money, 284
What officers to elect, 284
In case of the death, removal, &c. of any officer, electors to be convened to choose another, 285
Town committee, when to appoint to office, 285
Mode of calling special town meetings, 285
Names of town officers, to whom to be sent, and how to be published, 285
What town officers to take an oath of office, 285
Form of such oath, 286
Official oath, when and where to be filed, 286
Neglect to take oath of office, or to give security shall be deemed to be a refusal to serve, 287
Penalty for refusing to serve, 287
On the death, &c. of the town clerk, office books and papers to be delivered to his successor, 287
Seventh section of the act to be read at every town meeting, 287
Boundaries of townships, how to be ascertained, 295
To raise money for repairing highways, 325
Overseers to be accountable for the same, 325
May be fined for badness of roads, 325
To determine, how they will repair roads, 328
Township of Chester, in Morris, erected, 340, 341
Liable for any deficiency or loss occasioned by the malepractice or insolvency of their collectors and constables, 407
A person, who shall serve in a town office for one year, or shall pay his fine, not liable to serve in the said office or pay a fine, for five years thereafter, 449
How the revised laws of this State, at the death, expiration, or removal from office of town officers, shall be disposed of, 453

TRAPS.

Penalty for making, mending, or bringing into this State, or setting traps or other devices above a certain size, 20, 21
Penalty for setting loaded guns, 21

TREASURER.

To receive certain monies from the commissioner of loans of the United States, 228
To pay orders drawn by the inspectors of the state prison, 272
How to distribute the laws of this State, and of the United States, 287, 288
To take an oath of office; form of such oath, 366
To give bond, with sureties, for the performance of his duties, 366
Form of such bond, 366
To give further security, if required by the legislature, 366
In case of his death, &c. how his accounts are to be settled, and the official papers disposed of, 367
His duties, 367
To keep his accounts in dollars, dimes, cents, and mills, 380
To return the names of clerks of courts for certain delinquencies to the secretary, 386
To pay the expenses &c. of certain prisoners, and to exhibit the same against the United States for payment, 396
His duties under the act concerning taxes, 407 to 410
To receive fines of the clerk in chancery, 434
To receive fees on private statutes, 436
His duties under the act for the regulation of the militia, 446, 447
To pay a certain compensation, and when, to inspectors of the state prison, 449
To refund certain taxes on stages, 451
How to distribute the revised laws of this State, 452, 453

TREATY. See *United States.*

TRENTON.

Made the seat of government, 104
Incorporated; its boundaries, 116
Officers of the city, what, and how elected, 116, 117
The mayor, recorder, and assistants constituted a body politic; their powers, 116, 117
What officers created justices of the peace, 117
The common council to have the exclusive power of licensing taverns in the city, 117
Vacancies in office, how to be filled, 118
Monies, how to be raised, 118
Offenders, where to be committed, 118

TRIAL.

By wager of law abolished, 160
Of criminal cases regulated, 162
Of treason, committed out of the State, or on the sea, 163
Of larcenies under six dollars, 213
Of indictments for offences committed on rivers or highways, which divide counties, 245
Of indictments, when to be had, 349
Of civil causes, and when, 362
Notice of trial, 362
Countermand of such notice, 362
Short notice of trial, what, 362
By proviso, notice of, and countermand, 362
Notice of trial, when to be filed, 362
List of causes for trial and argument to be delivered by the clerk to the judges. 362
Of motion for new trial, 363

TRUSTEES.

Infant trustees to convey by the direction of the court of chancery. 141

TRUSTS.

Declarations and creations of trusts, except constructive ones, to be in writing. 136
Grants and assignments of trusts to be in writing, 136

UNITED STATES.

All acts, repugnant to the treaty between the United States and his Britannic majesty, repealed, 82
Constitution of the United States assented to and ratified by this State, 83
Certain articles of amendment to the said constitution adopted by this State, 92
Senators of the United States, when to be appointed, and vacancies, how to be supplied, 102, 222
Electors of president and vice president, when to be chosen, where to meet, their compensation, and vacancies how to be filled, 102
Senators and electors to be commissioned, 103
The jurisdiction of this State, over a part of Sandy-Hook, vested in the United States, 103
Prisoners, committed by the authority of the United States to the goals of this State, to be safely kept until duly discharged, 396
List of such prisoners to be made out, annually, with an account of their expenses, &c. and transmitted to the treasurer, to be exhibited against the United States, 396

USE.

Conveyance of the use of land to transfer the possession, 6

USURY. See *Interest.*

VAGRANTS AND VAGABONDS.

What persons to be deemed such, 36
Children of—may be bound apprentices or servants, 211

See *disorderly, &c.*

INDEX.

VENDUES.

Penalty for giving or selling spiritous liquors at vendues, 227

VERDICT.

What defects are cured by, and where judgment shall not be reversed, after a judgment, 127, 128, 129
Where one of several counts is bad, and general damages given, the verdict shall be good, 261
What omissions in a verdict in detinue may be remedied, and how, 261
If no verdict be found for part of the things in a count in detinue, it shall not be error, 261
Of special verdict, and argument thereof, 364
To be entered in dollars, dismes, cents, and milles, 350

VICE AND IMMORALITY.

Act to suppress, 329 to 334

VIEW. See *Jurors.*

VOID.

An arbitration, procured by corruption or undue means, to be void, 142
Attornment of a tenant to a stranger, to be void, 167
If a sheriff elect act as sheriff, before he gives bond, his acts to be void, 202
Acts of an under sheriff, before his appointment and oath are filed, shall be void, 254
What judgments, conveyances, deeds, contracts, &c. shall be void 1, 2, 39, 43, 133, 134, 135, 136, 209, 224, 225, 228, 239, 241, 289, 309, 399, 401
See *Conveyances. Contracts. Gaming, Horseracing. Interest. Lotteries.*

WAGER OF LAW.

Trials by wager of law abolished, except in case of non-summons in real actions, 160

WAGGONS.

Track of waggons and wheel carriages ascertained, and penalty for using a different one, 81

WARRANT OF ATTORNEY.

Not to be included in bonds, &c. for the payment of money, 356
To be produced, on confessing judgment, 356
Judgment, after ten years, how to be entered on a warrant of attorney, 356
How to be given by persons in custody, 356
Not revocable, 356
How to be proceeded upon in certain specified cases, 454, 455

WASTE.

How to be charged in the partition of lands made by order of the orphan's court, 78
Executors of executors and administrators liable for, 154
Not to be suffered or made by guardian or tenant, 179
Proceedings in waste, where the tenant does not appear, or makes default, 179,
Proceedings thereon between parceners, joint tenants and tenants in common, 179
An heir may bring action for waste done in the life of his ancestor, 179
A tenant, who grants his estate to another, shall, if he take the profits, be liable for waste, 180
If waste be committed, after injunction, how to proceed, 436

WIDOWS.

May bequeath their crops, 192
Not barred of right of entry into their lands lost by default of their husbands, 289
Of their dower, 343, 344, 345
See *Dower.*

WILLS.

Lands may be devised, 5
What a sufficient execution of wills prior to the 17th of March, 1713-14, 5
How wills since that time are to be executed, proved and recorded, 5
Records of wills to be received in evidence, 5
What official copies of wills made in Great Britain or Ireland, or any of the colonies, shall be received in evidence, 6
Devises of lands, in which the words, "heirs and assigns" are omitted, how to be construed, 54
The operation and effect of devises in tail before the 23d of March, 1786, 54, 78
How lands, devised in tail since that time, shall pass, 54, 78
Where there are several devisees, some being under age, and the bounds of their respective lands not ascertained by the will, how partition shall be made, 77
Estates for the life of another devisable, 189
Devises of lands, how to be revoked, 190
What persons incapable of making wills of lands, 190
What persons may be witnesses to wills, 190, 191
Fathers may appoint testamentary guardians, 192
Widows may bequeath their crops, 192
What nuncupative wills shall be good, and how to be proved, 192
Letters testamentary of a nuncupative will, when and how to be granted, 193
How a written will of personal estate may be altered or revoked by a verbal will, 193
What persons shall be witnesses to prove nuncupative wills, 193
Soldiers in actual service, and mariners at sea may dispose of their personal estate as heretofore, 193
Wills affecting personal estates to be recorded, 193
Registry of wills and office transcripts thereof to be received in evidence, 397

WITCHCRAFT.

Action not to be brought against any person for witchcraft, or for charging another with it, 210

WITNESSES.

Their fees on partition of lands by commissioners, 91
In criminal cases, to be bound by recognizance to the proper court, 130, 131
On what indictments a list of witnesses shall be given to defendants, 162
What persons may be witnesses to wills, 190, 191
Before coroners to be bound to court, 197
Their fees and penalties on forcible entries and detainers, 294
Slaves not to be witnesses, except against each other, 307
To attend courts for the trial of small causes, although summoned out of their jurisdiction, 314
Penalty for not attending the said courts, 317
Their fees for attending the same, 323
Inhabitants of townships may be witnesses against overseers of the highways, when prosecuted for the badness thereof, 326
Witnesses, who are scrupulous of taking an oath in the usual manner, how to be qualified, 367, 368
In what cases and in what manner, witnesses may be examined by virtue of a commission, 374
When and how their depositions may be taken, 375
Their fees thereon, 375
What crimes exclude persons from being witnesses, 401
To be protected from arrests in civil cases, and no other, 401
Remedy against them for not attending, when duly summoned, 401
To attend the courts of common pleas and quarter sessions, although summoned out of their jurisdiction, 401
Inhabitants of counties and townships may be witnesses in actions against county and town officers, and other persons for public monies, notwithstanding their being interested, 402
Fees of witnesses, 427
Penalty for not attending courts martial, 443
Their fees for attending the said courts, 444

WOODS. See *Fire. Timber.*

WORKHOUSES.

When and by whom to be built or purchased in the several counties of this State, 378
To be under the government of the board of chosen freeholders, 378
Convicts, sentenced to hard labor and imprisonment, for any time not exceeding six months, may be sent to them, 379
Materials for employment therein, how and by whom to be procured, 379
What slaves and servants may be sent to them, and at whose expense to be maintained, 379
Duties of, and penalties on masters of workhouses, 379, 380
Persons sent thereto, when and by whom to be punished, 379
Disorderly persons may be sent to them, 415

WRECKS.

Vessels and goods cast on shore to be saved for the owners, if they apply within a limited time, 385
Duty of sheriffs respecting them, 385
Salvage, how to be ascertained and paid, 385
Penalty on persons, who shall enter such vessels, without authority or leave, or who shall hinder the saving of the cargo, 385
Penalty on persons, who shall take goods from such vessels, and not deliver them to the sheriff, or who shall secrete such goods, 385

WRITS.

How to run, 39
When and on what terms writs of ne exeat shall be granted, 439

See Execution. Process.

ERRORS.

Page 78,	section 2,	line 9,		strike out *the* before *real estates.*
92,	1,			in the margin for *passed* read *proposed.*
105,	6,	21,		for *to* before the sums read *of.*
113,	31,	3,		for *inconsistant* read *inconsistent.*
135,	9,			in the margin for *living* read *livery.*
157,	15,			in the margin for *intestates* read *intestate.*
158,	2,	4,		for *relations* read *relation.*
164,	5,			in the margin for *time* read *term.*
173,	3,	3,		for *impliments* read *implements.*
173,	6,	1,		for *useful* read *usual.*
210,	12,	13,		for *endeavor* read *endeavour.*
268,	17,	5,		for *raisd* read *raised.*
289,	3,			in the margin for *tee* read *the.*
344,	11,	4,		for the second *as* read *of.*
365,	96,			in the margin for *their* read *thirty.*
373,	25,	15,		for *the* before State read *this.*
387,	3,	1,		for *surveyers* read *surveyors.*
394,	14,	7,		for *principle* read *principal.*
415,	22,	4,		for *belong* read *belonging.*
440,	12,	8,		for the second *or* read *of.*